AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

399-803
GSA

6-1-79
Vol. 44 No. 107
Pages 31599-31938

federal register

Friday
June 1, 1979

Highlights

Briefings on How to Use the Federal Register—For details on briefings in Washington, D.C.; Boston, Mass.; Los Angeles, and San Francisco, Calif., see announcement in the Reader Aids Section at the end of this issue.

31922 **Energy Conservation Measures** DOE proposes emergency building temperature restrictions; comments by 6–22–79, public hearings 6–14, 6–18, and 6–20–79 (Part VIII of this issue)

31623 **Mandatory Petroleum Allocation** DOE/ERA issues rules extending special retailers provision of motor gasoline state set-aside program and to increase state set-aside volume to five percent; effective 6–1–79, comments by 8–15–79, hearing 6–14–79

31626 **Mandatory Petroleum Allocation** DOE/ERA issues amendments to provide middle distillates for agricultural trucking, surface passenger mass transportation, and the production of oil and natural gas; effective 5–25–79

31727 **Coal** Interior/GS gives notice of intention to develop an order for conservation of resources and waste during mining; comments by 7–16–79

31699 **Coal-Based Technology** DOE interagency committee is soliciting comments on potential health and environmental problems; comments by 6–25–79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202–523–5240

Highlights

31728 **Labor Surplus Areas** Labor/ETA publishes annual list for priority in the award and execution of Federal procurement contracts, grants, and agreements

31670 **Fire Brigades** Labor/OSHA proposes occupational safety and health standards; comments by 9–14–79, public hearings 8–28, 9–5, and 9–10–79

31655 **Cost Accounting Standards** CASB proposes revisions to its regulations concerning contract coverage and the filing of disclosure statements; comments by 8–31–79

31621 **Importation of Birds** USDA/APHIS issues rules to facilitate the importation of birds through approved quarantine facilities; effective 5–25–79

31599 **Wheat Crop Insurance** USDA/FCIC issues regulations prescribing procedures for 1980 and succeeding crop years; effective 6–1–79

31611, 31614 **Price Support Program for Barley and Oats** USDA/CCC issues rules on 1979 crop loan and purchase program; effective 6–1–79 (2 documents)

31721 **Outer Continental Shelf** Interior/BLM publishes list of energy producers qualified to bid jointly for oil and gas lease sales

31818 **Federal and Federally Assisted Construction** Labor/ESA publishes general wage determinations (Part III of this issue)

31641 **Medicare** HEW/HCFA requires malpractice incurred by a provider to be directly apportioned to Medicare based on loss experience; effective 7–1–79

31802 **Medicare** HEW/HCFA issues limitations on reimbursement for provider costs and for services by hospital-based physicians; effective 7–1–79 (Part II of this issue)

31802 31806, **Medicare** HEW/HCFA publishes schedule of limits on hospital inpatient general routine operating costs and on home health agency costs for cost reporting period beginning 7–1–79 (2 documents) (Also Part II of this issue)

31795 **Sunshine Act Meetings**

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31818 **Part III, Labor/ESA**
31858 **Part IV, ESSA**
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 418

Wheat Crop Insurance; Regulations for the 1980 and Succeeding Crop Years

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring wheat crops effective with the 1980 crop year in a new Part 418 of Chapter IV of Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 418—Wheat Crop Insurance Regulations. This rule combines provisions in previous regulations for insuring wheat in one shorter, clearer and simplified document. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: June 1, 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 authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the **Federal Register** (44 FR 4687) on Tuesday, January 23, 1979, which proposed that a new Part 418 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring wheat effective with the 1980 crop year to be titled 7 CFR Part 418—Wheat Crop Insurance Regulations for the 1980 and Succeeding Crop Years. All crop insurance regulations as found in 7 CFR §§ 401.101–401.111, 401.126 and 401.153 are not applicable to 1980 and succeeding wheat crops but remain in effect for FCIC policies issued for crop years prior to 1980. Sections 401.126 and 401.153 are deleted and reserved.

The Federal Crop Insurance Corporation has determined that combining all previous regulations for insuring wheat into one shortened, clearer and simplified document would be more effective administratively.

The 12 major changes in the regulations for insuring wheat as contained in the new 7 CFR Part 418 are:

1. The combination of the application and policy into one document containing provisions currently found in the separate documents containing the application, the standard policy, and the two wheat endorsements.

2. A clearly written appendix to the application and policy explaining the meaning of terms, and an overall clarification of language for easier understanding by policyholders.

3. Elimination of premium discounts for large acreage and elimination of the bushel reserve balance discount.

4. Addition of a premium adjustment table that will provide for maximum premium discounts up to 50 percent for good insuring experience and premium increases for unfavorable insuring experience on an individual contract basis.

5. Change in the termination date for nonpayment of premium in winter wheat areas to a date in the current calendar year following the end of the normal harvest period.

6. Addition of a 9 percent service fee to any unpaid premium following the termination date for indebtedness and a 9-percent interest charge to any unpaid premium balance at the end of each 12-month period.

7. Extension of the time period for submitting a notice of damage or loss from 15 to 30 days. Elimination of the 60-day period for filing a claim.

8. Placement of the production guarantee on a harvested basis with a reduction of the lesser of 3 bushels or 20 percent of the guarantee for any unharvested acreage. In appraising for unharvested acreage (except appraisals for uninsured causes, poor farming practices and substitute crops) only the appraisal in excess of the lesser of 3 bushels or 20 percent of the guarantee will be counted as production.

9. Revision of coverages and premium rates to reflect current yield and insurance experience data.

10. Introduction of three coverage level options in each county.

11. Provision providing one stable level of coverage for a wheat insurance contract as shown on the actuarial table unless the insured elects a different level. The conversion level will be the one closest to the percent level now in effect for each county, thereby varying from county to county.

12. A higher price election per bushel will be offered.

The public was invited to submit written comments in connection with the proposed rule and a total of 8 comments were received including 5 from private citizens, 1 from the National Association of Wheat Growers, and 1 from the Oregon Wheat Growers League.

Two of the commentators made no reference to the proposed rule but simply stated that they felt crop insurance was a beneficial program for wheat growers to have.

The comments of the remaining 6 commentators centered around objections in eight areas of concern. Most of the comments pertained to the major changes from the prior wheat crop insurance regulations which were explained in detail in the preamble of the proposed rule. The Corporation, after careful consideration of each comment, provides below its response to each area of concern and its determination concerning any changes in the final rule:

1. *Elimination of Bushel Reserve Balance Discount.*

One commentator felt that the elimination of the bushel reserve balance discount provision would increase the present rates considerably, causing farmers to cancel their policies. The bushel balance discount is being eliminated because it results in many inequities. The present bushel reserve balance discount system is complex, confusing and in some areas a deterrent to participation. Many insureds receiving the discount under this provision have a cumulative loss ratio in excess of 1.00 due to the fact that the insured's balance is never reduced below zero even though the insured

actually has a substantial negative balance. Many insureds are eligible for the bushel balance discount by accident. Bushel reserve balances were built up when premium rates were much higher and prices lower and policyholders were operating land on a much larger scale than present. Now, some have only a landlord share and the previously high bushel reserve balance perpetuates eligibility even though a number of losses are suffered. This does not reflect the true risk of the contract. Accordingly, no change was made in the final rule in this respect.

2. *Elimination of Large Acreage Discount.*

Objections to the elimination of the large acreage discount were raised by three commentators. It is argued that larger acreage farms were better risks than smaller acreage farms because they were less likely to suffer a substantial or 100 percent loss of production. This is not the case. Experience has shown that in states where the premium is discounted most for large acreage farms, the insurance experience has been significantly worse than average. If this discount were to be continued it would result in all premiums being increased to make up for premium lost through the discounts, with the small farmer paying higher premiums than would otherwise be required. Elimination of the large acreage discount also corrects an inequity by providing uniformity among crops since wheat is the only crop with such a discount. Finally, if farmers with large acreage farms are actually better insurance risks, their rates would decrease under the premium adjustment table. Therefore, no change was made in the final rule in this respect.

3. *Elimination of Good Experience Discount and Adoption of the Premium Adjustment Table.*

Two commentators objected to the elimination of the good experience discount claiming it would reduce FCIC participation by farmers, and that it should be modified rather than eliminated. The current provision is inequitable since it is possible for insureds who had received more in indemnities than they had paid in premiums to still have a discount of 20 or 25 percent. It is being replaced by a Premium Adjustment Table whereby premium adjustments will be made for both favorable and unfavorable insuring experience. The Premium Adjustment Table in the final rule has been slightly modified from the one in the proposed rule. The Premium Adjustment Table will have only limited effect on occasional losses since there is no adjustment for the first loss year and adjustments for the second loss year are made only after the accumulated loss experience is 325 percent or greater. The number of losses are only considered for the most recent 15 years. The net effect of the premium adjustment table is to discount wheat premiums by about 11 percent, with all wheat premiums being recalculated for the 1980 crop year. The result will be more premium discounts for good experience under the Premium Adjustment Table provisions than were formerly provided under the discounts for good experience in the previous policy.

4. *Adjustment for Quality.*

The National Association of Wheat Growers, on behalf of its membership, requested that sprout damaged wheat and wheat with a low percentage of Dark, Hard Vitreous kernels (DHV) be included in the quality adjustment provisions when, from insurable causes, such wheat does not grade No. 4, or better. The Official U.S. Grain Standards provide that sprout damaged wheat shall be included in the term "damaged kernels" in determining the grade of wheat and, therefore, protection is afforded to wheat that has been sprout damaged. The matter of DHV was discussed with several marketing research laboratories and agricultural experts affiliated with State Universities. It appears that there is no uniform system by which discounts are applied to wheat graded low in DHV by local elevators and many elevators make no tests for DHV. A large commercial processer indicated it purchased wheat based on protein content rather than DHV, and the 1978 Official United States Standards for Grain has no minimum level of DHV for Winter wheat but has DHV levels for Hard Red Spring and Durum wheat. Although wheat has been discounted for DHV in the Gulf market because foreign buyers prefer wheat of a certain color, within the domestic market DHV does not appear to be an important consideration for buyers. The varying DHV standards, the degree to which they are applied, and the inconsistencies in their application do not make it feasible, at this time, for the Corporation to recognize DHV as a factor in the wheat insurance policy. Therefore, no change was made in the final rule to include DHV as a factor in quality adjustment.

5. *Termination Date for the Payment of Premiums.*

The Oregon Wheat Growers League recommended that the termination date for the payment of premiums should be May 30 rather than November 30 as proposed. This suggestion is rejected because insurance attaches when the wheat is seeded in the fall and undue risk to the Corporation and selectivity by the insured could result if the termination date was changed to the following May 30. The termination dates (section 12 of policy) in the final rule have been extended for some states from those listed in the proposed rule to allow growers additional time to pay the premium. Under the terms of the contract, the premium is due and payable at the time of seeding. However, the insured can pay the premium at any time prior to the termination date without interest or other additional charge of any kind.

Two commentators objected to the assessment of a 9 percent service fee for non-payment of the premium by the termination date and the additional charge of 9 percent interest on unpaid premium balance for each 12-month period thereafter. This provision is dictated by a new U.S. Treasury regulation which states that 9 percent annual interest shall be charged on debts owed to the Federal Government. This provision, section 5(d) of the policy in the rule, has been rewritten to clarify the rationale behind the application of the interest rate although the provision generally remains the same as in the proposed rule.

6. *Appraisal for Unharvested Acreage.*

One commentator wanted 100 percent of loss insured when appraisals for unharvested acreage amounted to 3 bushels or less. The wheat crop insurance policy is structured to provide indemnity payments when production costs are lost. This is why the guarantee is reduced 3 bushels when there are no harvesting costs. One hundred percent of this reduced guarantee will be paid when appraisals for unharvested acreage amount to 3 bushels or less. Accordingly, no change was made in the final rule in this respect.

7. *Production Guarantees.*

Despite one commentator's concern that production guarantees had been lowered, there is no change which will reduce production guarantees. In fact, substantially higher guarantees are provided in most cases, and only in a very limited number of counties, where recent years' yields have been considerably below average, have guarantees not increased. No change in the final rule has been made in this respect.

In addition to the specific areas of concern discussed above, one commentator suggested that the minimum size for a unit should be 50 acres with no limit on the number of units for a farm. The object of crop

insurance is to provide protection on a farmer's operation, not on each field. Separate field insurance could result in paying a substantial loss on one field while other fields in the same farming operation had bumper yields. This would create substantially more losses with resulting higher premium rates and would not be in accordance with the objectives of the program. For the purposes of insuring a crop, the Corporation has determined that for the present, a farming operation will be eligible for unit consideration only if it has above average cropland acres as established for the county by the U.S. Census Bureau. It should be pointed out that this is not a closed issue and the Corporation will continue to keep this matter under review.

Another commentator suggested that there should be an elimination of crop insurance premiums on all farms that become eligible for, and actually collect, disaster payments under the present farm program, and that farmers not electing to be in the disaster payment program would pay the normal crop insurance premiums. This suggestion is not acceptable since the crop insurance program and the disaster payment program are administered under separate legislation by two separate agencies of the Department of Agriculture. Further, premiums would have to be increased to compensate for those farmers who would not pay premiums under this suggested plan, since the mandate of the Federal Crop Insurance Act is to charge sufficient premiums to pay losses and establish a reserve for catastrophic losses.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby deletes and reserves 7 CFR §§ 401.126 and 401.153, but these provisions shall remain in effect for FCIC insurance policies issued for crop years prior to 1980. The Corporation also hereby issues a new Part 418 of Chapter IV in Title 7 of the Code of Federal Regulations (7 CFR Part 418) to be known as the Wheat Crop Insurance Regulations, which shall remain in effect, until amended or superseded, for the 1980 and succeeding crop years, to read as follows:

PART 418—WHEAT CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

418.1 Availability of wheat insurance.
418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
418.3 Public notice of indemnities paid.
418.4 Creditors.
418.5 Good faith reliance on misrepresentation.
418.6 The contract.
418.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).

§ 418.1 Availability of wheat insurance.

Insurance shall be offered under the provisions of this subpart on wheat in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which wheat insurance will be offered.

§ 418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for wheat. Such premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price election at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 418.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 418.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 418.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the wheat insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 418.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the wheat crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates. Any changes made in the contract shall not affect the continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 418.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the wheat crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of

applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon his determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) A contract in the form provided for under this subpart, without the filing of a new application, as a continuation of a continuous contract issued under Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, shall come into effect in accordance with the provisions governing changes in the contract of the applicable policies issued under said 1969 regulations.

(d) The provisions of the application and Wheat Insurance Policy for the 1980 and Succeeding Crop Years, and the Appendix to the Wheat Insurance Policy are as follows:

BILLING CODE 3410-08-M

UNITED STATES DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

APPLICATION FOR 19__ AND SUCCEEDING CROP YEARS

WHEAT

CROP INSURANCE CONTRACT

_____ _____
(CONTRACT NUMBER)

_____ _____
(IDENTIFICATION NUMBER)

_____ _____ _____
(NAME AND ADDRESS) (ZIP CODE) (COUNTY) (STATE)

TYPE OF ENTITY_____ APPLICANT IS OVER 18 YES__ NO__

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the wheat seeded on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

LEVEL ELECTION_____ PRICE ELECTION_____

EXAMPLE: FOR THE 19__ CROP YEAR ONLY (100% SHARE)

LOCATION/ FARM NO.	GUARANTEE PER ACRE*	PREMIUM PER ACRE	PRACTICE	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

*Your guarantee will be based on the unit (acres X per acre guarantee)

B. WHEN ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELLED OR TERMINATED as provided in the contract. This accepted application, the following wheat insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates, shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

_____ _____ _____, 19__
(CODE NO./WITNESS TO SIGNATURE) (SIGNATURE OF APPLICANT) (DATE)

ADDRESS OF OFFICE FOR COUNTY:

_____

PHONE_____

LOCATION OF FARM HEADQUARTERS:

_____

PHONE_____

WHEAT CROP INSURANCE POLICY

TERMS AND CONDITIONS

Subject to the provisions in the attached appendix:

BILLING CODE 3410-08-C

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period subject to any exceptions, exclusions or limitations with causes of loss that are shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants, or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and acreage insured.* (a) The crop insured shall be wheat which is seeded for harvest as grain and for which the actuarial table shows a guarantee and premium rate per acre, which is grown on insured acreage.

(b) The acreage insured for each crop year shall be that acreage seeded to wheat on insurable acreage, as shown on the actuarial table and as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, in which the insured has a share: *Provided,* That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (3) which is destroyed and after such destruction it was practical to reseed to wheat and such acreage was not reseeded, (4) initially seeded after the date established by the Corporation and placed on file in the office for the county as being too late to initially seed and expect a normal crop to be produced, (5) of volunteer wheat, (6) seeded to a type or variety of wheat not established as adapted to the area or shown as noninsurable on the actuarial table, or (7) seeded with another crop.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is seeded for the development or production of hybrid seed or for experimental purposes.

3. *Responsibility of insured to report acreage and share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing all acreage of wheat seeded in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and the insured's share therein at the time of seeding. Such report shall be submitted each year not later than a date on file in the office for the county.

4. *Production guarantees, coverage levels and prices for computing indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 3 bushels or 20 percent for any unharvested acreage.

5. *Annual premium.* (a) The annual premium is earned and payable at the time of seeding and shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of seeding, times the premium adjustment percentage in paragraph (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage Adjustment Factor For Current Crop Year															
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year*															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage Adjustment Factor For Current Crop Year															
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

*Only the most recent 15 crop years will be used to determine the number of "Loss Years"
(A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year)

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; however, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* Insurance on insured acreage shall attach at the time the wheat is seeded (except that for fall seeded wheat in North Dakota, and Daniels, Roosevelt, Sheridan, and Valley Counties, Montana, insurance will attach April 15 following seeding: *Provided,* That there is an adequate stand on this date to produce a normal crop as determined by the Corporation) and shall cease upon the earliest of (a) final adjustment of a loss, (b) combining, threshing, or removal of the wheat from the field, (c) October 31 of the calendar year in which wheat is normally harvested, or (d) total destruction of the insured wheat crop.

7. *Notice of damage or loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the wheat on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to reseed to wheat. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in paragraph (b) of this section, if a loss is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 DAYS* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire wheat crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested shall be left intact until the Corporation makes an inspection.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

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

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

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 4 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 13.5 percent, and if, due to insurable causes any wheat does not grade No. 4 or better, or is graded smutty, garlicky, or ergoty, in accordance with the Official U.S. Grain Standards, the production shall be adjusted by dividing the value per bushel of the damaged wheat (as determined by the Corporation) by the price per bushel of U.S. No. 2 wheat and multiplying the result by the number of bushels of such wheat. The applicable price for No. 2 wheat shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged wheat was sold.

(2) Any harvested production from volunteer crops growing with the seeded wheat crop or small grains seeded in the growing wheat crop on acreage which the Corporation has not given consent to be put to another use shall be counted as wheat on a weight basis.

(3) Appraised production to be counted shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is seeded before wheat harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 3 bushels or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. However, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of wheat becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all wheat produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation is not paid on or before the termination date for indebtedness preceding

such crop year. *Provided,* That the date of payment for premium (1) deducted from an indemnity claim shall be the date the insured signs such claim or (2) deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State and county	Cancellation date	Termination date for indebtedness
Colorado, Kansas, New Mexico, Oklahoma, and Texas	Apr. 30	Sep. 15
Idaho, Montana (except Daniels, Roosevelt, Sheridan, and Valley Counties), Oregon, and Washington.	Jun. 30	Nov. 30
Minnesota, North Dakota, and Daniels, Roosevelt, Sheridan, and Valley Counties, Montana, and Spring Wheat only counties in South Dakota.	Dec. 31	Mar. 31
Nebraska and Wyoming	Apr. 30	Oct. 10
All other States and counties	Jun. 30	Oct. 10

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix to the Wheat Insurance Policy (Additional Terms and Conditions)

1. *Meaning of Terms.* For the purposes of wheat crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding wheat insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the wheat crop is normally grown and shall be designated by the calendar year in which the wheat crop is normally harvested.

(d) "Harvest" means the severance of mature wheat from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured wheat crop at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the wheat crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of wheat in the county on the date of seeding for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the wheat crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured.* (a) The Corporation reserves the right to limit the insured acreage of wheat to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of wheat.

(b) If the insured does not submit an acreage report on or before the date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of seeding.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured wheat acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the wheat is seeded for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level and Price Election.* (a) If the insured has not elected on the application a coverage level and price election at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A–40.

These regulations shall become effective June 1, 1979.

Approved by the Board of Directors on March 27, 1979.

Dated: April 5, 1979.

James D. Deal,

Manager, Federal Crop Insurance Corporation.

Dated: May 22, 1979.

Approved by:

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 79–16807 Filed 5–31–79; 8:45 am]

BILLING CODE 3410–08–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 201]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 3–9, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 3, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under 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. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action 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 May 29, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues good.

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

§ 910.501 Lemon Regulation 201.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period June 3, 1979, through June 9, 1979, is established at 300,000 cartons.

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

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

Dated: May 31, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79–17316 Filed 5–31–79; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 912

Grapefruit Grown in the Indian River District in Florida; Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment modifies the procedures for nominating committee members, to permit nominations by methods other than the use of written ballots when only one person is nominated for a member or alternate member position on the committee. This amendment is designed to make it easier to elect nominees in such instances, thereby facilitating the conduct of nomination meetings.

EFFECTIVE DATE: June 4, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This final rule is issued under the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Notice of this proposed amendment was published in the May 10, 1979, issue of the **Federal Register** (44 FR 27425). No comments were received during the 15 days provided in the notice. This amendment is based upon the recommendations and information submitted by the Indian River Grapefruit Committee, and upon other available information. The committee reports that it is time consuming and not necessary to vote by written ballot when only one person is nominated for a particular position on the committee. As § 912.120 *Nomination procedure* currently requires a written ballot for each position to be filled on the committee, this section need be amended to permit alternative methods of voting, when only one person is nominated for a particular position. This amendment also makes minor changes which clarify and simplify the language in § 912.120. This final rule has not been determined significant under the USDA criteria for implementing Executive Order 12044.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is found that this amendment, as hereinafter set forth, is necessary and in accordance with this marketing agreement and order, and will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective date of this amendment until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making the provisions hereof effective as hereinafter set forth, in that (1) the Secretary's representative plans to conduct a nomination meeting on June 5, 1979, and these amended provisions need be in effect by that date; (2) the recommendations upon which this amendment is based were developed by the committee at an open meeting, after giving due notice thereof, and all interested persons present were given an opportunity to express their views; (3) notice of this proposed amendment was published in May 10, 1979, issue of the **Federal Register** (44 FR 27425), and no comments were received during the 15 days provided; and (4) the regulatory requirements, hereinafter set forth, are the same as those proposed in the notice.

Accordingly, 7 CFR Part 912, Subpart-Rules and Regulations (§§ 912.100–199), is amended by revising the introductory language and paragraphs (a), (d), (e), and (f) of § 912.120, to read as follows:

§ 912.120 Nomination procedure.

The designated representative of the Secretary shall hold or cause to be held, not later than July 10 of each year, a meeting, or meetings of growers and handlers, in accordance with the provisions of § 912.22 and § 912.24, for the purpose of making nominations for members and alternate members of the Indian River Grapefruit Committee. The manner of nominating members and alternate members of said committee shall be as follows:

(a) At each such meeting the Secretary's representative shall announce the requirements as to eligibility for voting for nominees and the procedure for voting, and shall explain the duties of the committee.

* * * * *

(d) At each meeting of handlers there shall be presented for nomination and there shall be nominated not less than six handler members, all of whom shall have the qualifications specified in § 912.20 and § 912.25, as modified by § 912.124. Any person authorized to represent a handler may cast a ballot for such handler. Each person voting at such meeting shall submit his name and address to the chairman or secretary of the meeting.

(e) Voting may be by written ballot, except that in the event there is more than one nominee for a particular position, voting shall be by written ballot for that position. If the voting method used is by written ballot, all ballots shall be delivered by a nomination meeting official to the Secretary's representative. If written ballots are not used, the meeting official shall deliver a listing of each person nominated and the number of votes cast for each and a register of eligible voters who participated in the election. For the handler nomination meetings, documentation shall also include the volume of shipments voted for each nominee.

(f) The Secretary's representative shall give reasonable notice of each meeting to be held pursuant to this section.

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

Dated: May 29, 1979, to become effective June 4, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-17103 Filed 5-31-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Barley Supplement]

Grains and Similarly Handled Commodities; 1979 Crop Barley Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability date, (2) maturity dates, and (3) loan and purchase rates and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1979-crop barley. This rule is needed in order to provide a price support program for barley. This rule will enable eligible barley producers to obtain loans and purchases on their eligible 1979 crop barley.

EFFECTIVE DATE: June 1, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3732 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Merle E. Strawderman, ASCS (202) 447–7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** on August 23, 1978, 43 FR 37458 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1979 crop of feed grains including barley. Such determinations included determining loan and purchase rates and other related program provisions. Interested persons were given until October 6, 1978, to respond. Two hundred and fifty-eight recommendations were received concerning the loan and purchase program for barley. Forty-two of the recommendations received dealt with loan rates. After reviewing applicable factors, it has been determined that the loan and purchase rates for 1979 barley on a national average will be $1.63 per bushel.

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service county office or Agricultural Service Center.

Final Rule

The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Barley Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supplemented for the 1979 crop of barley. Accordingly, the regulations in 7 CFR § 1421.72 through § 1421.76 and the title of the subpart are revised to read as provided below effective as to the 1979 crop of barley. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1979 Crops Barley Loan and Purchase Program

Sec.

1421.72 Purpose.
1421.73 Availability.
1421.74 Maturityof loans.
1421.75 Warehouse charges.
1421.76 Loan and purchase rates and discounts.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421).

§ 1421.72 Purpose.

This supplement contains additional program provisions which, together with the provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, the 1978 and Subsequent Crops Barley Loan and Purchase Program regulations, and any amendments thereto, apply to loans on and purchase of the 1979 crop of barley.

§ 1421.73 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1979 crop of eligible barley on or before March 31, 1980.

(b) *Purchases.* A producer desiring to offer eligible 1979 crop barley not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1980, a Purchase Agreement (Form CCC–614) indicating the approximate quantity of 1979 crop barley they will sell to CCC.

§ 1421.74 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan is disbursed.

§ 1421.75 Warehouse charges.

If storage is not provided for through loan maturity the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

§ 1421.76 Loans and purchase rates and discounts.

(a) *Basic loan and purchase rates (counties).* Basic county rates per bushel (marketing area in the case of Alaska) for loan and settlement purposes for barley grading U.S. No. 2 or better are established as follows:

1979—Crop Barley Loan and Purchase Rates

County	Rate per bushel
ALABAMA	
All Counties	$1.61
[1]ALASKA	
Delta	1.54
Fairbanks	1.53
Glenallen	1.63
Homer	1.59
Kenai-Sold	1.66
Palmer	1.72
Talkeetna	1.72
Weighted State Avg	1.63
ARIZONA	
All Counties	1.81
ARKANSAS	
All Counties	1.61
CALIFORNIA	
Alameda	1.99
Alpine	1.82
Amador	1.95
Butte	1.90
Calaveras	1.95
Colusa	1.94
Contra Costa	1.96
El Dorado	1.94
Fresno	1.93
Glenn	1.91
Humboldt	1.79
Imperial	1.93
Inyo	1.81
Kern	1.94
Kings	1.92
Lake	1.89
Lassen	1.79
Los Angeles	1.99
Madera	1.95
Marin	1.96
Mariposa	1.93
Mendocino	1.83
Merced	1.95
Modoc	1.77
Monterey	1.91
Napa	1.94
Orange	1.99
Placer	1.92
Plumas	1.82
Riverside	1.94
Sacramento	1.99
San Benito	1.91
San Bernardino	1.95
San Diego	1.99
San Francisco	1.99
San Joaquin	1.99
San Luis Obispo	1.91
San Mateo	1.96
Santa Barbara	1.90
Santa Clara	1.95
Santa Cruz	1.92
Shasta	1.79
Sierra	1.81
Siskiyou	1.77
CALIFORNIA	
Solano	1.96
Sonoma	1.94
Stanislaus	1.97
Sutter	1.93
Tehama	1.90
Tulare	1.91
Tuolumne	1.93
Ventura	1.94
Yolo	1.96
Yuba	1.93
Weighted State Avg	1.92
COLORADO	
All Counties	1.69
CONNECTICUT	
All Counties	1.61
DELAWARE	
All Counties	1.61
FLORIDA	
All Counties	1.62
GEORGIA	
All Counties	1.62
IDAHO	
Ada	1.66
Adams	1.66
Bannock	1.66
Bear Lake	1.63
Benewah	1.75
Bingham	1.65
Blaine	1.66
Boise	1.66
Bonner	1.71
Bonneville	1.63
Boundary	1.70
Butte	1.65
Camas	1.66
Canyon	1.66
Caribou	1.63
Cassia	1.65
Clark	1.62
Clearwater	1.74
Custer	1.66
Elmore	1.66
Franklin	1.67
Fremont	1.63
Gem	1.66
Gooding	1.66
Idaho	1.70
Jefferson	1.63
Jerome	1.66
Kootenai	1.75
Latah	1.75
Lemhi	1.62
Lewis	1.74
Lincoln	1.66
Madison	1.63
Minidoka	1.67
Nez Perce	1.75
Oneida	1.66
Owyhee	1.66
Payette	1.66
Power	1.66
Shoshone	1.63
Teton	1.63
Twin Falls	1.67
Valley	1.66
Washington	1.66
Weighted State Avg	1.66
ILLINOIS	
Alexander	1.67
Cook	1.62
Madison	1.66
Saint Clair	1.66
All Other Counties	1.57
Weighted State Avg	1.57
INDIANA	
All Counties	1.57
IOWA	
Pottawattamie	1.63
All Other Counties	1.59
Weighed State Avg	1.59
KANSAS	
Leavenworth	1.64
Wyandotte	1.64
All Other Counties	1.60
Weighted State Avg	1.60
KENTUCKY	
All Counties	1.58
LOUISIANA	
East Baton Rouge	1.79

LOUISIANA—Continued

Jefferson	1.79
Orleans	1.79
Saint Charles	1.79
West Baton Rouge	1.79
All Other Counties	1.62
Weighted State Avg	1.62

MAINE

All Counties	1.61

MARYLAND

Baltimore	1.79
All Other Counties	1.61
Weighted State Avg	1.61

MASSACHUSETTS

All Counties	1.61

MICHIGAN

All Counties	1.53

MINNESOTA

Aitkin	1.71
Anoka	1.74
Becker	1.61
Beltrami	1.63
Benton	1.71
Big Stone	1.64
Blue Earth	1.74
Brown	1.72
Carlton	1.75
Carver	1.75
Cass	1.66
Chippewa	1.70
Chisago	1.74
Clay	1.59
Clearwater	1.59
Cottonwood	1.70
Crow Wing	1.67
Dakota	1.75
Dodge	1.74
Douglas	1.65
Faribault	1.73
Fillmore	1.71
Freeborn	1.74
Goodhue	1.74
Grant	1.63
Hennepin	1.75
Houston	1.70
Hubbard	1.63
Isanti	1.73
Itasca	1.70
Jackson	1.69
Kanabec	1.72
Kandiyohi	1.71
Kittson	1.54
Koochiching	1.67
Lac Qui Parle	1.67
Lake of the Woods	1.62
Le Sueur	1.75
Lincoln	1.65
Lyon	1.69
McLeod	1.74
Mahnomen	1.59
Marshall	1.56
Martin	1.72
Meeker	1.72
Mille Lacs	1.72
Morrison	1.69
Mower	1.73
Murray	1.68
Nicollet	1.74
Nobles	1.65
Norman	1.57
Olmsted	1.74
Otter Tail	1.62
Pennington	1.57
Pine	1.75
Pipestone	1.64
Polk	1.57
Pope	1.68
Ramsey	1.75
Red Lake	1.57
Redwood	1.71
Renville	1.72
Rice	1.75
Rock	1.62
Roseau	1.56
St. Louis	1.75
Scott	1.75
Sherburne	1.74
Sibley	1.74
Stearns	1.70
Steele	1.75
Stevens	1.66
Swift	1.69
Todd	1.66
Traverse	1.62

MINNESOTA—Continued

Wabasha	1.74
Wadena	1.65
Waseca	1.75
Washington	1.75
Watonwan	1.73
Wilkin	1.60
Winona	1.72
Wright	1.75
Yellow Medicine	1.67
Weighted State Avg	1.59

MISSISSIPPI

All Counties	1.61

MISSOURI

Buchanan	1.63
Clay	1.63
Jackson	1.63
St. Louis	1.65
All Other Counties	1.61
Weighted State Avg	1.61

MONTANA

Beaverhead	1.57
Big Horn	1.52
Blaine	1.48
Broadwater	1.60
Carbon	1.53
Carter	1.42
Cascade	1.56
Chouteau	1.52
Custer	1.44
Daniels	1.41
Dawson	1.43
Deer Lodge	1.63
Fallon	1.42
Fergus	1.52
Flathead	1.68
Gallatin	1.63
Garfield	1.47
Glacier	1.55
Golden Valley	1.53
Granite	1.61
Hill	1.51
Jefferson	1.63
Judith Basin	1.53
Lake	1.61
Lewis and Clark	1.54
Liberty	1.53
Lincoln	1.68
McCone	1.44
Madison	1.63
Meagher	1.57
Mineral	1.65
Missoula	1.65
Musselshell	1.52
Park	1.61
Petroleum	1.50
Phillips	1.45
Pondera	1.54
Powder River	1.44
Powell	1.63
Prairie	1.44
Ravalli	1.61
Richland	1.41
Roosevelt	1.41
Rosebud	1.47
Sanders	1.65
Sheridan	1.39
Silver Bow	1.63
Stillwater	1.53
Sweet Grass	1.56
Teton	1.54
Toole	1.54
Treasure	1.47
Valley	1.44
Wheatland	1.54
Wibaux	1.42
Yellowstone	1.52
Weighted State Avg	1.53

NEBRASKA

Douglas	1.64
All Other Counties	1.56
Weighted State Avg	1.56

NEVADA

All Counties	1.81

NEW HAMPSHIRE

All Counties	1.61

NEW JERSEY

All Counties	1.61

NEW MEXICO

All Counties	1.71

NEW YORK

Albany	1.79
New York City	1.79
All Other Counties	1.61
Weighted State Avg	1.61

NORTH CAROLINA

All Counties	1.62

NORTH DAKOTA

Adams	1.41
Barnes	1.54
Benson	1.46
Billings	1.39
Bottineau	1.41
Bowman	1.39
Burke	1.39
Burleigh	1.45
Cass	1.57
Cavalier	1.48
Dickey	1.52
Divide	1.39
Dunn	1.39
Eddy	1.49
Emmons	1.44
Foster	1.50
Golden Valley	1.39
Grand Forks	1.54
Grant	1.40
Griggs	1.51
Hettinger	1.39
Kidder	1.48
La Moure	1.51
Logan	1.48
McHenry	1.44
McIntosh	1.49
McKenzie	1.41
McLean	1.43
Mercer	1.42
Morton	1.42
Mountrail	1.39
Nelson	1.51
Oliver	1.43
Pembina	1.52
Pierce	1.45
Ramsey	1.48
Ransom	1.54
Renville	1.40
Richland	1.57
Rolette	1.44
Sargent	1.56
Sheridan	1.45
Sioux	1.42
Slope	1.39
Stark	1.39
Steele	1.53
Stutsman	1.52
Towner	1.46
Traill	1.54
Walsh	1.52
Ward	1.41
Wells	1.48
Williams	1.39
Wght. St. Avg	1.50

OHIO

All Counties	1.55

OKLAHOMA

All Counties	1.62

OREGON

Baker	1.73
Benton	1.78
Clackamas	1.82
Clatsop	1.88
Columbia	1.88
Coos	1.69
Crook	1.77
Curry	1.67
Deschutes	1.77
Douglas	1.71
Gilliam	1.82
Grant	1.77
Harney	1.64
Hood River	1.84
Jackson	1.70
Jefferson	1.80
Josephine	1.70
Klamath	1.70
Lake	1.69
Lane	1.77
Lincoln	1.77
Linn	1.79
Malheur	1.67
Marion	1.80
Morrow	1.81
Multnomah	1.88
Polk	1.80

OREGON—Continued	
Sherman	1.83
Tillamook	1.83
Umatilla	1.78
Union	1.76
Wallowa	1.73
Wasco	1.84
Washington	1.84
Wheeler	1.79
Yamhill	1.82
Wght. St. Avg.	1.75
PENNSYLVANIA	
Philadelphia	1.79
All Other Counties	1.61
Weighted State Avg.	1.61
RHODE ISLAND	
All Counties	1.61
SOUTH CAROLINA	
Charleston	1.77
All Other Counties	1.62
Weighted State Avg.	1.62
SOUTH DAKOTA	
Aurora	1.51
Beadle	1.55
Bennett	1.45
Bon Homme	1.54
Brookings	1.61
Brown	1.54
Brule	1.49
Buffalo	1.51
Butte	1.38
Campbell	1.48
Charles Mix	1.52
Clark	1.56
Clay	1.56
Codington	1.59
Corson	1.43
Custer	1.43
Davison	1.51
Day	1.57
Deuel	1.63
Dewey	1.45
Douglas	1.52
Edmunds	1.51
Fall River	1.43
Faulk	1.52
Grant	1.63
Gregory	1.51
Haakon	1.45
Hamlin	1.59
Hand	1.53
Hanson	1.52
Harding	1.39
Hughes	1.49
Hutchinson	1.53
Hyde	1.51
Jackson	1.45
Jerauld	1.51
Jones	1.48
Kingsbury	1.58
Lake	1.57
Lawrence	1.38
Lincoln	1.56
Lyman	1.49
McCook	1.54
McPherson	1.51
Marshall	1.56
Meade	1.41
Mellette	1.47
Miner	1.53
Minnehaha	1.57
Moody	1.59
Pennington	1.43
Perkins	1.41
Roberts	1.61
Potter	1.50
Sanborn	1.51
Shannon	1.43
Spink	1.54
Stanley	1.48
Sully	1.50
Todd	1.47
Tripp	1.49
Turner	1.56
Union	1.57
Walworth	1.48
Yankton	1.56
Ziebach	1.43
Wght. St. Avg.	1.54
TENNESSEE	
Shelby	1.67
All Other Counties	1.61
Weighted State Avg.	1.61
TEXAS	
Chambers	1.81
Galveston	1.81
Harris	1.81
Jefferson	1.81
Nueces	1.81
San Patricio	1.81
All Other Counties	1.65
Weighted State Avg.	1.65
UTAH	
All Counties	1.71
VERMONT	
All Counties	1.61
VIRGINIA	
Chesapeake (Norfolk)	1.71
All Other Counties	1.61
Weighted State Avg.	1.61
WASHINGTON	
Adams	1.78
Asotin	1.78
Benton	1.80
Chelan	1.82
Clallam	1.68
Clark	1.88
Columbia	1.79
Cowlitz	1.88
Douglas	1.77
Ferry	1.73
Franklin	1.79
Garfield	1.79
Grant	1.78
Grays Harbor	1.77
Island	1.81
Jefferson	1.73
King	1.88
Kitsap	1.81
Kittitas	1.80
Klickitat	1.81
Lewis	1.82
Lincoln	1.77
Mason	1.75
Okanogan	1.76
Pacific	1.77
Pend Oreille	1.71
Pierce	1.88
San Juan	1.76
Skagit	1.76
Skamania	1.83
Snohomish	1.81
Spokane	1.75
Stevens	1.72
Thurston	1.82
Wahkiakum	1.85
Walla Walla	1.79
Whatcom	1.74
Whitman	1.77
Yakima	1.79
Wght. St. Avg.	1.77
WEST VIRGINIA	
All Counties	1.61
WISCONSIN	
Douglas	1.68
All Other Counties	1.58
Weighted State Avg.	1.58
WYOMING	
All Counties	1.65

[1] In Alaska, loan rates are for marketing areas.

(b) *Schedule of Discounts for 1979—Crop Barley.*

(1) *Grade discounts:*	
U.S. No. 3	−4
U.S. No. 4	−8
U.S. Grade No. 5	−20
(2) *Special discounts:*	
Garlicky	−10
Weed control discount (where required by § 1421.24)	−10

(c) *Other.* Barley with quality factors exceeding limits shown in foregoing schedule or Barley that (1) contains in excess of 14.5 percent moisture, (2) is weevily, (3) is musty, (4) sour, shall not be eligible for loan. In the event quantities of barley exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of barley to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions.

Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Note—Discounts are cumulative except that only one grade discount shall be applied.

Note—This rule has been determined to be not significant under the USDA criteria implementing Executive Order 12044 and contains necessary operating decisions needed to implement the national average for 1979 Barley loan and purchase rates announced November 11, 1978. An approved Final Impact Statement is available from Weber, ASCS (202) 447–7987.

Signed at Washington, D.C. on May 18, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation

[FR Doc. 79–16775 Filed 5–31–79; 8:45 am]

BILLING CODE 3410–05–M

[CCC Grain Price Support Regulations, 1979 Crop Oats Supplement]

7 CFR Part 1421

Grains and Similarly Handled Commodities; 1979 Crop Oats Loan and Purchase Program

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity date, and (3) loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1979 crop oats. This rule is needed in order to provide a price support program for oats. This rule will enable eligible oats producers to obtain loans and purchases on their eligible 1979 crop oats.

EFFECTIVE DATE: June 1, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3732 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Merle Strawderman, ASCS, (202) 447–7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** on August 23,

1978, 43 FR 37458 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1979 crop of feed grains including oats. Such determinations included determining loan and purchase rates and other related program provisions.

Interested persons were given until October 6, 1978 to respond. One hundred-twenty recommendations were received concerning the loan and purchase program for oats. Thirteen of the recommendations received dealt with loan rates. After considering applicable factors, it has been determined that the loan and purchase rates for 1979 oats on a national average will be $1.03 per bushel.

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service office or local Agricultural Service Center.

Final Rule

The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Oats Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supplemented for the 1979 crop of oats. Accordingly, the regulations in 7 CFR § 1421.270 through § 1421.274 and the title of the subpart are revised to read as provided below effective as to the 1979 crops of oats. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1979 Crop Oats Loan and Purchase Program

Sec.

1421.270 Purpose.
1421.271 Availability.
1421.272 Maturity of loans.
1421.273 Warehouse charges.
1421.274 Loan and purchase rates and premiums and discounts.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); Secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421).

§ 1421.270 Purpose.

This supplement contains additional program provisions which together with the provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, the 1978 and Subsequent Crops Oats Loan and Purchase Program regulations, and any amendments thereto, apply to loans on and purchases of the 1979 crop of oats.

§ 1421.271 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1979 crop of eligible oats on or before March 31, 1980.

(b) *Purchases.* A producer desiring to offer eligible 1979 crop oats not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1980, a Purchase agreement (Form CCC–614) indicating the approximate quantity of 1979 crop oats they will sell to CCC.

§ 1421.272 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan is disbursed.

§ 1421.273 Warehouse charges.

If storage is not provided for through loan maturity the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

§ 1421.274 Loan and purchase rates and premiums and discounts.

(a) *Basic loan and purchase rates (counties).* Basic county rates per bushel (marketing area in the case of Alaska) for loan and settlement purposes for oats grading U.S. No. 3, containing not in excess of 14 percent moisture are as follows:

1979—Crop Oats Loan and Purchase Rates

County	Rate per bushel
ALABAMA	
All Counties	$1.15
ALASKA [1]	
Delta	1.01
Fairbanks	1.00
Glenallen	1.07
Homer	1.04
Kenai-Soldotna	1.09
Palmer	1.13
Talkeetna	1.13
State Weighted Avg.	1.07
ARIZONA	
All Counties	1.22
ARKANSAS	
All Counties	1.13
CALIFORNIA	
All Counties	1.22
COLORADO	
All Counties	1.12
CONNECTICUT	
All Counties	1.14
DELAWARE	
All Counties	1.14
FLORIDA	
All Counties	1.18
GEORGIA	
All Counties	1.15
IDAHO	
All Counties	1.12
ILLINOIS	
Adams	1.06
Alexander	1.09
Bond	1.07
Boone	1.06
Brown	1.06
Bureau	1.06
Calhoun	1.07
Carroll	1.06
Cass	1.06
Champaign	1.06
Christian	1.06
Clark	1.08
Clay	1.08
Clinton	1.08
Coles	1.06
Cook	1.09
Crawford	1.09
Cumberland	1.07
De Kalb	1.06
De Witt	1.06
Douglas	1.06
Du Page	1.06
Edgar	1.07
Edwards	1.10
Effingham	1.07
Fayette	1.07
Ford	1.06
Franklin	1.09
Fulton	1.06
Gallatin	1.10
Greene	1.07
Grundy	1.06
Hamilton	1.09
Hancock	1.06
Hardin	1.10
Henderson	1.06
Henry	1.06
Iroquois	1.07
Jackson	1.09
Jasper	1.08
Jefferson	1.09
Jersey	1.07
Jo Daviess	1.06
Johnson	1.09
Kane	1.06
Kankakee	1.07
Kendall	1.06
Knox	1.06
Lake	1.07
La Salle	1.06
Lawrence	1.10
Lee	1.06
Livingston	1.06
Logan	1.06
McDonough	1.06
McHenry	1.06
McLean	1.06
Macon	1.06
Macoupin	1.07
Madison	1.08
Marion	1.08
Marshall	1.06
Mason	1.06
Massac	1.09
Menard	1.06
Mercer	1.06
Monroe	1.09
Montgomery	1.07
Morgan	1.06
Moultrie	1.06
Ogle	1.06
Peoria	1.06
Perry	1.09
Piatt	1.06
Pike	1.06
Pope	1.10
Pulaski	1.09
Putnam	1.06
Randolph	1.09
Richland	1.08
Rock Island	1.06
Saint Clair	1.09
Saline	1.10
Sangamon	1.06
Schuyler	1.06
Scott	1.06
Shelby	1.06
Stark	1.06
Stephenson	1.06
Tazewell	1.06
Union	1.09
Vermilion	1.07
Wabash	1.10

MICHIGAN—Continued

Warren	1.06
Washington	1.09
Wayne	1.09
White	1.10
Whiteside	1.06
Will	1.08
Williamson	1.09
Winnebago	1.06
Woodford	1.06
State Wght. Avg.	1.06

INDIANA

Adams	$1.13
Allen	1.13
Bartholomew	1.13
Benton	1.11
Blackford	1.12
Boone	1.12
Brown	1.14
Carroll	1.12
Cass	1.12
Clark	1.14
Clay	1.12
Clinton	1.12
Crawford	1.14
Daviess	1.14
Dearborn	1.15
Decatur	1.13
De Kalb	1.13
Delaware	1.12
Dubois	1.14
Elkhart	1.13
Fayette	1.12
Floyd	1.14
Fountain	1.11
Franklin	1.14
Fulton	1.12
Gibson	1.14
Grant	1.12
Greene	1.14
Hamilton	1.12
Hancock	1.12
Harrison	1.14
Hendricks	1.12
Henry	1.12
Howard	1.12
Huntington	1.12
Jackson	1.14
Jasper	1.11
Jay	1.13
Jefferson	1.15
Jennings	1.15
Johnson	1.12
Knox	1.14
Kosciusko	1.12
Lagrange	1.13
Lake	1.12
La Porte	1.13
Lawrence	1.14
Madison	1.12
Marion	1.12
Marshall	1.12
Martin	1.14
Miami	1.12
Monroe	1.14
Montgomery	1.12
Morgan	1.12
Newton	1.11
Noble	1.12
Ohio	1.15
Orange	1.14
Owen	1.12
Parke	1.11
Perry	1.14
Pike	1.14
Porter	1.12
Posey	1.14
Pulaski	1.12
Putnam	1.12
Randolph	1.13
Ripley	1.15
Rush	1.12
Saint Joseph	1.13
Scott	1.15
Shelby	1.12
Spencer	1.14
Starke	1.12
Steuben	1.13
Sullivan	1.13
Switzerland	1.15
Tippecanoe	1.12
Tipton	1.12
Union	1.13
Vanderburgh	1.14
Vermillion	1.11
Vigo	1.12

INDIANA—Continued

Wabash	1.12
Warren	1.11
Warrick	1.14
Washington	1.14
Wayne	1.13
Wells	1.12
White	1.12
Whitley	1.12
State Wght. Avg.	1.12

IOWA

Adair	1.04
Adams	1.04
Allamakee	1.01
Appanoose	1.04
Audubon	1.02
Benton	1.04
Black Hawk	1.03
Boone	1.02
Bremer	1.02
Buchanan	1.03
Buena Vista	1.02
Butler	1.02
Calhoun	1.02
Carroll	1.02
Cass	1.04
Cedar	1.04
Cerro Gordo	1.01
Cherokee	1.02
Chickasaw	1.02
Clarke	1.04
Clay	1.01
Clayton	1.02
Clinton	1.04
Crawford	1.01
Dallas	1.02
Davis	1.05
Decatur	1.04
Delaware	1.03
Des Moines	1.04
Dickinson	1.00
Dubuque	1.03
Emmet	1.00
Fayette	1.02
Floyd	1.01
Franklin	1.02
Fremont	1.04
Greene	1.02
Grundy	1.02
Guthrie	1.02
Hamilton	1.02
Hancock	1.01
Hardin	1.02
Harrison	1.02
Henry	1.04
Howard	1.01
Humboldt	1.02
Ida	1.01
Iowa	1.04
Jackson	1.04
Jasper	1.02
Jefferson	1.04
Johnson	1.04
Jones	1.04
Keokuk	1.04
Kossuth	1.00
Lee	1.04
Linn	1.04
Louisa	1.04
Lucas	1.04
Lyon	.99
Madison	1.04
Mahaska	1.04
Marion	1.04
Marshall	1.02
Mills	1.04
Mitchell	1.00
Monona	1.01
Monroe	1.04
Montgomery	1.04
Muscatine	1.04
O'Brien	1.01
Osceola	.99
Page	1.04
Palo Alto	1.02
Plymouth	1.00
Pocahontas	1.02
Polk	1.02
Pottawattamie	1.05
Poweshiek	1.02
Ringgold	1.04
Sac	1.02
Scott	1.04
Shelby	1.02
Sioux	1.00
Story	1.02

IOWA—Continued

Tama	1.02
Taylor	1.04
Union	1.04
Van Buren	1.04
Wapello	1.04
Warren	1.04
Washington	1.04
Wayne	1.04
Webster	1.02
Winnebago	1.00
Winneshiek	1.01
Woodbury	1.00
Worth	1.00
Wright	1.02
State Wght. Avg.	1.02

KANSAS

All Counties	$1.08

KENTUCKY

All Counties	1.15

LOUISIANA

All Counties	1.15

MAINE

All Counties	1.14

MARYLAND

All Counties	1.15

MASSACHUSETTS

All Counties	1.14

MICHIGAN

Alcona	1.08
Alger	1.09
Allegan	1.10
Alpena	1.08
Antrim	1.09
Arenac	1.08
Baraga	1.08
Barry	1.10
Bay	1.08
Benzie	1.09
Berrien	1.11
Branch	1.11
Calhoun	1.10
Cass	1.11
Charlevoix	1.09
Cheboygan	1.09
Chippewa	1.09
Clare	1.09
Clinton	1.09
Crawford	1.08
Delta	1.08
Dickinson	1.08
Eaton	1.09
Emmet	1.09
Genesee	1.08
Gladwin	1.08
Gogebic	1.08
Grand Traverse	1.09
Gratiot	1.09
Hillsdale	1.11
Houghton	1.08
Huron	1.08
Ingham	1.09
Ionia	1.09
Iosco	1.08
Iron	1.08
Isabella	1.09
Jackson	1.10
Kalamazoo	1.10
Kalkaska	1.09
Kent	1.10
Keweenaw	1.08
Lake	1.10
Lapeer	1.08
Leelanau	1.09
Lenawee	1.11
Livingston	1.09
Luce	1.09
Mackinac	1.09
Macomb	1.09
Manistee	1.10
Marquette	1.08
Mason	1.10
Mecosta	1.09
Menominee	1.08
Midland	1.08
Missaukee	1.09
Monroe	1.11
Montcalm	1.09
Montmorency	1.08
Muskegon	1.10
Newaygo	1.10
Oakland	1.09
Oceana	1.10

MICHIGAN—Continued

Ogemaw	1.08
Ontonagon	1.08
Osceola	1.09
Oscoda	1.08
Otsego	1.09
Ottawa	1.10
Presque Isle	1.08
Roscommon	1.08
Saginaw	1.08
Saint Clair	1.09
Saint Joseph	1.11
Sanilac	1.08
Schoolcraft	1.09
Shiawassee	1.08
Tuscola	1.08
Van Buren	1.10
Washtenaw	1.10
Wayne	1.10
Wexford	1.10
State Wght. Avg	1.09

MINNESOTA

Aitkin	.99
Anoka	1.01
Becker	.95
Beltrami	.95
Benton	.99
Big Stone	.96
Blue Earth	.99
Brown	.98
Carlton	1.01
Carver	1.00
Cass	.97
Chippewa	.97
Chisago	1.01
Clay	.94
Clearwater	.95
Cook	1.01
Cottonwood	.98
Crow Wing	.98
Dakota	1.00
Dodge	.99
Douglas	.97
Faribault	.99
Fillmore	1.00
Freeborn	1.00
Goodhue	.99
Grant	.96
Hennepin	1.01
Houston	1.00
Hubbard	.96
Isanti	1.00
Itasca	.99
Jackson	.98
Kanabec	1.00
Kandiyohi	.98
Kittson	.92
Koochiching	.96
Lac Qui Parle	.97
Lake	1.01
Lake of the Woods	.94
Le Sueur	.99
Lincoln	.97
Lyon	.97
McLeod	.99
Mahnomen	.94
Marshall	.93
Martin	.98
Meeker	.99
Mille Lacs	.99
Morrison	.98
Mower	.99
Murray	.97
Nicollet	.99
Nobles	.97
Norman	.93
Olmsted	.99
Otter Tail	.96
Pennington	.93
Pine	1.00
Pipestone	.97
Polk	.93
Pope	.97
Ramsey	1.01
Red Lake	.93
Redwood	.98
Renville	.98
Rice	.99
Rock	.97
Roseau	.93
Saint Louis	1.01
Scott	1.00
Sherburne	1.00
Sibley	.99
Stearns	.98
Steele	.99

MINNESOTA—Continued

Stevens	.96
Swift	.97
Todd	.97
Traverse	.95
Wabasha	.99
Wadena	.97
Waseca	.99
Washington	1.01
Watonwan	.98
Wilkin	.95
Winona	1.00
Wright	1.00
Yellow Medicine	.97
State Wght. Avg.	.97

MISSISSIPPI

All Counties	1.15

MISSOURI

All Counties	1.09

MONTANA

Beaverhead	1.08
Big Horn	1.01
Blaine	.98
Broadwater	1.04
Carbon	1.03
Carter	.97
Cascade	1.03
Chouteau	1.00
Custer	.97
Daniels	.95
Dawson	.94
Deer Lodge	1.06
Fallon	.95
Fergus	1.00
Flathead	1.06
Gallatin	1.05
Garfield	.97
Glacier	1.03
Golden Valley	1.02
Granite	1.07
Hill	.99
Jefferson	1.05
Judith Basin	1.01
Lake	1.07
Lewis and Clark	1.05
Liberty	1.00
Lincoln	1.08
McCone	.95
Madison	1.06
Meagher	1.03
Mineral	1.08
Missoula	1.07
Musselshell	1.01
Park	1.05
Petroleum	.98
Phillips	.97
Pondera	1.02
Powder River	.99
Powell	1.06
Prairie	.96
Ravalli	1.07
Richland	.94
Roosevelt	.94
Rosebud	.99
Sanders	1.08
Sheridan	.94
Silver Bow	1.06
Stillwater	1.03
Sweet Grass	1.04
Teton	1.02
Toole	1.01
Treasure	1.00
Valley	.96
Wheatland	1.03
Wibaux	.94
Yellowstone	1.02
State Wght. Ave	.99

NEBRASKA

Adams	1.04
Antelope	1.01
Arthur	1.02
Banner	1.02
Blaine	1.01
Boone	1.02
Box Butte	1.01
Boyd	.99
Brown	1.00
Buffalo	1.03
Burt	1.03
Butler	1.04
Cass	1.05
Cedar	1.01
Chase	1.05
Cherry	1.00

NEBRASKA—Continued

Cheyenne	1.03
Clay	1.04
Colfax	1.03
Cuming	1.03
Custer	1.02
Dakota	1.03
Dawes	1.01
Dawson	1.03
Deuel	1.03
Dixon	1.02
Dodge	1.04
Douglas	1.05
Dundy	1.06
Fillmore	1.04
Franklin	1.05
Frontier	1.04
Furnas	1.05
Gage	1.06
Garden	1.02
Garfield	1.01
Gosper	1.04
Grant	1.01
Greeley	1.02
Hall	1.03
Hamilton	1.03
Harlan	1.05
Hayes	1.05
Hitchcock	1.06
Holt	1.00
Hooker	1.01
Howard	1.02
Jefferson	1.05
Johnson	1.06
Kearney	1.04
Keith	1.03
Keya Paha	.99
Kimball	1.03
Knox	1.00
Lancaster	1.05
Lincoln	1.03
Logan	1.02
Loup	1.01
McPherson	1.02
Madison	1.02
Merrick	1.02
Morrill	1.02
Nance	1.02
Nemaha	1.06
Nuckolls	1.05
Otoe	1.05
Pawnee	1.06
Perkins	1.04
Phelps	1.04
Pierce	1.01
Platte	1.02
Polk	1.03
Red Willow	1.05
Richardson	1.06
Rock	1.00
Saline	1.05
Sarpy	1.05
Saunders	1.05
Scotts Bluff	1.02
Seward	1.04
Sheridan	1.01
Sherman	1.02
Sioux	1.01
Stanton	1.02
Thayer	1.05
Thomas	1.01
Thurston	1.03
Valley	1.02
Washington	1.04
Wayne	1.02
Webster	1.05
Wheeler	1.01
York	1.03
State Wght. Avg	1.03

NEVADA

All Counties	1.22

NEW HAMPSHIRE

All Counties	1.14

NEW JERSEY

All Counties	1.15

NEW MEXICO

All Counties	1.20

NEW YORK

All Counties	1.19

NORTH CAROLINA

All Counties	1.15

NORTH DAKOTA

Adams	.91
Barnes	.92
Benson	.90
Billings	.89
Bottineau	.88
Bowman	.93
Burke	.89
Burleigh	.90
Cass	.93
Cavalier	.91
Dickey	.92
Divide	.91
Dunn	.89
Eddy	.91
Emmons	.91
Foster	.91
Golden Valley	.91
Grand Forks	.92
Grant	.90
Griggs	.91
Hettinger	.90
Kidder	.91
La Moure	.92
Logan	.91
McHenry	.88
McIntosh	.91
McKenzie	.91
McLean	.88
Mercer	.88
Morton	.89
Mountrail	.89
Nelson	.91
Oliver	.89
Pembina	.92
Pierce	.89
Ramsey	.91
Ransom	.93
Renville	.88
Richland	.94
Rolette	.89
Sargent	.93
Sheridan	.89
Sioux	.90
Slope	.92
Stark	.88
Steele	.92
Stutsman	.92
Towner	.90
Traill	.92
Walsh	.92
Ward	.88
Wells	.90
Williams	.91
State Wght. Avg.	.91

OHIO

Adams	1.15
Allen	1.13
Ashland	1.14
Ashtabula	1.16
Athens	1.16
Auglaize	1.13
Belmont	1.17
Brown	1.15
Butler	1.13
Carroll	1.16
Champaign	1.14
Clark	1.14
Clermont	1.15
Clinton	1.15
Columbiana	1.16
Coshocton	1.15
Crawford	1.14
Cuyahoga	1.15
Darke	1.12
Defiance	1.12
Delaware	1.14
Erie	1.14
Fairfield	1.14
Fayette	1.14
Franklin	1.14
Fulton	1.13
Gallia	1.16
Geauga	1.15
Greene	1.14
Guernsey	1.16
Hamilton	1.14
Hancock	1.13
Hardin	1.13
Harrison	1.16
Henry	1.13
Highland	1.15
Hocking	1.15
Holmes	1.15
Huron	1.14
Jackson	1.15

OHIO—Continued

Jefferson	1.17
Knox	1.14
Lake	1.15
Lawrence	1.15
Licking	1.14
Logan	1.14
Lorain	1.15
Lucas	1.13
Madison	1.14
Mahoning	1.16
Marion	1.14
Medina	1.15
Meigs	1.16
Mercer	1.11
Miami	1.13
Monroe	1.17
Montgomery	1.13
Morgan	1.16
Morrow	1.14
Muskingum	1.15
Noble	1.16
Ottawa	1.14
Paulding	1.12
Perry	1.15
Pickaway	1.14
Pike	1.15
Portage	1.15
Preble	1.12
Putnam	1.13
Richland	1.14
Ross	1.15
Sandusky	1.14
Scioto	1.15
Seneca	1.14
Shelby	1.13
Stark	1.15
Summit	1.15
Trumbull	1.16
Tuscarawas	1.15
Union	1.14
Van Wert	1.12
Vinton	1.15
Warren	1.14
Washington	1.17
Wayne	1.15
Williams	1.13
Wood	1.13
Wyandot	1.14
State Wght. Avg.	1.14

OKLAHOMA

All Counties	1.15

OREGON

All Counties	1.18

PENNSYLVANIA

All Counties	1.19

RHODE ISLAND

All Counties	1.14

SOUTH CAROLINA

All Counties	1.15

SOUTH DAKOTA

Aurora	.94
Beadle	.94
Bennett	.95
Bon Homme	.97
Brookings	.95
Brown	.92
Brule	.94
Buffalo	.94
Butte	.93
Campbell	.91
Charles Mix	.95
Clark	.93
Clay	.99
Codington	.94
Corson	.91
Custer	.96
Davison	.94
Day	.93
Deuel	.95
Dewey	.93
Douglas	.95
Edmunds	.92
Fall River	.96
Faulk	.93
Grant	.95
Gregory	.95
Haakon	.94
Hamlin	.94
Hand	.94
Hanson	.94
Harding	.92
Hughes	.94

SOUTH DAKOTA—Continued

Hutchinson	.96
Hyde	.94
Jackson	.94
Jerauld	.94
Jones	.94
Kingsbury	.94
Lake	.94
Lawrence	.93
Lincoln	.97
Lyman	.94
McCook	.95
McPherson	.91
Marshall	.92
Meade	.93
Mellette	.95
Miner	.94
Minnehaha	.96
Moody	.95
Pennington	.94
Perkins	.91
Potter	.93
Roberts	.93
Sanborn	.94
Shannon	.96
Spink	.93
Stanley	.94
Sully	.94
Todd	.95
Tripp	.95
Turner	.97
Union	.99
Walworth	.93
Washabaugh	.95
Yankton	.98
Ziebach	.93
State Wght. Avg.	.95

TENNESSEE

All Counties	1.15

TEXAS

All Counties	1.16

UTAH

All Counties	1.20

VERMONT

All Counties	1.14

VIRGINIA

All Counties	1.15

WASHINGTON

All Counties	1.14

WEST VIRGINIA

All Counties	1.17

WISCONSIN

Adams	1.04
Ashland	1.04
Barron	1.02
Bayfield	1.03
Brown	1.03
Buffalo	1.01
Burnett	1.01
Calumet	1.03
Chippewa	1.03
Clark	1.03
Columbia	1.03
Crawford	1.04
Dane	1.05
Dodge	1.04
Door	1.03
Douglas	1.01
Dunn	1.02
Eau Claire	1.02
Florence	1.05
Fond du Lac	1.03
Forest	1.05
Grant	1.04
Green	1.05
Green Lake	1.04
Iowa	1.05
Iron	1.05
Jackson	1.03
Jefferson	1.05
Juneau	1.04
Kenosha	1.06
Kewaunee	1.03
LaCrosse	1.02
Lafayette	1.05
Langlade	1.04
Lincoln	1.04
Manitowoc	1.03
Marathon	1.04
Marinette	1.05
Marquette	1.04
Menominee	1.04

WISCONSIN—Continued	
Milwaukee	1.06
Monroe	1.03
Oconto	1.04
Oneida	1.05
Outagamie	1.03
Ozaukee	1.05
Pepin	1.01
Pierce	1.01
Polk	1.01
Portage	1.04
Price	1.04
Racine	1.06
Richland	1.03
Rock	1.05
Rusk	1.03
Saint Croix	1.01
Sauk	1.05
Sawyer	1.03
Shawano	1.04
Sheboygan	1.04
Taylor	1.04
Trempealeau	1.02
Vernon	1.02
Vilas	1.05
Walworth	1.05
Washburn	1.02
Washington	1.05
Waukesha	1.06
Waupaca	1.04
Waushara	1.04
Winnebago	1.03
Wood	1.04
State Wght. Avg.	1.03
WYOMING	
All Counties	1.10

[1] In Alaska, loan rates are for Marketing Areas.

(b) *Premiums and discounts.* The basic loan and purchase rates shall be adjusted as applicable by premiums and discounts as follows:

	Cents per bushel
Premiums: [1]	
Grade U.S. No. 1	+2
Grade U.S. No. 2	+1
Test Weight:	
Heavy	+1
Extra heavy	+2
Discounts:	
Grade U.S. No. 4 on the factor of test weight only but otherwise U.S. No. 3 or better	−3
Grade U.S. No. 4 because of being "badly stained or materially weathered"	−7
Garlicky	−3
Weed control discount (where required by § 1421.24)	−10

[1] Premiums shall not be applicable to badly stained or materially weathered oats.

(c) *Other.* Oats with quality factors exceeding limits shown in foregoing schedule or oats that (1) contain in excess of 14 percent moisture, (2) is weevily, (3) is musty, (4) sour, shall not be eligible for loan. In the event quantities of oats exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of oats to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions.

Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Note.—This rule has been determined to be not significant under the USDA criteria implementing Executive Order 12044 and contains necessary operating decisions needed to implement the national average for 1979 Oats loan and purchase rates announced November 11, 1978. An approved Final Impact Statement is available from Bruce Weber, ASCS, (202) 447–7987.

Signed at Washington, D.C. on May 18, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79–16774 Filed 5–31–79; 8:45 am]

BILLING CODE 3410–05–M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the counties of Jackson in Florida, Ringgold in Iowa; Jefferson in Nebraska; Chittenden and Franklin in Vermont; and Lincoln in Wyoming to the list of Certified Brucellosis-Free Areas and delete such counties from the list of Modified Certified Brucellosis Areas. It has been determined that these counties qualify to be designated as Certified Brucellosis-Free Areas. The effect of this action will allow for less restrictions on cattle moved interstate from these areas. These amendments also add the county of Sharp, Arkansas, to the list of Modified Certified Brucellosis Areas and delete it from the list of Certified Brucellosis-Free Areas because it has been determined that this county qualifies only as a Modified Certified Brucellosis Areas. The effect of this action will provide for more restrictions on cattle and bison moved interstate from this area. These amendments will also add the counties of Barry, Bates, McDonald, and Newton in Missouri to the list of Noncertified Areas and delete them from the list of Modified Certified Brucellosis Areas because it has been determined that these counties now qualify only as Noncertified Areas. The effect of this action will provide for more restrictions on cattle and bison moved interstate from these areas.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the **Federal Register** (43 FR 60865–60867) effective December 29, 1978. These amendments add the counties of Jackson in Florida; Ringgold in Iowa; Jefferson in Nebraska; Chittenden and Franklin in Vermont; and Lincoln in Wyoming; to the list of Certified Brucellosis-Free Areas in § 78.20 and delete such counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area contained in § 78.1(l) of the regulations. These amendments add the county of Sharp in Arkansas to the list of Modified Certified Brucellosis Areas in § 78.21 and delete this county from the list of Certified Brucellosis-Free Areas in § 78.20, because it has been determined that it now qualifies only as a Modified Certified Brucellosis Area as defined in § 78.1(m) of the regulations. These amendments add the counties of Barry, Bates, McDonald, and Newton in Missouri to the list of Noncertified Areas in § 78.22 and delete these counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now qualify only as Noncertified Areas as defined in § 78.1(n) of the regulations. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 78.20 [Amended]

1. In § 78.20, paragraph (a) is amended by adding: *Wyoming.*

2. In § 78.20, paragraph (b) is amended by adding: *Florida,* Jackson; *Iowa,* Ringgold; *Nebraska,* Jefferson; *Vermont,* Chittenden, Franklin; and deleting: *Arkansas,* Sharp; *Wyoming,* Albany, Big Horn, Campbell, Carbon, Converse, Crook, Freemont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

§ 78.21 [Amended]

3. In § 78.21, paragraph (b) is amended by adding: *Arkansas,* Sharp and by deleting: *Florida,* Jackson; *Iowa,* Ringgold; *Missouri,* Barry, Bates, McDonald, Newton; *Nebraska,*

Jefferson; *Vermont*, Chittenden, Franklin; *Wyoming*, Lincoln.

§ 78.22 [Amended]

4. In § 78.22, paragraph (b) is amended by adding: *Missouri*, Barry, Bates, McDonald, Newton.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32, Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f, 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25)

These amendments designating areas as Certified Brucellosis-Free Areas relieve restrictions presently imposed on cattle moved in interstate commerce. These restrictions are no longer necessary to prevent the spread of brucellosis, and these amendments must be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

The amendments designating areas as Modified Certified Brucellosis Areas and Noncertified Areas impose restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary to prevent the spread of brucellosis from such areas.

Therefore, pursuant to 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 this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 24th day of May 1979.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-17015 Filed 5-31-79; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Cook County in Illinois, from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area released from quarantine. No areas in the State of Illinois remain under quarantine.

EFFECTIVE DATE: May 24, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Cook County in Illinois, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the area released.

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

§ 82.3 [Amended]

In § 82.3(a), paragraph (6) relating to the State of 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, 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 exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah, psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, interstate from such area without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to 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 this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 24th day of May 1979.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-17014 Filed 5-31-79; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release portions of Los Angeles County, a portion of Orange County, and a portion of Riverside County in California, from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease

no longer exists in the areas released from quarantine.

EFFECTIVE DATE: May 24, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment releases portions of Los Angeles County, a portion of Orange County, and a portion of Riverside County in California, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the areas released.

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

§ 82.3 [Amended]

In § 82.3(a)(1), relating to the State of California, paragraph (vii) relating to Los Angeles County paragraph (ix) relating to Orange County, paragraph (x) relating to Riverside County, and paragraph (xii) relating to Los Angeles County are 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, 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 exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah, psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, interstate from such areas without unnecessary restriction. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to 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 this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deptuty Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 24th day of May 1979.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79–17012 Filed 5–31–79; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 92

Importation of Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document withdraws the suspension of the Cooperative and Trust Fund Agreement entered into between the Department and importers of birds through approved quarantine facilities. This action is necessary to facilitate the importation of birds into the United States through approved quarantine facilities. The effect of this action is to re-establish the procedure for importation of certain birds through approved quarantine facilities.

EFFECTIVE DATE: May 25, 1979.

FOR FURTHER INFORMATION CONTACT: E. C. Sharman, Senior Staff Veterinarian, Import-Export Staff, APHIS, VS, Room 821, Federal Building, Hyattsville, MD 20782, 301–436–8530.

SUPPLEMENTARY INFORMATION: On March 30, 1979, there was published in the **Federal Register** (44 FR 18958–18959) an amendment to the regulations which prohibited until further notice, the importation of certain birds into the United States through privately-owned quarantine facilities, and permitted such birds to be imported through USDA facilities only. Due to the fact that the importation of birds through such approved quarantine facilities would be prohibited for a limited period of time, the amendment to the regulations also suspended the Cooperative and Trust Fund Agreement specified in § 92.11(f)(7)(iii) of the regulations, which the Department had entered into with importers importing birds through approved quarantine facilities into the United States.

On May 18, 1979, there was published in the **Federal Register** (44 FR 29034–29037) an amendment to the regulations in § 92.11(f)(8) which provides for the execution of a Cooperative Agreement between the operators of privately-owned quarantine facilities and the Department which will strengthen the security, standards, and handling procedures at such facilities. That document also amended the regulations in § 92.2(b) to delete the proviso that all commercial birds, zoological birds and research birds may be imported through USDA facilities only.

The removal of the suspension of the Cooperative and Trust Fund Agreement between the Department and importers importing birds through approved quarantine facilities should have been made at the same time that the Cooperative Agreement was published in the **Federal Register** (44 FR 29034–29037) on May 18, 1979. Due to an oversight this was not included in the amendment published on May 18, 1979. Therefore, this amendment will delete the suspension of the Cooperative and Trust Fund Agreement in § 92.11(f)(7)(iii). It should be noted however, that importers will only be permitted to import birds into approved quarantine facilities the operators of which have entered into and abide by the provisions of the Cooperative Agreement in § 92.11(f)(8) of the regulations.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is hereby amended in the following respects.

§ 92.11 [Amended]

1. In section 92.11(f), the first sentence in paragraph (7)(i) is amended by deleting the phrase, "Except as provided in subparagraph (iv) of this subparagraph,".

2. In section 92.11(f), subparagraph (iv) is deleted.

This emergency final rule deletes the suspension of Cooperative and Trust Fund Agreements in § 92.11(f)(7)(iii) to provide for the importation of certain birds through privately-owned approved quarantine facilities.

Therefore, pursuant to 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 this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by G. V. Peacock, Director, National Program Planning Staffs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 25th day of May 1979.

E. A. Schilf,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-17013 Filed 5-31-79; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 113

Leptospira Bacterin Standards; Amended Challenge Level

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

ACTION: Final rule.

SUMMARY: This amendment revises the potency test in four standard requirements for leptospira bacterin by increasing the range in titer permitted for the challenge dose from 10–1,000 hamster LD_{50} to 10–10,000 hamster LD_{50}. Failure of the challenge to be within the range of titer permitted by the present standards occurs frequently and requires the test to be repeated. This amendment reduces the number of retests required by increasing the range in titer permitted for challenge without affecting the validity of the results.

EFFECTIVE DATE: This amendment becomes effective June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, MD 20782, 301–436–8245.

SUPPLEMENTARY INFORMATION: The present standard requirements for leptospira bacterins require potency tests to be conducted in hamsters using a challenge dose with a range in titer of 10–1,000 hamster LD_{50} for each animal. the challenge consists of freshly prepared material containing virulent leptospira organisms. Failure of the challenge to have a titer within this range (10–1,000 hamster LD_{50}) requires the test to be designated as a "no test" and to be repeated.

It is difficult to consistently prepare challenge material that will have a titer within the 10–1,000 range because fresh challenge material such as is used here may vary in virulence. Therefore, an exact titer of the materials cannot be determined until the completion of the test. As a result, retests are frequently required.

This amendment increases the range in titer permitted for challenge in these tests to 10–10,000 hamster LD_{50}. A survey of the tests that were conducted by the National Veterinary Services Laboratories (NVSL) and licensees over a 1-year period indicates this increase will reduce the number of retests required to be conducted for these products by nearly 62 percent.

This reduction in retests will be accomplished without affecting test results since data available to this Department indicate that the survival of hamsters used in this test is not significantly effected by the titer of the challenge when evaluated in a range of 10–10,000 hamster LD_{50}.

On October 20, 1978, a notice of the proposed amendment to Part 113 was published in the Federal Register at 43 FR 49012.

Comments on this proposal were solicited and six responses were received. One response favored an increase in the range in titer permitted for challenged but suggested that the range be set at 10–5,000 LD_{50} rather than 10–10,000 LD_{50}. This suggestion was rejected since data indicate that test results will be the same for a challenge level of 5,000 LD_{50} as for a challenge level of 10,000 LD_{50}. Furthermore, permitting challenge of up to 10,000 LD_{50} will result in a greater percent reduction in the number of "no test" results than if the range were set at 10–5,000 LD_{50}. It was also suggested in the same response that a protective index type test incorporating a standard reference bacterin should be considered for the products involved herein. Such suggested test would have the advantage of including compensation for challenge variability. It would be wise to consider a protective index type test if the titer of the challenge used in a test system were to have a significant affect upon results. A protective index type test, however, requires a far greater number of test animals than the present standard and also requires that a standard reference bacterin be provided. This would result in a significant increase in the cost of the test compared to the present test with little resulting benefit, since our data indicate that in this test system the titer of the challenge used does not affect test results when within the range of 10–10,000 LD_{50}.

Five responses that were received objected to the proposed amendment. Three of these responses questioned the validity of the data demonstrating that the titer of the challenge dose does not affect test results in the range of 10–10,000 LD_{50}, basing their objections on the fact that only test bacterins of high potency were used in the studies reported by NVSL. These respsonses further suggested that the proposed increase in challenge titer would result in a significant increase in the number of unsatisfactory test results for lower-potency serials, many of which would be marginally satisfactory by the present standard.

Studies conducted at NVSL, however, included tests on fractional doses of each bacterin which simulated products with levels of potency ranging from 4 percent to 100 percent protection. Test results for marginal to unsatisfactory products in this simulation were shown not to be affected by the titer of the challenge dose even when the challenge titer was in excess of 10,000 LD_{50}.

Considering the results of NVSL tests and the fact that data or references were not provided to support the objections that were raised, these objections were not considered to be persuasive.

The five responses objecting to the proposed amendment included suggestions for an alternate test procedure to avoid the problem of "no tests." It was suggested that if the titer of the challenge dose were found to exceed 1,000 LD_{50} and the results of the test were satisfactory, the product should be judged as satisfactory and be eligible for release. However, if the titer of the challenge dose were found to exceed 1,000 LD_{50} and the results of the test were unsatisfactory, the test should be judged as a "no test" and allowed to be repeated.

This suggestion was rejected because if all tests were conducted using a challenge with a titer between 1,000 and 10,000 LD_{50}, the opportunity would be provided for unlimited retesting of any product found to be unsatisfactory. Since data show that this increase in titer of challenge does not affect test

results, such retesting would not be justified or valid.

One response requested test procedures for §§ 113.86, 113.87, 113.88, and 113.89 also be revised to permit the vaccination of 10 to 12 hamsters and the retention of 10 to 12 unvaccinated controls for the test; provided that, only 10 vaccinates and 10 controls would be challenged. This would reduce the number of "no tests" that may result if test animals die from non-test-related causes and insufficient animals remain at the time of challenge. This suggestion was considered to have merit but was rejected as being outside the scope of the proposed amendment.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–518), the amendment of Part 113, Subchapter E, Chapter 1, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice is hereby adopted.

§ 113.86 [Amended]
§ 113.87 [Amended]
§ 113.88 [Amended]
§ 113.89 [Amended]

1. The first letter in each word of the headings for §§ 113.86, 113.87, 113.88, and 113.89 are to be capitalized.

2. Section 113.86 is amended by revising paragraph (c)(3) to read:

§ 113.86 Leptospira Pomona Bacterin.

* * * * *

(c) * * *

(3) *Challenge.* From 14–18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira pomona* organisms, using a dose of 10–10,000 hamster LD_{50} as determined by titration.

* * * * *

3. Section 113.87 is amended by revising paragraph (c)(3) to read:

* * * * *

§ 113.87 Leptospira Icterohaemorrhagiae Bacterin.

* * * * *

(c) * * *

(3) *Challenge.* From 14–18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of *Leptospira icterohaemorrhagiae* organisms, using a dose of 10–10,000 hamster LD_{50} as determined by titration.

* * * * *

4. Section 113.88 is amended by revising paragraph (c)(3) to read:

§ 113.88 Leptospira Canicola Bacterin

* * * * *

(c) * * *

(3) *Challenge.* From 14–18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira canicola* organisms, using a dose of 10–10,000 hamster LD_{50} as determined by titration.

* * * * *

5. Section 113.89 is amended by revising paragraph (c)(3) to read:

§ 113.89 Leptospira Grippotyphosa Bacterin.

* * * * *

(c) * * *

(3) *Challenge.* From 14–18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira grippotyphosa* organisms, using a dose of 10–10,000 hamster LD_{50} as determined by titration.

* * * * *

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

Done at Washington, D.C., this 25th day of May 1979.

This rule has been reviewed under the USDA criteria established to implement E. O. 12044, "Improving Government Regulations." Under those criteria, this action has been designated for Agency oversight. A Final Impact Analysis Statement has been prepared and is available from USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, MD 20782.

E. A. Schilf,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-17016 Filed 5-31-79; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-15]

Mandatory Petroleum Allocation Regulations; Amendments to Extend Special Retailers Provision of Motor Gasoline State Set-Aside Program and to Increase State Set-Aside Volume to Five Percent

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby extends the effectiveness of Special Rule No. 8 to Subpart A, Part 211, through September 30, 1979. Special Rule No. 8 permits a State to direct product subject to the State set-aside program for gasoline to retailers experiencing supply emergencies. In addition to extending Special Rule No. 8, we are increasing the State set-aside level from three to five percent. These measures are intended to provide each State with the flexibility to deal with localized problems that may arise in that State as a result of the current tight supply of gasoline which is likely to continue through the summer months. We are continuing this rulemaking proceeding to receive public comment on the amendments adopted today and, in particular, on whether these actions should be extended beyond September 30, 1979.

DATES: These amendments are effective June 1, 1979; written comments are due by August 15, 1979, 4:30 p.m.; Requests to speak by June 7, 1979, 4:30 p.m.; Oral statements are due by June 13, 1979, 4:30 p.m.; Hearing: June 14, 1979, 9:30 a.m.

ADDRESSES: All comments, including copies of oral statements, to: Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA–R–79–15, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Hearing location: Room 2104, 2000 M Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2222–A, 2000 M Street NW., Washington, D.C. 20461, (202) 254–5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C. 20461, (202) 254–8034.

Alan T. Lockard (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222, 2000 M Street NW., Washington, D.C. 20461, (202) 254–7422.

William E. Caldwell (Office of Regulations and Emergency Planning) Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254–8034.

Ben McRae (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6739.

SUPPLEMENTARY INFORMATION:

I. *Bankground.*
II. *Amendments Adopted.*
III. *Procedural Requirements.*
IV. *Written Comments and Public Hearing Procedures.*

I. Background

On April 19, 1979, we adopted a new Special Rule No. 8 to Subpart A, Part 211, which allows States to provide

gasoline from the State set-aside to retail outlets that are experiencing supply emergencies (44 FR 24541, April 26, 1979). Special Rule No. 8 was intended to assist gasoline retailers that were experiencing difficulties in obtaining adequate supplies of gasoline due to the adjustments required in the national gasoline distribution system to comply with the revised gasoline base period.

Special Rule No. 8 was made effective only for the months of April and May 1979. However, in the notice proposing Special Rule No. 8, we specifically requested comments through May 15, 1979 on the need to extend the special rule beyond May 1979 (44 FR 20445, April 5, 1979).

The comments generally viewed Special Rule No. 8 as an effective means of dealing with supply imbalances within a state that result from the current tight supply situation and favored its extension beyond May 31, 1979. In addition, several of the comments indicated that the current set-aside volume of only three percent limited a State's ability to respond fully to the current supply situation.

The problems arising from shortages of motor gasoline and other petroleum products which prompted our adoption of Special Rule No. 8 and other actions we have taken recently appear likely to continue through the summer months. The current tight supply of gasoline is a result of several factors. First, due largely to the interruption of Iranian crude oil exports in the first quarter of this year, crude oil imports to the United States in the first quarter of 1979 were about 700,000 barrels per day less than needed to maintain petroleum product stocks at desired levels. Consequently, refinery utilization rates decline from 91 percent last December to 87.2 percent in January, 83.8 percent in February, and increased only slightly to 84.1 percent in March and 84.9 percent in April.

Second, stocks of middle distillates are at extremely low levels and, as a result, refiners have been urged to build up adequate stocks of heating oil for the winter. The increased middle distillate production, coupled with below normal crude oil supplies, has resulted in lower levels of gasoline production.

Third, the demand for gasoline has increased substantially over that of a year ago. Moreover, current gasoline stocks, which typically are at their peak at this time of the year in order to meet the high demands arising from spring and summer driving, are below normal levels.

II. Amendments Adopted

In view of these comments and the likelihood that the current tight supply situation will continue throughout the summer months, we have decided to extend Special Rule No. 8 through September 30, 1979 and also to increase the initial State set-aside level for gasoline from three to five percent. We believe that these actions will give each State additional flexibility to deal with any significant supply imbalances that develop within the gasoline distribution system for that particular State during the summer months.

The operation of Special Rule No. 8 is fully described in the April 26 Notice and is incorporated herein by reference. A new paragraph has been added at the end of Special Rule No. 8 to provide that, notwithstanding the provisions of 10 CFR 211.107(a), the initial state set-aside level for gasoline for a particular State will be five percent for the months of June through September 1979, rather than three percent as currently provided. Although we have increased the State set-aside level to ensure that each State has the flexibility to meet local supply imbalances, we urge each State to assess its gasoline supply situation at the beginning of each month and to release any portion of its set-aside volume that it determines to be unnecessary to deal with the situation in that particular State. The prompt release of any such volumes will increase the volume of gasoline which is available to the normal distribution system of a State and thus, permit that system more readily to distribute gasoline in an equitable manner.

III. Procedural Requirements

A. *Section 510 of the DOE Act.*—Under section 501(e) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, DOE Act), we may waive the prior notice and hearing requirements of subsections (b), (c) and (d) of section 501 upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare. We believe such a finding can and should be made in this instance. There is a substantial possibility, based upon projections of gasoline supplies and other available information, that significant imbalances will develop in the gasoline distribution system in the coming months unless action is taken immediately to avoid such imbalances. These imbalances will create serious hardship for both sellers and consumers of gasoline. Therefore, we have waived these requirements to the extent necessary to adopt these amendments effective June 1, 1979.

However, in accordance with section 501(e) and in order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we will receive written comments through August 15, 1979. We will reconsider today's action in light of the comments received in order to decide whether we should take any further action in this rulemaking proceeding.

B. *Section 404 of the DOE Act.*—Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under sections 402(a)(1) or (b) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review Special Rule No. 8, the FERC has declined to determine that it may significantly affect one of its functions under the sections noted above.

C. *Section 7 of the FEA Act.*—Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

Prior review by the EPA Administrator may be waived for a period of fourteen days if there is an emergency situation which necessitates that a proposed action be made effective at a date earlier than that which would permit the EPA Administrator the five working days opportunity for prior comment. Notice of any such waiver shall be given to the EPA Administrator and filed with the Federal Register with

the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as is determined will apprise the EPA and the public of the reasons for such waiver.

We have determined that the five working days opportunity for prior comment by the EPA Administrator should be waived. The reasons for the waiver are the same as those which support amending Special Rule No. 8 effective June 1, 1979 and are set forth in the preceding sections of this preamble. A copy of the amendment and this preamble have been provided to the EPA.

D. *Section 553 of the Administrative Procedure Act.*—Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. We have determined that good cause is found to waive the section 553(d) requirement for the reasons stated above in support of amending Special Rule No. 8 effective June 1, 1979.

E. *Executive Order 12044.*—The sixty-day advance public comment period required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy as they relate to both the final rule and the proposed rules presented in the preceding sections for the reasons previously stated for making the Special Rule No. 8 effective June 1, 1979.

IV. Written Comment and Public Hearing Procedures

A. *Written Comments.*—You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this notice. Comments should be submitted by the date indicated in the "Dates" section of this notice and to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number ERA–R–79–15A and the designation: "Special Rule No. 8." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearing*—1. *Procedure for Requests to Make Oral Presentation.*—If you have any interest in the matters discussed in this notice, or represent a group or class of persons that has an interest, you may make an oral request for an opportunity to make oral presentation by 4:30 p.m., June 7, 1979. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 June 11, 1979, and will be required to submit one hundred copies of your statement to the appropriate address indicated in the "Addresses" section of this notice before 4:30 p.m., June 13, 1979.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity 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.

If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

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 the ERA and made 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 of the hearing from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective June 1, 1979.

Issued in Washington, D.C., May 25, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

The Appendix to Subpart A of Part 211 is amended by modifying Special Rule No. 8 to read as follows:

Appendix—Special Rule No. 8

1. *Scope.* This Special Rule provides that during the months of April through September 1979 gasoline retailers will be included among the eligible recipients of assignments of gasoline under the state set-aside program established by § 211.17.

2. *State election to include gasoline retailers.* The inclusion of gasoline retailers among the eligible recipients of assignments of gasoline under the state set-aside program will not be in effect in a particular state prior to notification to the Office of Fuels Regulation, ERA, by the appropriate State Office that such State elects to include gasoline retailers among the eligible recipients.

3. *Eligibility of Gasoline Retailers.* In addition for use to meet hardship and emergency requirements of wholesale purchasers-consumers and end users as provided in paragraph (a) of § 211.17, the state set-aside for gasoline may be utilized by a State Office during the months of April through September 1979 to meet the supply needs of a gasoline retailer in cases where the retailer has demonstrated that it has experienced or will experience a gasoline supply emergency; *provided that,* prior to the sixteenth day of a particular month, a State Office shall not issue assignments to gasoline retailers the total volume of which exceeds fifty percent of the set-aside volume for that month.

4. *Priority of Wholesale Purchaser-Consumers and End-Users.* Assignments to meet hardships and emergency requirements of wholesale purchaser-consumers and end-users shall receive priority over any assignments made to gasoline retailers under

paragraph (3) of this Special Rule from the state set-aside.

5. *Application for assignment.* All applications for assignment under this Special Rule shall be made to the State Office having jurisdiction over the State in which the applicant conducts its business operations, in accordance with the procedures set forth in §§ 205.211–218 of Subpart Q of Part 205 of this chapter with respect to the state set-aside, except as otherwise provided in this Special Rule. Within five (5) days of its application for assignment of gasoline under this Special Rule, an applicant shall submit to the State Office a written certification that it has experienced a gasoline supply emergency.

6. *Initial State Set-Aside Level.* Notwithstanding the provisions of 10 CFR 211.107(a), during the months of June through September 1979 the initial State set-aside level for motor gasoline for a particular month and state is five (5) percent of a prime supplier's estimated portion of its total supply for that month which will be sold into the State's distribution system for consumption within the State.

[FR Doc. 79-17104 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

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10 CFR Part 211

[Docket No. ERA-R-79-25]

Mandatory Petroleum Allocation Regulations; Amendments To Permit Certain Consumers To Obtain Their Requirements for Middle Distillates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule and request for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending Special Rule No. 9 to Subpart A of 10 CFR Part 211 to permit consumers engaged primarily in the trucking of perishable agricultural commodities, surface passenger mass transportation and the production of oil and natural gas to obtain their current requirements for middle distillates for the period from May 25, 1979 through July 31, 1979. These amendments are being adopted on an emergency basis in order to prevent interruption of these essential services during the current period of tight supplies of middle distillates and other petroleum products. ERA is continuing this rulemaking proceeding and is requesting public comments on Special Rule No. 9, the amendments adopted thereto today, and also as to whether any additional actions are necessary to deal with current and any future supply problems.

DATES: These amendments are effective May 25, 1979; written comments are due by June 15, 1979, 4:30 p.m.

ADDRESSES: All comments to: Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-79-25, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, Room 2222-A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

William E. Caldwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-8034.

Alan T. Lockard (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7422.

Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6739.

SUPPLEMENTAL INFORMATION:

I. *Background*
II. *Amendments Adopted*
III. *Continuation of Rulemaking*
IV. *Procedural Requirements*
V. *Written Comment Procedures*

I. Background

On May 10, 1979 we adopted a new Special Rule No. 9 to Subpart A of 10 CFR Part 211 which permits consumers engaged in agricultural production to obtain their current requirements for middle distillates (44 FR 28606, May 15, 1979). The May Notice discussed the current tight supply situation for middle distillates and the actions that we have taken to deal with that situation. That discussion remains valid and is incorporated herein by reference.

The May Notice requested comments as to whether Special Rule No. 9 should be amended to permit consumers engaged in other essential uses and, in particular, surface mass passenger transportation to obtain their current requirements for middle distillates and also on any other actions we might take to alleviate middle distillate supply problems. Public comments concerning the possible inclusion of surface passenger mass transportation within the coverage of Special No. 9 were due by May 21, 1979. On May 18, 1979 a public hearing was held in Washington, D.C. on Special Rule No. 9 and the need for any other actions. The panel for this hearing included representatives from the Department of Agriculture (DOA) and the Department of Transportation (DOT), as well as from DOE.

We have reviewed all comments submitted in this proceeding by May 21, 1979. The inclusion of surface passenger mass transportation evoked the most concern. Thirteen local governments, primarily metropolitan transportation authorities that have experienced 1979 first quarter surges in ridership and are fearful of losing this gain if the availability of diesel fuel is restricted, supported the inclusion. Five industry representatives commented in favor of such action.

DOT strongly urged the amendment of Special Rule No. 9 to cover surface passenger mass transportation for several reasons. It believes that it is absolutely necessary for surface mass transportation services to maintain a posture of reliability and availability in order to preserve these services as an alternative to the private automobile and to ensure transportation services where no alternatives exist. DOT indicated that viable surface mass transportation can minimize the demand for gasoline and diesel fuel and thus, alleviate the current tight supply situation. It further commented that the promotion of surface mass transportation services is an essential component of our longer-run strategy to decrease dependence on petroleum fuels and to meet the President's goal of a five percent reduction in our rate of petroleum usage by the end of the year.

The next largest group of responses related to the trucking industry. Thirteen representatives of the general trucking industry expressed concerns over the tight supply and price situation currently confronting members of that industry. They viewed inclusion of the trucking industry within the coverage of Special Rule No. 9 as essential to the orderly transportation by truck of goods. Four comments asserted that Special Rule No. 9 should be expanded to include the trucking of agricultural production since this activity is an integral part of the system that provides the public with food.

DOA advised us that the intended benefits of Special Rule No. 9 might well be frustrated in many instances if the transporters of agricultural production were unable to obtain their current requirements for middle distillates. It has indicated that the greatest potential

for frustration exists with respect to the transportation of perishable goods.

We have received several requests for the inclusion of other specific types of consumers within the coverage of Special Rule No. 9. These consumers included taxicab operators, energy producers, railroads and marine transportation.

II. Amendments Adopted

In view of these comments, our further analysis of the current overall energy demand and supply situation, and the likelihood that the current tight supply situation will continue through July, we have decided, for the reasons described in the following paragraphs, to include consumers engaged primarily in the trucking of perishable agricultural commodities, surface passenger mass transportation and the production of oil and natural gas within the coverage of Special Rule No. 9. The operation of the Rule with respect to these consumers and suppliers of middle distillates for their ultimate use will be the same as its operation with respect to consumers engaged in agricultural production. The operation of Special Rule No. 9 is fully described in the May 15 Notice and that description is incorporated herein by reference.

Certain foodstuffs are especially likely to ruin if their movement through the food distribution system is delayed. Since the current tight supply situation is causing many trucks to experience unusually long delays in reaching their destinations, we believe that those trucks transporting such perishable foodstuffs must be assured an adequate supply of diesel fuel in order to prevent a serious disruption in the food system which is critical to the health and well-being of the nation. Therefore, we are amending Special Rule No. 9 to include consumers engaged in agricultural trucking among those covered by the Rule.

Agricultural trucking will be defined as trucking activities to the extent that those activities primarily involve the carriage or distribution of the following products: (a) fresh or frozen: (i) meat (including livestock); (ii) poultry (including live poultry); (iii) eggs and egg products; (iv) fish; (v) fruits, vegetables, and juices; (b) dairy products; (c) edible fats and oils; (d) liquid sweeteners; (e) yeast; and (f) bakery products. We have been informed that trucks engaged in the interstate transportation of goods must carry a manifest of their contents. Retailers may request to see such a manifest in order to verify that a consumer is actually engaged in agricultural trucking. If a consumer cannot produce such a manifest, then the retailer may require another appropriate form of proof. Agricultural trucking will not include activities which involve traveling to pick up a load of perishable foodstuffs or returning from the delivery of such a load.

Several types of surface mass passenger transportation have been demonstrated to be more beneficial to our society than alternative modes of transportation. Local commuting by bus or rail tends to be much more energy efficient than commuting by automobile.[1] For many, buses, ferries and commuter rail systems provide the only means of getting to and from work and of conducting other essential activities. Moreover, during recent months, as a result of the tight gasoline supply situation, many commuters have switched from the automobile to one of these methods of transportation. In addition, the increased use of buses, ferries and commuter rail systems results in improved air quality and less congestion.

The high-load factors of both school buses and charter buses make them very energy efficient. School buses are used to satisfy a major portion of the transportation needs associated with the educational process. Charter buses are employed extensively to provide a means of transportation in an efficient and economical manner. Both can be mobilized to provide essential transportation during an emergency.

The Air Transport Association questioned the fairness of meeting the fuel requirements of competing modes of intercity transportation. We have carefully weighed this concern, but have decided, in the final analysis, to follow the Department of Transportation's recommendation.

Intercity trips by passenger trains and intercity buses are more energy efficient than corresponding trips by automobile or airplane.[2] Passenger trains and intercity buses provide an economical way to travel for many individuals who cannot afford other methods. Moreover, intercity buses are the only form of common carrier passenger transportation service between many communities.

The current tight supply situation has caused or threatens to cause many firms providing the described types of surface passenger mass transportation to curtail the amount of service they offer. Such curtailments will deprive many individuals of essential services and aggravate the already tight supply situations with respect to gasoline and fuel for airplanes. Since less that two percent of the total middle distillate supply is needed to meet the requirements for these activities, any action with respect to them will have minimal overall effects. We believe that an equitable balancing of the advantages and disadvantages dictates that adequate supplies of middle distillates be obtainable to ensure the continued availability of these services. Therefore, we are amending Special Rule No. 9 to include consumers engaged in surface passenger mass transportation among those covered by this Rule. Surface passenger mass transportation will be defined as an activity providing transportation through the use of commuter ferries, commuter bus or rail systems (including metropolitan mass transit systems), school buses, charter buses, or intercity passenger buses or trains.

The exploration and production of crude oil and natural gas is dependent on the availability of diesel fuel to power the production machinery. The difficulties in obtaining sufficient amounts of diesel fuel have already slowed the rate of production at many production sites and threaten exploration activities. Several producers have informed us that their inability to obtain sufficent amounts of diesel fuel may cause them to cease production entirely in the near future. Such action would reduce current domestic production. Moreover, in some instances, it would eliminate any real possibility of recovering the volumes of crude oil and natural gas present at that site. For some operations, the costs of restarting production will make them economically unviable. For those operations involving uncased wells, the cessation of production would mean the loss of all prior work with respect to those uncased wells. In view of the current shortages of crude oil and the potential loss of future production, we believe that prudent management of resources requires that diesel fuel be made available for the production of crude oil and natural gas. Therefore, we are amending Special Rule No. 9 to include consumers engaged in the

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[1] A recent DOT study (Changes in Transportation Energy Intensiveness, 1972–1976, by John K. Pollard) comparing the urban use of automobiles with buses, commuter rail, and rapid rail transit systems yielded the following results (in passenger miles per equivalent gallons of gasoline): automobile—23; bus—43; commuter rail—53; rail rapid transit—56.

[2] A recent Congressional Budget Office study (Current and Future Savings of Energy Attributable to AMTRAK, Staff Draft Analysis, May 1979) comparing intercity travel yielded the following results (in passenger miles per equivalent gallons of gasoline): automobile—40; intercity bus—127; rail (Northeast Corridor)– 45; rail (rest of U.S.)—34; air (Northeast Corridor)—16; air (rest of U.S.)—20.

exploration and production of crude oil and natural gas.

III. Continuation of the Rulemaking

We have adopted these amendments to Special Rule No. 9 on an emergency basis to insure that sufficient volumes of middle distillates are immediately available for use in agricultural trucking, surface passenger mass transportation and the production of crude oil and natural gas. We recognize however, that the current tight supply situation may create problems with respect to other activities and also that the tight supply situation may continue after July 31, 1979. Therefore, as announced in the May Notice, we will continue, through June 15, 1979, to receive comments on Special Rule No. 9 and the necessity for any additional action in response to the tight supply situation. Also, we are still considering the advisability of amending § 211.103(b) and (c) of the gasoline allocation regulations to include surface passenger mass transportation among those uses that are not subject to an allocation fraction in order to increase the availability of gasoline for these uses. Specifically, we wish to receive comments on whether and how taxis and vanpools should be given a higher priority, particularly since many such vehicles obtain their fuel from retail outlets. If we were to include vanpooling, should we limit the rule to 10-or-more passenger vans that are registered with a State.

IV. Procedural Requirements

A. *Section 501 of the DOE Act.* Under section 501(e) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, DOE Act), we may waive the requirements of subsections (b) and (d) of section 501 upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare. We believe such a finding can and should be made in this instance. There is a substantial possibility, based upon projections of middle distillate supplies and other available information that consumers engaged in agricultural trucking, surface passenger mass transportation and the production of crude oil and natural gas will experience serious hardship in the coming months unless action is taken immediately to insure that they may obtain adequate supplies. However, in accordance with section 501(e) and in order to provide the public with a reasonable opportunity to participate in this proceeding, we will receive written comments through June 15, 1979. We will reconsider today's action with regard to the comments received in order to determine whether we should take any further action in this rulemaking proceeding.

B. *Section 553 of the Administrative Procedure Act.* Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. We have determined that good cause is found to waive the section 553(d) requirement for the reasons stated above in support of amending Special Rule No. 9 effective immediately.

C. *Executive Order 12044.* The sixty-day advance public comment period required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy as they relate to both the final rule and the proposed rules presented in the preceding sections for the reasons previously stated for amending Special Rule No. 9 immediately.

V. Written Comment Procedures

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this notice. Comments should be submitted by the date indicated in the "Dates" section of this notice and to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Special Allocation Program for Middle Distillates." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. section 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. section 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. section 6201 *et seq.*, Pub. L. 94–163 as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. section 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., May 25, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

The Appendix to Subpart A of Part 211 is amended by revising Special Rule No. 9 to read as follows:

Appendix—Special Rule No. 9; Special Allocation of Middle Distillates

(1) *Scope.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 of Part 210 of this chapter and of paragraphs (b)(5) and (b)(6) of § 211.1 of this Part, this Special Rule establishes an allocation program for the period May 25, 1979 through July 31, 1979 for middle distillates for use in eligible activities.

(2) *Definitions.* For purposes of this Special Rule, the relevant definitions of § 211.51 of Part 211 of this chapter shall apply, except that the following definitions shall apply:

"Agricultural Trucking" means trucking activities only to the extent such activities primarily involve the carriage or distribution of the following products:

(a) Fresh or frozen:
  (i) meat (including livestock);
  (ii) poultry (including live poultry);
  (iii) eggs and egg products;
  (iv) fish;
  (v) fruits, vegetables, and juices;
(b) dairy products;
(c) edible fats and oils;
(d) liquid sweeteners;
(e) yeast; and
(f) bakery products.

Not included are activities prior to picking up such products or after such products are delivered.

"Base period" means the first calendar month prior to May 1979 in which a wholesale purchaser purchased or obtained middle distillate volumes.

"Current requirements" means, (a) with respect to a wholesale purchaser-consumer or end-user, the volume of middle distillates needed by the wholesale purchaser-consumer or end-user to meet its present supply requirements for middle distillates for use in an eligible activity, but does not include any amounts which the wholesale purchaser-consumer or end-user purchases or obtains for resale or accumulates as an inventory in excess of that purchaser's customary inventory maintained in the conduct of its normal business practices; or, (b) with respect to a wholesale purchaser-reseller, the volume of middle distillates needed by the wholesale purchaser-reseller to meet its present requirements to supply middle distillates to wholesale purchaser-consumers, end-users or other wholesale purchaser-resellers for ultimate use in an eligible activity.

"Eligible Activity" means agricultural production, agricultural trucking, production

of crude oil and natural gas, or surface passenger mass transportation.

"Middle distillates" means any of the following, as defined in § 212.31 of Part 212 of this chapter: No. 1 heating oil, No. 1-D diesel fuel, No. 2 heating oil, No. 2-D diesel fuel and kerosene.

"Production of crude oil and natural gas" means any activity necessary to and directly associated with the exploration for and extraction of crude oil or natural gas from its source.

"Surface passenger mass transportation" means any activity in which passengers are transported by means of a commuter bus or rail system (including a metropolitan mass transit system), a school bus, a charter bus, a commuter ferry, or any intercity passenger bus or train.

(3) *General Rule.* Each supplier of middle distillates shall supply all wholesale purchaser-consumers, all end-users, and all wholesale purchaser-resellers with their current requirements for middle distillates which have been certified to that supplier in accordance with the provisions of this Special Rule.

(4) *Certification Requirements.* (a) *End-users.* An end-user may certify to any supplier its current requirements for middle distillates for an eligible activity.

(b) *Wholesale purchaser-consumers.* A wholesale purchaser-consumer may certify to its base period supplier its current requirements for middle distillates for ultimate use in an eligible activity.

(c) *Wholesale purchaser-resellers.* A wholesale purchaser-reseller may certify to its base period supplier its current requirements for: (i) any end user; (ii) any wholesale purchaser-consumer it supplied during the base period (in accordance with paragraph (d) of this section; (iii) any wholesale purchaser-consumer it agrees to supply under section (7); (iv) any assigned purchasers, and (v) any wholesale purchaser-reseller from which it receives a certification for volumes to be supplied pursuant to this Special Rule.

(d) *Purchasers with more than one base period supplier.* A purchaser or supplier which purchased or obtained middle distillates during the base period from more than one supplier may certify to each such supplier a percentage of its current requirements for agricultural production which does not exceed the percentage of the total volumes of middle distillates purchased or obtained by the purchaser from that supplier in the base period.

(5) *Validation of Certifications.* In the event that a purchaser and its supplier cannot agree on the volume of middle distillates which the supplier is required to supply to the purchaser under this Special Rule, the purchaser may request validation of the required volume from the appropriate ERA Regional Office. From the time the supplier receives certification, the supplier shall supply the purchaser any volumes which are not in dispute. If ERA determines that the purchaser is entitled to volumes in excess of those supplied by the supplier during the period in which certification was in dispute, ERA may order the supplier to supply such increased requirements and to supply the purchaser with additional volumes of middle distillates equal to the amount the purchaser would have received if the increased requirements had been supplied during such period.

(6) *Assignment of suppliers.* Any purchaser which is unable to purchase or obtain its total current requirements for ultimate use in an eligible activity may apply to the appropriate ERA Regional Office as provided in Subpart C of Part 205 of this chapter to be assigned a supplier; *provided that,* an end-user in a State in which there is a State Office must apply to that State Office as provided in Subpart Q of Part 205 of this chapter for the assignment of a supplier. The purchaser may be assigned one or more suppliers and the amount of its current requirements to be supplied by each supplier may be specified.

(7) *Mutual agreements.* As an alternative to the procedures set forth in sections (5) and (6) of this Special Rule, a supplier of middle distillates may agree to supply that portion of the current requirements of a wholesale purchaser-consumer which has been unable to obtain the full amount of its current requirements from its base period suppliers.

(8) *Duration of Supply Obligation.* Any requirement that volumes of middle distillates be supplied to a purchaser prior to the expiration of this Special Rule will remain in effect until satisfied, regardless of the expiration date of this Special Rule.

(9) *Redirection of products.* ERA may order the transfer of specified amounts of middle distillates from one area or region to another or among suppliers if necessary to accomplish the objectives of this Special Rule.

(10) *Inventories of middle distillates.* ERA may review inventory practices of any firm subject to this Special Rule and direct an increase or decrease in inventories if ERA determines that an adjustment is necessary in order to allocate middle distillates supplies consistent with the objectives of this Special Rule.

(11) *Normal business practices; non-discriminatory pricing.* The requirements of paragraphs (a) and (b) of § 210.62 of this chapter shall apply to suppliers to prohibit any practice or any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating or impairing the objectives, purposes and intent of this Special Rule.

[FR Doc. 79-17105 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[15 CFR Part 2301]

[Docket No. 78-1]

Public Telecommunications Facilities Program; Report and Order

Correction

In FR Doc. 79-16602 appearing at page 30898 in the issue for Tuesday, May 29, 1979, on page 30912, in column three, the signature "Helen Geller" should appear as "Henry Geller."

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Temporary Labor Certification Process for Occupations on Guam Other Than Agriculture and Logging; Broadening of Exemption From New Wage Rates for Federally Funded Projects

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document amends final rules issued by the Employment and Training Administration on September 13, 1977, regarding the labor certification process for temporary employment of aliens on Guam in occupations other than agriculture and logging. This document broadens the exemption from the new wage rates for projects funded by existing federal grants and loans in response to comments received on the regulations.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Bodin, Chief, Division of Labor Certification, United States Employment Service, Room 8410, 601 D Street, N.W., Washington, D.C. 20213, telephone (202) 376-6295.

SUPPLEMENTARY INFORMATION: Section 214.2(h)(3)(i) of the Immigration and Naturalization Service Regulations (8 CFR 214.2(h)(3)(i)), issued under the Immigration and Nationality Act (8 U.S.C. §§ 1101 *et seq.*), requires, in support of a petition for the admission of an alien into the United States to perform certain temporary labor:

Either a certification from the Secretary of Labor or his designated representative stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed or a notice that such a certification cannot be made shall be attached to every non-immigrant visa petition to accord an alien a classification under Section 101(a)(15)(H)(ii) of the Act.

On September 13, 1977, at 42 FR 45898, the Employment and Training Administration issued final regulations regarding the labor certification process for temporary employment of aliens on Guam in occupations other than agriculture and logging. At that time, the Department found that final regulations were an immediate necessity to counter the adverse effect of nonimmigrant alien employment on the wage rates of U.S. workers in the construction industry. However, in keeping with the spirit of the Administrative Procedure Act and 29 CFR § 2.7, the Department of Labor invited comments on the regulations until November 15, 1977. The major amendment adopted in this document is made in response to comments submitted pursuant to the above invitation.

The effect of the September 18, 1977, regulations was to increase, over a two-year period, the wages which must be paid to both foreign and U.S. construction workers on Guam to avoid an adverse effect on the wages of U.S. workers. However, certain existing contracts, grants, and loans were exempted from the wage rate increases mandated by the regulations. 42 FR 45902. As explained in the preamble:

[E]xisting contracts on Guam were negotiated taking into consideration the present nonimmigrant alien wage rates. In addition, construction home loans have been approved by the Small Business Administration to repair typhoon damage and Public Works Employment Act of 1977 grant funds have been committed for use on Guam for which construction contracts have not yet been executed. In order to prevent undue hardship to contractors with existing contracts, to the recipients of Small Business Administration loans, or to funded Public Works Employment Act of 1977 construction projects, the rates are not issued for work under those existing contracts, loans, and grants. 42 FR 45899.

A comment was received from the Governor of the Territory of Guam requesting that the exception to the new wage rates be extended from the two named programs—Small Business Administration loans and Public Works Employment Act of 1977 grants—to all federal loans and grants under which money was obligated for specific construction projects prior to the effective date of the new regulations. According to this comment, other federally funded projects—such as 1976 Federal Disaster Assistance Administration funds and Public Works Employment Act of 1976—have also been based on prior wage determinations and should be likewise exempted from the new wage rates.

The Employment and Training Administration believes that the original rationale for exempting existing contracts, SBA loans, and Public Works Employment Act of 1977 grants can be extended to construction projects under other federal loan and grant programs. The exemption will be extended, however, only to situations where monies were actually obligated to specific construction projects before the effective date of the new regulations (September 13, 1977). The exemption will not cover situations where monies had been appropriated but not obligated prior to that date, since obligation of such funds to specific projects can be done with the new wage rates in mind.

Several comments on the new regulations were also received from the Guam Contractors' Association. One of these comments requested that the regulations be amended to indicate that previous wage rates will apply to subcontracts entered into under contracts entered into prior to September 13, 1977. Such a provision is acceptable to the Department and is being included in the amended regulations.

A second Contractors' Association comment requested that the regulations set a time limit within which the Certifying Officer must make a determination on a petition, with certification automatic if the Certifying Officer fails to so act. The Department shares the Association's concern that petitions for certification be processed promptly, and has taken administrative action to achieve this end. A Certifying Officer and staff are now stationed on Guam, and guidelines have been established calling for a 21-day turnaround in processing an average petition. Too many variables exist in the certification process, however, for such a deadline to be made mandatory. For example, Section 655.106 calls for the issuance of a Notice of Findings and the provision of a reasonable rebuttal period to the employer in any case in which the Certifying Officer has reason to believe that the legal prerequisites to certification have not been met. Such a procedure, designed to protect the employer, requires additional time. Another factor requiring additional time is recruitment through the interstate clearance system in the continental United States, which is not standard practice but may be required in the discretion of the Certifying Officer. Furthermore, an automatic certification provision could lead to a violation of the Secretary's legal duty to make a determination based on the availability of and adverse effect upon U.S. workers. For the above reasons, no mandatory time limit will be imposed on the Certifying Officer.

A third comment proposed allowing an alien worker admitted under one certification petition to transfer to a job under another petition. Such a transfer is solely under the jurisdiction of the Immigration and Naturalization Service (INS), and is subject to INS regulations.

Finally, the Contractors' Association objected to the use of Wage Board rates after September 1, 1979, asking instead that the Department establish its own adverse effect rates. The reasons for this position were: (1) that the Wage Board rates will be too high, and (2) that the applicable Wage Board rates will not be known to contractors at the time they bid on projects.

On the first point, the Department has determined that the Wage Board rates prevailing for U.S. workers employed by the U.S. Government in construction trades on Guam give the best indication as to what the Guam construction wage rates would be if they were not depressed by the use of non-immigrant aliens. The Department believes the payment of these wage rates is necessary to avoid an adverse effect on U.S. workers.

On the second point, the Department has already provided the Guam Contractors Association with information regarding average percentage increases in Wage Board rates over the past several years. The very nature of an adverse effect wage rate is that it is reactive to changing market conditions, and the information the Department provided is as much as any employer in the country has available in predicting future adverse effect wage rates.

A further change in the regulations governing labor certifications on Guam has been made to make the Guam regulations more consistent with new regulations governing the temporary employment of alien agricultural and logging workers in the United States. 43 FR 10306 (March 10, 1978). The existing Guam regulations require, as a precondition to obtaining a temporary labor certification, that an employer assure both past and future compliance

with applicable Federal, State, and local laws relating to employment. 20 CFR 655.104(a). The proposed temporary agricultural and logging certification regulations contained a similar provision, which was criticized in employer comments. The Department thereafter withdrew the "past compliance" portion of the regulation, while retaining the assurance of compliance with respect to the employment for which certification is granted. In the interests of consistency, the same change will be made in the regulations affecting employment on Guam.

The present amendments also correct several typographical errors in the regulations as printed in the Federal Register on September 13, 1977.

Accordingly, the following revisions are made in 20 CFR, Chapter V:

1. In § 651.6, *Consolidated table of contents for parts 651–658,* the table of contents for Part 655, Subpart B, is corrected to read as follows:

§ 651.6 Consolidated table of contents for Parts 651–658.

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PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

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Subpart B—Temporary Labor Certification Process for Occupations on Guam Other Than Agriculture and Logging

Sec.
655.100 Scope and purpose of subpart.
655.101 Definitions of terms used in subpart.
655.102 Temporary labor certification applications (general).
655.103 Contents of job offers.
655.104 Assurances.
655.105 Action on temporary labor certification applications by the Guam employment service office.
655.106 Temporary labor certification determinations.
655.107 Adverse effect rates.
655.108 Temporary labor certification applications involving fraud or willful misrepresentation.
655.109 Temporary labor certification related records.
655.110 Nature of employment service job orders.

* * * * *

2. Part 655, Subpart B, Temporary Labor Certification Process for Occupations on Guam Other Than Agriculture and Logging, is revised to read as follows:

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

Subpart B—Temporary Labor Certification Process for Occupations on Guam Other Than Agriculture and Logging

Sec.
655.100 Scope and purpose of subpart.
655.101 Definitions of terms used in subpart.
655.102 Temporary labor certification applications (general).
655.103 Contents of job offers.
655.104 Assurances.
655.105 Action on temporary labor certifications applications by the Guam employment service office.
655.106 Temporary labor certification determinations.
655.107 Adverse effect rates.
655.108 Temporary labor certification applications involving fraud or willful misrepresentation.
655.109 Temporary labor certification related records.
655.110 Nature of employment service job orders.

Authority: 8 CFR 214.2(h)(3)(i); Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 et seq.; 5 U.S.C. 301.

Subpart B—Temporary Labor Certification Process for Occupations on Guam Other Than Agriculture and Logging

§ 655.100 Scope and purpose of subpart.

(a) This subpart supplements the regulations presently found at Part 621 of this Chapter and provides for the temporary labor certification process on Guam for all occupations except agriculture and logging.

(b) The Immigration and Naturalization Service Regulations at 8 CFR 214.2(h)(3)(i), issued under the Immigration and Nationality Act, require in support of a petition for the admission of an alien into the United States to perform certain temporary labor:

> Either a certification from the Secretary of Labor or his designated representative stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice that such a certification cannot be made shall be attached to every non-immigrant visa petition to accord an alien a classification under Section 101(a)(15)(H)(ii) of the Act.

(c) The temporary labor certification procedure is designed to prevent the use of foreign labor at the expense of the wages and working conditions of United States workers similarly employed. Temporary foreign workers may only be used to perform temporary services to meet shortages which occur in a particular occupation or industry.

§ 655.101 Definitions of terms used in subpart.

For purposes of this subpart:

"Administrator" means the chief official of the United States Employment Service or the Administrator's designee.

"Adverse effect rate" means the wage rate which the Administrator has determined must be offered and paid to foreign and U.S. workers for a particular occupation and/or area so that the wages of similarly employed U.S. workers will not be adversely affected. The prevailing wage rate in the area and/or occupation is the adverse effect rate, unless the Administrator has determined that a higher wage rate is necessary to prevent an adverse effect.

"Certifying Officer" means a U.S. Department of Labor official authorized to grant or deny temporary labor certification applications.

"Employment and Training Administration (ETA)" means the agency within the Department of Labor (DOL) which includes the United States Employment Service (USES).

"Employer" means a person, firm, corporation or other organization which currently has a location within the Territory of Guam to which U.S. workers may be referred for employment, or the authorized representative of such a person, firm, or corporation.

"Guam employment service office" means an office of the Guam Employment Service agency which serves the island of Guam.

"Job opportunity" means a job opening for employment on Guam to which U.S. workers can be referred.

"Offshore U.S. worker" means a United States worker whose domicile is in a State, Commonwealth, or territory of the U.S. other than Guam.

"Notice of Findings" means a notice which sets forth the bases upon which a Regional Administrator intends to deny a temporary labor certification unless the bases are satisfactorily rebutted.

"Regional Administrator, Employment and Training Administration (RA)" means the chief official of the Employment and Training Administration (ETA) in the Department of Labor (DOL) San Francisco regional office.

"Secretary" means the Secretary of Labor, of the U.S. Department of Labor, or the Secretary's designee.

"Temporary labor certification" means the determination by the Secretary of Labor, pursuant to 8 CFR 214.2(h)(3)(i), that (1) there are not sufficient U.S. workers who are

qualified and available to perform the work and (2) the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers.

"United States Employment Service (USES)" means the agency of the U.S. Department of Labor, established under the Wagner-Peyser Act of 1933, which is charged with administering the national system of public employment offices and carrying out the functions of the Secretary under the Immigration and Nationality Act.

"United States worker" means any worker who, whether U.S. citizen, national, or alien, is legally permitted to work permanently within the United States.

§ 655.102 Temporary labor certification applications (general).

(a) An employer which anticipates a labor shortage may request a temporary labor certification for temporary foreign workers by filing, or by having an agent file, a temporary labor certification application, signed by the employer, with the Guam employment service office. However, if the temporary labor certification application is filed by an agent, the agent may sign the application. If an agent is used, the application must be accompanied by a letter from the employer, signed by the employer, which authorizes the agent to act on the employer's behalf, which states whether, and to what extent the agent is authorized to make changes in the employer's job offer, and which states that the employer assumes full responsibility for the accuracy of the application, for all representations made by the agent on the employer's behalf, and for the fulfillment of all legal requirements arising from the temporary labor certification.

(b) Every temporary labor certification application shall include:

(1) A copy of the job offer used by the employer in the recruitment efforts for both U.S. and foreign workers. The job offer shall state the number of workers needed by the employer, and shall be signed by the employer. The job offer shall comply with the requirements of § 655.103 of this subpart;

(2) The assurances required by § 655.104 of this part;

(3) Documentation showing in detail the employer's efforts to recruit U.S. workers; and

(4) Documentation identifying the construction contract or contracts, if any, for which the temporary labor certification is being requested.

(c) A temporary labor certification application shall be filed in sufficient time to allow the Guam employment service office to attempt to recruit local U.S. workers. If local workers are not available, the Guam employment service office shall recruit through the interstate clearance system if current information from the RA indicates that offshore U.S. workers may be available. A minimum of 60 calendar days should be allowed for the Guam employment service local and interstate recruitment process. This 60-day period shall be in addition to the time necessary for the employer to secure foreign workers by the date of need if the temporary labor certification is granted. The Department of Labor, however, may grant or deny the temporary labor certification prior to the end of the 60 calendar days if the Certifying Officer is able to make the necessary determination in a shorter period of time.

§ 655.103 Contents of job offers.

(a) The employer's job offer shall:

(1) Offer to U.S. workers at least the same amount of wages and other benefits and working conditions which the employer is offering to the non-immigrant aliens;

(2) Set forth all the material terms and conditions of the job, including wage rates, working conditions, frequency of pay, hours and days of work, applicable workers' compensation benefits, fringe benefits, proposed deductions from pay, etc.;

(3) If housing is offered, contain a detailed description of such housing;

(4) If transportation is offered, describe the transportation benefits in detail;

(5) State that the employer will pay the worker the adverse effect rate pursuant to § 655.107 of this subpart; and

(6) State that the job offer, including all benefits therein, is open to all qualified U.S. workers, including offshore U.S. workers, without regard to race, color, national origin, age, sex, and to U.S. workers with handicaps who are qualified to perform the job.

§ 655.104 Assurances.

As part of the labor certification application the employer shall include assurances signed by the employer, that:

(a) During the period for which the temporary labor certification is granted, the employer will comply with applicable Federal, State, and local employment-related laws, including employment-related health and safety laws.

(b) The job opportunity is not:

(1) Vacant because the former occupant is on strike or is being locked out in the course of a labor dispute, or

(2) At issue in a labor dispute;

(c) During the period in which foreign workers are scheduled to be employed under the terms of the temporary labor certification:

(1) The wages and working conditions which will be offered and afforded by the employer to any foreign worker will be identical to those offered and afforded to U.S. workers; and

(2) The employer will offer and provide employment to any U.S. worker who is qualified and willing to work in the job opportunity and will keep a standing job order on file with the Guam employment service office.

(d) The employer will provide each worker with a copy of the worker's employment contract, and, if the worker is not literate in English, the contract which is provided will be in a language in which the worker is literate;

(e) Reasonable efforts have been and will continue to be made by the employer to obtain U.S. workers at adverse affect rates and working conditions no less favorable than those offered to aliens;

(f) The employer will not reject any qualified U.S. worker on the grounds that the employer's supervisory personnel speak a language other than that of the U.S. worker, and will assure that it has supervisors who speak a language understood by potential U.S. workers;

(g) If a U.S. worker cannot be recruited on Guam, the employer will consider referrals of offshore U.S. workers from Hawaii and the continental United States;

(h) The employer will accept the assistance of the Employment Service system in finding workers and will cooperate with it fully.

§ 655.105 Action on temporary labor certification applications by the Guam employment service office.

(a) When a temporary labor certification application is filed with the Guam employment service office, the Guam employment service office shall make sure that the application is complete. If the application is not complete, or if it is unlawfully discriminatory or otherwise unacceptable under Employment Service regulations for use in preparing a job order, the Guam employment service office shall return it to the employer and shall advise the employer to re-file it when it is completed.

(b) If the application is complete, the Guam employment service office, using

the information on the application, shall prepare and process an employment service job order and, if it anticipates a shortage of local workers, an interstate job order.

(c)(1) The Guam employment service office shall then use the job order to recruit U.S. workers locally and, if local U.S. workers are not available, and there is evidence that offshore U.S. workers may be available, through the interstate clearance system. Special efforts shall be made to recruit workers out of Job Corps, CETA, and other DOL funded programs.

(2) As part of this recruitment effort the employer shall pay for an advertisement placed in the newspaper with the largest circulation on Guam for a 5-day period, and, in instances in which the interstate clearance system is used, in the largest circulation newspaper in Hawaii for a 5-day period for specified occupations as determined by the Regional Administrator. The advertisement(s) must specify the wages and other terms of employment. The advertisement(s) shall direct interested applicants to apply at the appropriate employment service office. The Guam and Hawaii Employment Service offices and the employer shall maintain records on the persons who respond and the results of referrals.

(d) The Guam employment service agency, after the recruitment period, shall send the temporary labor certification application to the Certifying Officer of the Employment and Training Administration, together with:

(1) A statement indicating whether the Guam employment service agency believes the employer has met requirements of this subpart;

(2) A report of U.S. workers availability in the area;

(3) A description of the recruitment efforts undertaken by the employer;

(4) Any information which indicates that, during the prior year, the employer did not fulfill the wage or other representations made in connection with any prior temporary labor certifications and whether or not the Guam employment service agency took action against the employer pursuant to Part 658, Subpart F, of this Chapter; and

(5) Any other information requested by the Department of Labor.

§ 655.106 Temporary labor certification determinations.

(a) If the Certifying Officer has reason to believe that the employer's efforts to recruit U.S. workers have not been sufficient, that U.S. workers are available, that the employment of the non-immigrant aliens will adversely affect the wages and working conditions of U.S. workers, or that the temporary labor certification should not be granted for other reasons, the Certifying Officer shall issue a Notice of Findings, and shall afford the employer a reasonable time to submit evidence to rebut the bases of the Notice of Findings.

(b) The Certifying Officer shall then make a determination to grant or deny the temporary labor certification. No temporary labor certification shall be granted, however, if the Certifying Officer determines that the employer, during the prior year, did not fulfill the wage or other representations made in connection with any prior temporary labor certification, or if the Certifying Officer determines that, with respect to the present temporary labor certification application, the employer has not complied with the requirements of §§ 655.103–107 of this part.

(c) After the temporary labor certification determination has been made the Certifying Officer shall notify the employer in writing of the decision. If the temporary labor certification is denied, the notice shall state the reasons therefor and the appeal rights of the employer under the Immigration and Naturalization Service regulations.

(d) The granting or denial of a temporary labor certification application by the Certifying Officer shall be the final decision of the Secretary of Labor. Therefore, the employer may not make use of the complaint procedures set forth at Part 658, subpart E of this Chapter.

§ 655.107 Adverse effect rates.

(a) Except as provided in paragraph (b) of this section, the adverse effect rates for Guam shall be the prevailing rates for the occupations on Guam or, if the occupation is new to Guam, the prevailing rates for the most nearly comparable occupation on Guam.

(b) The following hourly adverse effect wage rates shall be paid to journeymen for jobs in the Guam construction industry. Trainees may be employed in Pay Levels III, IV, and V. Such trainees shall be paid at 80 percent of the journeyman wage rate for the first year and 90 percent for the second year. The construction adverse effect rates shall not be applicable to contracts which were executed prior to September 13, 1977. Nor shall the construction adverse effect rates be applicable to temporary labor certification applications involving job opportunities which are financed by federal loans or grants under which money was obligated for a specific construction project prior to September 13, 1977. The rates applicable to such a contract, loan, or grant (including any subcontracts entered into thereunder either before or after September 13, 1977) shall be those which were applicable under the temporary labor certification process at the time of the execution of the contract loan, or grant.

(1) Pay Level I:	
(i) September 13, 1977	$3.00
(ii) March 1, 1978	3.65
(iii) September 1, 1978	4.30
(iv) March 1, 1979	5.00
(2) Pay Level II:	
(i) September 13, 1977	3.25
(ii) March 1, 1978	4.00
(iii) September 1, 1978	4.75
(iv) March 1, 1979	5.50
(3) Pay Level III:	
(i) September 13, 1977	3.75
(ii) March 1, 1978	4.50
(iii) September 1, 1978	5.25
(iv) March 1, 1979	6.00
(4) Pay Level IV:	
(i) September 13, 1977	4.00
(ii) March 1, 1978	4.90
(iii) September 1, 1978	5.80
(iv) March 1, 1979	6.75
(5) Pay Level V:	
(i) September 13, 1977	4.25
(ii) March 1, 1978	5.15
(iii) September 1, 1978	6.05
(iv) March 1, 1979	7.00

(c) Starting September 1, 1979, and thereafter the construction rates will be based upon the then current Wage Board rates.

(d) Pay Level I.—The principal occupations included here are Laborers and Unskilled Workers: Includes all other laborers and unskilled workers involved in the performance of simple duties that may be learned within a short period of time and that require the exercise of little or no independent judgment. Characteristically, such occupations do not require previous experience, although a familiarity with the occupational environment may be necessary or very desirable. The occupations in this group vary from those involving a minimum of physical exertion to those characterized by heavy physical work. Pay Level I shall include occupations such as:

(1) Hod carriers;

(2) Pile drivers; and

(3) All other laborer and unskilled worker occupations.

(e) Pay Level II.—The principal occupations included here are Helpers, Skilled Trades: Includes all helpers who assist one or more workers in the skilled trades, by performing a variety of duties, such as furnishing another worker with materials, tools, and supplies; cleaning work area, machines, and equipment; feeding of offbearing machines; holding materials or tools; and performing other routine duties. Pay Level II shall include occupations such as:

(1) Oilers, such as greaser and oilers, lubricators, and machine hostlers;

(2) Tile setter helpers;

(3) Cement mason helpers;
(4) Asphalt heater tenders;
(5) Asphalt mixing machine tenders;
(6) Asphalt rakers including black top rakers;
(7) Finegraders, including slopers, etc.;
(8) Carpenter helpers;
(9) Floor sanding machine operators, including floor sanders, floor scrapers, floor finishers, etc.;
(10) Electrician helpers;
(11) Painter helpers;
(12) Paperhanger helpers;
(13) Plasterer helpers;
(14) Plumber and/or pipefitter helpers;
(15) Roofer helpers;
(16) Stone mason helpers;
(17) Terrazzo worker helpers; and
(18) All other helpers in the skilled trades, such as driller helpers and stucco mason helpers.

(f) Pay Level III.—The principal occupations included here are Operatives and Semiskilled Workers: Includes all operatives and semiskilled workers in occupations that are characterized by one, or a combination of the following requirements: The exercise of manipulative ability of a high order but limited to a fairly well-defined work routine; major reliance, not so much upon the worker's judgment or dexterity, but upon vigilance and alertness, in situations in which lapses in performance would cause extensive damage to product or equipment, and the exercise of independent judgment to meet variables in the work situation, which is not based on wide knowledge of work field and with the nature and extent of the judgments limited either by application over a relatively narrow task situation; or by having important decisions made by others. These occupations may require the performance of part of a craft or skilled occupation, but usually to a relatively limited extent. Occupations are considered semiskilled if the specific vocational preparation required to perform them involves training or other preparation of more than 30 days up to and including two years. Pay Level III shall include occupations such as:

(1) Chain surveyor helpers, rod surveyor helpers, and/or triangulation lightkeepers, including surveyor assistants, surveyor helpers, etc.;
(2) Automotive mechanics, including truck mechanics, industrial truck mechanics, etc., but excluding diesel mechanics and engineering equipment mechanics;
(3) Maintenance mechanics, but excluding millwrights;
(4) General utility maintenance workers;
(5) Truck operators, including concrete mixing truck drivers, dump truck drivers, etc. (but excluding delivery and route drivers) and industrial truck drivers, including fork lift operators, etc.;
(6) Concrete mixer operators, including batching and mixing plant operators, mixing machine operators, etc.;
(7) Concrete rubbers, including cement patchers, cement rubbers, concrete polishers, etc.;
(8) Concrete wall grinder operators, including concrete grinder operators, etc.;
(9) Dredge dipper tenders, including bucket operators, etc.;
(10) Dredge pipe installers;
(11) Dope pourers, masticers, etc., but excluding pipe paperhangers;
(12) Pipelaying fitters, including spacers, etc.;
(13) Pipecleaning and priming machine operators;
(14) Air hammer operators, including airbreaker operators, air gun operators, air tool operators, etc.;
(15) Asphalt plant drier operators;
(16) Asphalt plant operators;
(17) Construction blasters, including chargers, firers, powder workers, shooters, shot firers, etc.;
(18) Hook and chainers;
(19) Fence erectors, including iron-workers, wirefence erectors, wirefence builders, etc.;
(20) Form tamper operators and/or tamping machine operators, including road form tamping machine operators, etc.;
(21) Metal road form setters, including metal road form fitters, etc.;
(22) Reinforcing iron workers, including iron workers, reinforcing bar setters, reinforcing steel erectors, reinforcing rod tiers, etc.;
(23) Metal fabricators, including structural metal fabricators, etc., but excluding sheet metal workers;
(24) Structural steel workers, including bridgers, iron erectors, steel erectors, structural steel erectors, etc.;
(25) Millwrights, including machine erectors, etc., but excluding maintenance mechanics;
(26) Carpet cutters and/or carpet layers, but excluding floorlayers;
(27) Lathers, including metal lathers, rockboard lathers, etc., but excluding carpenters;
(28) Dry wall applicators, including dry wall nailers, sheetrockers, etc., but excluding carpenters;
(29) Tapers, including dry wall finishers, wall board and plasterboard finishers, sheetrock tapers, tapers and bedders, tapers and floaters, etc.;
(30) Glaziers, including glass setters, plate glass glaziers, etc.;
(31) Construction and maintenance painters, including structural steel painters, finish painters, etc.;
(32) Paperhangers, excluding pipe paperhangers;
(33) Plasterers, including finish plasterers, spray gun plasterers, etc., but excluding drywall applicators, lathers, stucco masons and tapers;
(34) Oil burner installers and servicers, including oil burner installers, oil burner servicers, etc., but excluding plumbers;
(35) All other operatives and semiskilled workers such as portable pump pumpers, pile driving jetters, steam cleaning machine operators, pipe paperhangers, etc.

(g) Pay Level IV—The occupations included here, and in Pay Level V, are Skilled Craftsmen: Includes all skilled craftsmen and kindred workers in occupations that predominately require a thorough and comprehensive knowledge of processes involved in the work, the exercise of considerable independent judgment, usually a high degree of manual dexterity, and in some instances, extensive responsibility for valuable product or equipment. Workers in these occupations usually become qualified by serving apprenticeships or completing extensive training periods. Occupations are considered skilled if the specific vocational preparation required to perform them involves training or other preparation of more than 2 years. Pay Level IV shall include skilled craft and kindred occupations such as:

(1) All mechanics and repairers not listed on other pay levels, such as dredge mechanics, etc.;
(2) Cement masons, including highway and street cement masons, etc.;
(3) Metal conduit layers, including duct layers, etc.;
(4) Dredge operators, including dredge pumpers, etc.;
(5) Pipelayers, including pipesetters, water pipelayers, cast iron pipelayers, etc.;
(6) Sewer tappers, but excluding plumbers and/or pipefitters;
(7) Fine trench trimmers, including trench trimmers, inverters, fine trimmers, etc.;
(8) Structural steel layout workers, including template layout workers, etc.;
(9) Asbestos and insulation workers, including blanket insulation workers, corkboard insulation workers, etc.;
(10) Bricklayers, including gypsum blocksetters, cinder block masons, etc.;
(11) Carpenters, including hardwood floor layers, framing carpenters,

combination carpenters, window installers, etc., but excluding cabinetmakers, floor layers other than hardwood floor layers, lathers, and drywall applicators;

(12) Ceiling tile installers and/or floor layers, including asphalt tile floor layers, cork tile floor layers, floor coverers, floor covering block layers, etc., but excluding carpenters, terrazzo workers, and carpet cutters or layers;

(13) Line maintainers, including high tension line maintainers, etc., but excluding electricians and wirers;

(14) Plumbers and/or pipefitters, including steamfitters, sprinkler installers, etc., but excluding oil burner installers and servicers, hot air furnace installers and repairers, and pipeline construction workers;

(15) Roofers, including aluminum shingle roofers, composition roofers, etc., but excluding metal roofers;

(16) Stone masons, including alberene stone setters, artificial stone setters, etc.;

(17) Terrazzo workers, including artificial marble workers, etc.;

(18) Tile setters, including tile fitters, tile masons, etc.;

(19) Hot air furnace installers and repairers, including furnace workers, hot air furnace installers, hot air furnace repairers, heating workers, etc., but excluding plumbers;

(20) Sheet metal workers, including coppersmiths, tinsmiths, special item fabricators, metal roofers, etc., but excluding metal fabricators;

(21) Welders and flamecutters, including arc welders, gas welders, spot welders, leadburners, resistance welders, solderers, etc.; and

(22) All other skilled craft and kindred occupations, such as instrument repairers, stucco masons, stationary engineers, etc.

(h) Pay Level V—The occupations included here and in Pay Level IV, are Skilled Craftsmen: Includes all skilled craftsmen and kindred workers in occupations that predominately require a thorough and comprehensive knowledge of processes involved in the work, the exercise of considerable independent judgment, usually a high degree of manual dexterity, and in some instances, extensive responsibility for valuable product or equipment. Workers in these occupations usually become qualified by serving apprenticeships or completing extensive training periods. Occupations are considered skilled if the specific vocational preparation required to perform them involves training or other preparation of more than 2 years. Pay Level V shall include occupations such as:

(1) Diesel mechanics, excluding automotive mechanics and engineering equipment mechanics;

(2) Engineering equipment mechanics, including heavy equipment mechanics, etc., but excluding automotive mechanics and diesel mechanics;

(3) Refrigeration mechanics, including air conditioning attendants, air conditioning mechanics, refrigeration equipment erectors, etc.;

(4) Crane operators, derrick operators, and hoist operators, excluding heavy equipment operators and dredge operators;

(5) Boilermakers;

(6) Cabinetmakers, excluding carpenters;

(7) Electricians, including wirers, residential wirers, etc., but excluding line maintainers;

(8) Machinists, including maintenance machinists, etc.; and

(9) Heavy equipment operators, excluding dredge operators, crane operators, derrick operators, and hoist operators, but including:

(i) Asphalt paving machine operators;

(ii) Blade grader operators;

(ii) Bulldozer operators;

(iv) Concrete paver operators and/or concrete-paving machine operators;

(v) Dragline operators;

(vi) Drifters;

(vii) Water well drillers;

(viii) Earth boring machine operators;

(ix) Elevating grade operators;

(x) Form grader operators;

(xi) Foundation drill operators;

(xii) Heater planer operators;

(xiii) Horizontal earth boring machine operators;

(xiv) Motor grader operators;

(xv) Mucking machine operators;

(xvi) Pile driver operators;

(xvii) Power shovel operators;

(xviii) Road mixer operators;

(xix) Road roller operators;

(xx) Rock drill operators;

(xxi) Scraper operators;

(xxii) Sheet-pile-hammer operators;

(xxiii) Shield runners;

(xxiv) Subgrader operators;

(xxv) Sweeper operators;

(xxvi) Tower-excavator operators;

(xxvii) Trench-digging machine operators;

(xxviii) Utility tractor operators;

(xxix) Cable tool well-drill operators;

(xxx) Rotary drill well-drill operators;

(xxxi) Well-reactivator operators;

§ 655.108 Temporary labor certification applications involving fraud or willful misrepresentation.

(a) If possible fraud or willful misrepresentation involving a temporary labor certification application is discovered prior to a final temporary labor certification determination, or if it is learned that an application is the subject of a criminal indictment or information filed in a Court, the Certifying Officer shall refer the matter to the INS for investigation and shall notify the applicant in writing of this referral. The Certifying Officer shall continue to process the application and may issue a qualified temporary labor certification.

(b) If a Court finds an applicant innocent of fraud or willful misrepresentation, or if the Department of Justice decides not to prosecute an applicant, the Certifying Officer shall not deny the temporary labor certification application on the grounds of fraud or willful misrepresentation. The application, of course, may be denied for other reasons pursuant to this subpart.

(c) If a Court or the INS determines that there was fraud or willful misrepresentation involving a temporary labor certification application, the application shall be deemed invalidated, processing shall be terminated, and the application shall be returned to the applicant with the reason therefor stated in writing.

§ 655.109 Temporary labor certification related records.

Employers who have been granted temporary labor certifications shall maintain for at least three years all records, including payroll and other employment records, which are related to the employment of the non-immigrant alien workers. These records shall be made available by the Secretary or the Secretary's representatives.

§ 655.110 Nature of employment service job orders.

In view of the statutorily established basic function of the employment service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the Department of Labor nor the Guam employment service are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor do such job orders represent an "offer to contract" to which the employment service and the Department of Labor are in any way a party.

Signed at Washington, D.C. this 29th day of May 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 79-17155 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79N-0083]

CFR Part 446

Tetracycline Antibiotic Drugs; Updating and Technical Revisions

AGENCY: Food and Drug Administration

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations to update and make technical revisions to reflect certain approved dosage forms that were omitted in an earlier document.

DATES: Effective June 1, 1979; comments by July 2, 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 M. 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: In the **Federal Register** of March 17, 1978 (43 FR 11151), the Food and Drug Administration amended the antibiotic drug regulations to update and make technical changes in them. This document makes the necessary changes and additions to provide for the certification of certain approved dosage forms of tetracycline hydrochloride that were omitted in the earlier document. Section 446.81a *Sterile tetracycline hydrochloride* is amended to provide for sterile tetracycline hydrochloride packaged for dispensing. Section 446.281 *Tetracycline hydrochloride for injection* is being revised to read § 446.281 *Tetracycline hydrochloride injectable dosage forms*, and the codified text is divided into two new sections—§ 446.281c *Tetracycline hydrochloride for intramuscular use* and § 446.281d *Tetracycline hydrochloride for intravenous use*—to clearly provide the requirements for certification of two injectable forms.

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 of Food and Drugs (21 CFR 5.1), Part 446 is amended as follows:

1. In Subpart A, § 446.81a is amended by revising paragraphs (a)(1)(i), (3)(ii), and (b)(1) to read as follows:

§ 446.81a Sterile tetracycline hydrochloride.

(a) * * *

(1) * * *

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

* * * * *

(3) * * *

(ii) Samples required:

(A) If the batch is packaged for repacking or for use in the manufacture of another drug:

(1) For all tests except sterility: 10 packages, each containing approximately 300 milligrams.

(2) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(B) If the batch is packaged for dispensing:

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

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

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a stock solution containing 1,000 micrograms of tetracycline hydrochloride per milliliter (estimated); also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the sample thus obtained with sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

* * * * *

2. In Subpart C:

a. Section 446.281 is revised to read as follows:

§ 446.281 Tetracycline hydrochloride injectable dosage forms.

b. New §§ 446.281c and 446.281d are added as follows:

§ 446.281c Tetracycline hydrochloride for intramuscular use.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride for intramuscular use is a dry mixture of tetracycline hydrochloride, magnesium chloride, or magnesium ascorbate and one or more suitable buffer substances, with or without one or more suitable preservatives and anesthetic agents, and with or without one or more suitable solubilizers and stabilizers. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. It is sterile. It is nonpyrogenic. Its loss on drying is not more than 5.0 percent. Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.0 and not more than 3.0. Its 4-epianhydrotetracycline content is not more than 3.0 percent. The tetracycline hydrochloride used conforms to the standards prescribed by § 446.81a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(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 tetracycline hydrochloride used in making the batch for potency, safety, histamine, loss on drying, pH, absorptivity, 4-epianhydrotetracycline content, crystallinity, and identity.

(B) The batch for potency, sterility, pyrogens, loss on drying, pH, and 4-epianhydrotetracycline content.

(ii) Samples required:

(A) The tetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(B) The batch: A minimum of 10 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the

sample for assay as follows: Reconstitute the sample as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all the withdrawable contents if it is represented as a single dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the sample thus obtained with sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 5.0 milligrams of tetracycline hydrochloride per milliliter.

(4) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(6) 4-*Epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

§ 446.281d Tetracycline hydrochloride for intravenous use.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride for intravenous use is a dry mixture of tetracycline hydrochloride with one or more suitable and harmless stabilizing agents. Its potency is satisfactory if it contains not less than 90 percent and not more than 115 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. It contains no histamine or histamine-like substances. Its loss on drying is not more than 5.0 percent. Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.0 and not more than 3.0. Its 4-epianhydrotetracycline content is not more than 3.0 percent. The tetracycline hydrochloride used conforms to the standards prescribed in § 446.81a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(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 tetracycline hydrochloride used in making the batch for potency, loss on drying, pH, absorptivity, 4-epianhydrotetracycline content, crystallinity, and identity.

(*B*) The batch of potency, sterility, pyrogens, safety, histamine, loss on drying, pH, and 4-epianhydrotetracycline content.

(ii) Samples required:

(*A*) The tetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*B*) The batch: A minimum of 10 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the sample thus obtained with sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 5.0 milligrams of tetracycline hydrochloride per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Histamine.* Proceed as directed in § 436.35 of this chapter.

(6) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(7) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(8) 4-*Epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

Because the conditions prerequisite to providing for certification of the drugs referenced herein have been complied with and as the matter is noncontroversial, the Commissioner finds for good cause that prior notice and public procedure are impractical and unnecessary and that the amendment may become effective upon the date of its publication; however, interested persons may, on or before July 2, 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 June 1, 1979.

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

Dated: May 24, 1979.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 79-17010 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: U.S. Parole Commission.

ACTION: Final rule; corrections.

SUMMARY: This document corrects the final rule relating to Paroling, Recommitting and Supervising Federal Prisoners appearing at 44 FR 3408, Tuesday, January 16, 1979.

EFFECTIVE DATE: January 16, 1979.

FOR FURTHER INFORMATION, CONTACT: Michael A. Stover, Phone: (202) 724–7567.

In FR 79–1344 issue of Tuesday, January 16, 1979, page 3409 in § 2.32, all quotation marks should be deleted.

Cecil C. McCall,

Chairman, United States Parole Commission.

[FR Doc. 79-17006 Filed 5-31-79; 8:45 am]

BILLING CODE 4410-01-(9AO401)-M

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: U.S. Parole Commission.

ACTION: Final Rule; Corrections.

SUMMARY: This document corrects the final rule relating to Paroling, Recommitting and Supervising Federal Prisoners appearing at 44 FR 26540, May 4, 1979.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION, CONTACT: Barbara Meierhoefer, Phone: (202) 724-3095.

In FR Doc. 79-13677 issue of Friday, May 4, 1979, page 26548, second column § 2.21(a) the second line should read: "administrative violation(s) only [i.e.,".

Cecil C. McCall,

Chairman, United States Parole Commission.

[FR Doc. 79-17007 Filed 5-31-79; 8:45 am]

BILLING CODE 4410-01-(9A0401)-M

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: U.S. Parole Commission.

ACTION: Final Rule; Corrections.

SUMMARY: This document corrects the final rule relating to Paroling, Recommitting and Supervising Federal Prisoners appearing at 44 FR 26550, May 4, 1979.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION, CONTACT: Barbara Meierhoefer, Phone: (202) 724-3095.

In FR 79-14042 issue of Friday, May 4, 1979, page 26550, third column § 2.19 line fifteen should read: "helpful, a recommendation should state its".

Cecil C. McCall,

Chairman, United States Parole Commission.

[FR Doc. 79-17008 Filed 5-31-79; 8:45 am]

BILLING CODE 4410-01-(9A0401)-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Designation Procedures

AGENCY: Equal Employment Opportunity Commission

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of certain State and local fair employment practices agencies so that they may handle employment discrimination charges within their jurisdiction, filed with the Commission.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Dorothy D. Howze, telephone 202-634-6894, Equal Employment Opportunity Commission (State and Local), 2401 E Street, N.W., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: Publication of this amendment to § 1601.74(a) effectuates the designation of the following agencies as 706 Agencies:

Jacksonville (Florida) Community Relations Commission.
St. Petersburg (Florida) Office of Human Relations.[1]

Notice of proposed designation of the Jacksonville Community Relations Commission was published in the March 15, 1979 issue of the **Federal Register**, 44 FR 15733, with notice that written comments must have been filed with the Commission on or before April 2, 1979. Notice of proposed designation of the St. Petersburg Office of Human Relations was published in the April 13, 1979 issue of the **Federal Register**, 44 FR 22122, with notice that written comments must have been filed with the Commission on or before April 27, 1979. The Commission received no comments within the prescribed period for filing written comments regarding the proposed designation of the above agencies.

With the addition of the above mentioned agencies, Sec. 1601.74 (a) and (b) are amended and published as follows:

Sec. 1601.74 Designated and notice agencies.

(a) The designated 706 Agencies are:

Alaska Commission for Human Rights.
Alexandria (Va.) Human Rights Office.
Allentown (Pa.) Human Relations Commission.
Anchorage (Alaska) Equal Rights Commission.
Arizona Civil Rights Division.
Augusta/Richmond County (Ga.) Human Relations Commission.
Austin (Tex.) Human Relations Commission.
Baltimore (Md.) Community Relations Commission.
Bloomington (Ind.) Human Rights Commission.
Broward County (Fl.) Human Relations Division.
California Fair Employment Practices Commission.
Charleston (W. Va.) Human Rights Commission.
Colorado Civil Rights Commission.
Commonwealth of Puerto Rico Department of Labor.
Connecticut Commission on Human Rights and Opportunities.
Corpus Christie (Tex.) Human Relations Commission.
Dade County (Fla.) Fair Housing and Employment Commission.
Delaware Department of Labor.
District of Columbia Office of Human Rights.
East Chicago (Ind.) Human Relations Commission.
Evansville, (Ind.) Human Relations Commission.
Fairfax County (Va.) Human Rights Commission.
Florida Commission on Human Relations.
Fort Wayne (Ind.) Metropolitan Human Relations Commission.
Fort Worth (Tex.) Human Relations Commission.
Gary (Ind.) Human Relations Commission.
Georgia Office of Fair Employment Practices.
Howard County (Md.) Human Rights Commission.
Hawaii Department of Labor and Industrial Relations.
Idaho Commission on Human Rights.
Illinois Fair Employment Practices Commission.
Indiana Civil Rights Commission.
Iowa Commission on Civil Rights.
Jacksonville (Fla.) Community Relations Commission.
Kansas Commission on Human Rights.
Kentucky Commission on Human Rights.
Lexington-Fayette (Ky.) Urban County Human Rights Commission.
Lincoln (Nebr.) Commission on Human Rights.
Madison (Wis.) Equal Opportunities Commission.
Maine Human Rights Commission.
Maryland Commission on Human Relations.
Massachusetts Commission Against Discrimination.
Michigan Civil Rights Commission.
Minneapolis (Minn.) Department of Civil Rights.
Minnesota Department of Human Rights.
Missouri Commission on Human Rights.
Montana Commission for Human Rights.
Montgomery County (Md.) Human Relations Commission.
Nebraska Equal Opportunity Commission.
Nevada Commission on Equal Rights of Citizens.
New Hampshire Commission for Human Rights.
New Jersey Division on Civil Rights, Department of Law and Public Safety.
New Mexico Human Rights Commission.
New York City (N.Y.) Commission on Human Rights.
New York State Division on Human Rights.
Ohio Civil Rights Commission.
Oklahoma Human Rights Commission.
Omaha (Nebr.) Human Relations Department.
Oregon Bureau of Labor.
Orlando (Fla.) Human Relations Department.
Pennsylvania Human Relations Commission.
Philadelphia (Pa.) Commission on Human Relations.
Pittsburgh (Pa.) Commission on Human Relations.
Prince George's County (Md.) Human Relations Commission.

Rhode Island Commission for Human Rights.
Rockville (Md.) Human Rights Commission.
St. Paul (Minn.) Department of Human Rights.
St. Petersburg (Fla.) Office of Human Relations.[1]
Seattle (Wash.) Human Rights Commission.
Sioux Falls (S. Dak.) Human Relations Commission.
South Bend (Ind.) Human Rights Commission.
South Carolina Human Affairs Commission.
South Dakota Division of Human Rights.
Springfield (Ohio) Human Relations Department.
Tacoma (Wash.) Human Rights Commission.
Tennessee Commission for Human Development.
Utah Industrial Commission.
Vermont Attorney General's Office, Civil Rights Division.
Virgin Islands Department of Labor.
Washington Human Rights Commission.
West Virginia Human Rights Commission.
Wheeling (W. Va.) Human Rights Commission.
Wichita (Kans.) Commission on Civil Rights.
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations.
Wyoming Fair Employment Practices Commission.

(b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources.
North Dakota Commission on Labor.
Ohio Director of Industrial Relations.
Raleigh (N.C.) Human Resources Department, Civil Rights Unit.

(Sec. 713(a) 78 Stat. 265 (42 USC 2000e–12(a)).)

Signed at Washington, D.C. this 29th day of May, 1979.

For the Commission:

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-17077 Filed 5-31-79; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

29 CFR Part 2520

Rules and Regulations for Reporting and Disclosure; Plan Description Requirements

AGENCY: Department of Labor.

ACTION: Final regulations.

SUMMARY: This document contains regulations that eliminate, except in very limited circumstances, the requirement that employee benefit plans file a Form EBS–1 with the Department of Labor (the Department), and permit a plan to satisfy the statutory requirement to file a plan description by filing a summary plan description (SPD). This revision will affect all plans subject to the reporting requirement to file a plan description under Part 1 of Title I of the Employee Retirement Income Security Act of 1974 (the Act).

DATE: These regulations are effective immediately.

FOR FURTHER INFORMATION CONTACT: Joseph Bodnar, Office of Communications and Public Services, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, 202–523–8776. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On November 21, 1978, notice was published in the **Federal Register** (43 FR 54268) of proposed revisions to the reporting and disclosure regulations [29 CFR Part 2520] under sections 102 and 104 of the Act. These revisions were designed to reduce the paperwork burden imposed by the Act by eliminating the requirement that employee benefit plans file a plan description Form EBS–1 with the Department.[1]

Section 104(a)(1)(B) of the Act requires the plan administrator of an employee benefit plan to file a plan description with the Secretary of Labor within 120 days after such plan becomes subject to Part 1 of Title I of the Act and an updated plan description no more frequently than once every five years. Regulations relating to the initial plan description—§§ 2520.102–1 and 2520.104a–2—which were adopted on April 23, 1976 and July 19, 1977 respectively, provide that the statutory requirement to file a plan description shall be satisfied by filing a completed Form EBS–1. This form, which is composed of computer readable "check-off" boxes, provides the Department with information relating to the identity and structure of the plan and the effect of various plan provisions on a participant's right to receive benefits.

Section 104(b)(1) of the Act generally requires a plan administrator to furnish an SPD to participants within the later of 90 days after an employee becomes a participant in a plan or 120 days after the plan becomes subject to Part 1 of Title I. In addition, the administrator is required to furnish an updated SPD to plan participants every five years, except if no amendments have been made to the plan during the five year period. In any event, an SPD must be furnished to plan participants every tenth year after the plan becomes subject to Part 1. Further, section 104(a)(1)(C) requires a plan administrator to file a copy of the SPD with the Department no later than the date when it is furnished to plan participants.[2]

The information required to be included in the SPD is essentially the same information required by the EBS–1—a description of the plan provisions and the effect of these provisions on the payment of benefits to plan participants. The SPD, however, provides this information in a narrative format and must be written in a manner calculated to be understood by plan participants. As the Department noted in the preamble to the proposed regulations, the effect of the plan description and SPD regulations is to require two reports that contain basically the same information to be filed with the Department. In order to eliminate this duplicative reporting of information, the Department proposed to eliminate the requirement that employee benefit plans file the Form EBS–1.

All interested persons were invited to submit comments concerning the proposal. More than 70 comments have been received. Generally the commentators favored the proposed revisions. Most commentators agreed that the EBS–1 and the SPD largely duplicate each other and supported the Department's efforts to reduce unnecessary duplication and administrative expense. Those commentators who objected to the proposed revisions noted that the EBS–1 provides information in a form designed for computer reading which facilitates the analysis of information provided to the Department. The proposed revision, in their view, would eliminate a valuable source of research information. The Department recognizes that the primary advantage of the Form EBS–1 is that it is designed for computer analysis. In those cases where statistical information is needed, however, alternative sources of data, in addition to the SPD, are available. For example, certain information concerning plans subject to Title I is contained in the annual report. In addition, data which is not otherwise available to the Department can be obtained by means of a sampling without requiring all plans

[1] The City of St. Petersburg (Fla.) Office of Human Relations has been designated as a 706 Agency for all charges except charges alleging retaliation under Sec. 704(a) of Title VII. For these types of charges it shall be deemed a "Notice Agency," pursuant to 29 CFR 1601.71(3).

[1] The revisions have been classified as "significant regulations" because of the considerable public interest in reducing the reporting obligations of employee benefit plans under ERISA. See 44 FR 5576 (January 26, 1979).

[2] Final and interim regulations with respect to the requirements to file and to furnish the initial SPD (29 CFR 2520.104a–3 and 2520.104b–2) were published on July 19, 1977.

to file this information with the Department.

A question has been raised in the comments concerning the effect of the elimination of the EBS–1 on employee welfare benefit plans that provide solely apprenticeship training benefits. Section 2520.104–22 currently exempts such plans from the requirements to furnish an SPD to plan participants and beneficiaries and to file a copy of the SPD with the Department, but requires that these plans file a plan description with the Department. As proposed, § 2520.102–1 could be interpreted to require plans that provide solely apprenticeship training to file an SPD. The Department did not intend, by proposing to eliminate the Form EBS–1, to require an apprenticeship plan to file an SPD if the plan currently is exempt from such requirement. Accordingly, the final regulations provide that apprenticeship plans exempted under § 2520.104–22 from the requirement to file an SPD shall satisfy the requirement to file a plan description by filing an EBS–1. The Department's decision to retain the EBS–1 for apprenticeship plans is an interim measure. The Department has under consideration revisions to the reporting and disclosure requirements of plans that offer apprenticeship training. It is anticipated that these revisions will provide permanent guidance with respect to the reporting obligation of such plans.

The commentators also suggested several minor technical changes which have been accepted by the Department. In addition, § 2520.104a–2 has been modified to reflect the Department's intent, as stated in the preamble to the proposed regulations, that the statutory requirement to file an updated plan description shall be satisfied by filing an updated SPD.

Therefore, for the above reasons and in accordance with sections 104(a)(3) and 110 of the Act, the Department hereby revises §§ 2520.102–1 and 2520.104a–2 to permit a plan to satisfy the reporting requirement of section 104(a)(1)(B) of the Act—the plan description filing requirement—by filing an SPD which meets the requirements of the Act and the regulations governing the form, content, distribution and filing of the SPD. Paragraph (c) of § 2520.104a–2, which contains a cross-reference to special rules for plans subject to deferred initial reporting requirements, remains unchanged and is republished for convenience.

Because these regulations provide relief from a reporting obligation, they are effective immediately upon publication under the authority of the Administrative Procedure Act (5 U.S.C. 553(d)).

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Pursuant to the authority in sections 101, 102, 104, 109, 110, and 505 of the Act; Pub. L. 93–406, 88 Stat. 840–852, 894 (29 U.S.C. 1021, 1022, 1024, 1029–1030, 1135), Chapter XXV of Title 29 of the Code of Federal Regulations is amended so that §§ 2520.102–1 and 2520.104a–2 read as follows:

§ 2520.102–1 Plan description.

(a) The plan description required by section 102 of the Act shall consist of a summary plan description as described in section 102(b) of the Act and §§ 2520.102–2 and 2520.102–3 thereunder, except as provided in paragraph (b) of this section.

(b) For purposes of § 2520.104–22, the limited exemption for apprenticeship plans, the plan description shall consist of a Department of Labor Form EBS–1 "Plan Description" completed in accordance with § 2520.104a–1(a) and the instructions to the Form.

§ 2520.104a–2 Plan description reporting requirements.

(a) *General obligation to file.* Under section 104(a)(1)(B) of the Act, the administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act shall file with the Secretary a plan description within 120 days after the plan becomes subject to Part 1, and an updated plan description, which the Secretary shall not require more frequently than once every five years.

(b)(1) *Fulfilling the filing obligation.* The administrator of an employee benefit plan other than a plan described in paragraph (b)(2) of this section shall satisfy the requirements of section 104(a)(1)(B) of the Act and paragraph (a) of this section by filing with the Secretary a summary plan description and an updated summary plan description in accordance with section 104(a)(1)(C) of the Act and regulations issued thereunder.

(b)(2) The administrator of an apprenticeship plan exempted under § 2520.104–22 from certain reporting and disclosure requirements shall satisfy the requirements of section 104(a)(1)(B) of the Act and paragraph (a) of this section by filing with the Secretary a Department of Labor Form EBS–1 "Plan Description" as described in § 2520.102–1(b).

(c) Special rules for plans subject to deferred initial reporting requirements. See §§ 2520.104–3, 2520.104–5, and 2520.104–6.

Signed at Washington, D.C., this 23d day of May 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc. 79–16712 Filed 5–31–79; 8:45 am]

BILLING CODE 4510–29–M

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29 CFR Part 2520

Rules and Regulations for Reporting and Disclosure; Summary Annual Report; Correction

AGENCY: Department of Labor.

ACTION: Correction of regulation.

SUMMARY: This document corrects a regulation concerning the content, style and format of the summary annual report (SAR) required to be furnished to participants and beneficiaries of employee benefit plans under the Employee Retirement Income Security Act of 1974 (ERISA).

FOR FURTHER INFORMATION CONTACT: Joseph L. Roberts III, (202) 523–7901.

SUPPLEMENTARY INFORMATION: In FR Doc. 79–10235, appearing at page 19400 in the Federal Register of April 3, 1979, §§ 2520.104b–10(c)(3) and (4), appearing at page 19404, are corrected to read as follows:

§ 2520.104b–10 Summary Annual Report.

* * * * *

(c) *Contents, style and format.* * * *

(3) *Form for Summary Annual Report Relating to Pension Plans.*

* * * * *

Basic financial statement

* * * * *

This (increase) (decrease) includes unrealized appreciation or depreciation in the value of plan assets; that is, the difference between the value of the plan's assets at the end of the year and the value of the assets at the beginning of the year or the cost of assets acquired during the year.

* * * * *

(4) *Form for Summary Annual Report Relating to Welfare Plans.*

* * * * *

Basic financial statement

* * * * *

This (increase) (decrease) includes unrealized appreciation or depreciation in the value of plan assets; that is, the difference between the value of the plan's assets at the end of the year and the value of the assets at the beginning

of the year or the cost of assets acquired during the year.

* * * * *

Signed at Washington, D.C. this 23rd day of May, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor Management Services Administration.

[FR Doc. 79-16801 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 405

Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians; Direct Apportionment of Malpractice Costs to Medicare

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This amendment requires malpractice costs incurred by a provider to be directly apportioned to Medicare based on Medicare malpractice loss experience, instead of the current apportionment basis of Medicare's overall utilization of provider services. It requires a separate accumulation and direct apportionment of malpractice insurance premiums and self-insurance fund contributions. In addition, when a provider pays allowable uninsured malpractice losses incurred by Medicare beneficiaries, as a result of the application of deductible or coinsurance provisions of a purchased insurance policy, or as a result of an award in excess of reasonable coverage limits, or as a governmental provider, Medicare will reimburse the costs of these losses and any related direct costs. The purpose is to reimburse Medicare providers on a basis more closely related to actual malpractice experience.

DATE: Effective July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Hugh McConville, (301) 594-9682

SUPPLEMENTARY INFORMATION:

Background

Under sections 1814(b) and 1833(a)(2)(A) of the Social Security Act, providers of services are to be paid the lesser of reasonable cost of services furnished to beneficiaries or the customary charges made by the provider for the same services. Section 1861(v)(1)(A) of the Act defines reasonable cost and authorizes the Secretary to issue regulations establishing the methods to be used and items to be included in determining reasonable costs. These regulations are set forth in 42 CFR Part 405, Subpart D.

Under current regulations and other instructions issued by Medicare, malpractice costs are accumulated in the administrative and general cost center and allocated to the revenue-producing and other cost centers on the statistical basis of accumulated costs. The costs in the revenue-producing cost centers, including appropriate allocated overhead costs, are then apportioned to Medicare using the ratio of Medicare charges to total charges, or another appropriate statistical basis for ancillary and outpatient services, and the average cost per diem for Medicare beneficiaries for general routine and special care unit services.

This method results in Medicare paying a disproportionate amount of malpractice costs. A national study conducted by a DHEW consultant indicates that malpractice awards for Medicare patients are significantly lower in amount than losses for other patient population. The lower awards for Medicare patients result because the income potential and life expectancy of these patients are less than the non-Medicare population. Thus, the use of overall Medicare utilization to allocate malpractice costs results in Medicare's paying a disproportionate amount of malpractice costs.

This amendment avoids these disproportionate payments by restructuring the cost finding and cost apportionment procedure. Costs of malpractice insurance premiums and self-insurance fund contributions will be accumulated in a specific malpractice cost center and directly apportioned to Medicare based on the provider's Medicare malpractice loss experience. The dollar ratio of malpractice losses paid for Medicare beneficiaries to total malpractice losses paid for all patients for the current cost reporting period and the preceding 4-year period will provide the basis for apportioning these malpractice costs to Medicare.

The use of an actuarial estimate when a provider has minimal malpractice losses during the 5-year period, as proposed in the Notice of Proposed Rulemaking, could also have resulted in Medicare sharing disproportionately in malpractice costs. Therefore, the final regulation has been revised to require a provider to use the national ratio of the dollar value of Medicare malpractice awards to total malpractice awards as determined by the 1976 Departmental closed claim study performed by Westat, Inc. This national ratio, as determined by the latest study, is 5.1 to 100 or 5.1 percent and is to be used instead of an actuarial estimate for apportioning malpractie insurance premiums or self-insurance fund contributions. When a provider has no malpractice loss experience for the 5-year period specified in the final regulation, Medicaid reimbursement of malpractice insurance premiums or self-insurance fund contributions would be determined by applying the national ratio of 7.5 to 100 (or 7.5 percent). This ratio was also determined by the most recent Departmental study of closed claims.

If a provider pays allowable uninsured malpractice losses for Medicare beneficiaries, as a result of the application of deductible or coinsurance provisions of a purchased insurance policy or a funded self-insurance program, or as a result of an award in excess of reasonable coverage limits, or as a governmental provider, those losses and related direct costs will be directly assigned to Medicare for reimbursement.

This regulation impacts Medicaid reimbursement because under 42 CFR 447.261(b)(2), for payment of inpatient hospital services, States participating in Medicaid must either adopt Medicare standards and principles for determining reasonable cost reimbursement as set forth in 42 CFR 405.402 through 405.455 or must meet the criteria in 42 CFR 447.261(d).

Discussion of Major Comments

A Notice of Proposed Rulemaking for this regulation was published on March 15, 1979, in the **Federal Register** (44 FR 15641). Comments were received from many members of the health care industry. Responses to the most significant comments are described below.

1. *Opposition to the Direct Apportionment of Malpractice Costs.* All comments received were against the proposal and recommended that we withdraw it entirely. The main argument against the proposal was that the incurrence of malpractice costs bears no relationship to the financial class of the patient. Therefore, all patients should share equally in malpractice insurance costs or losses because these costs are incurred primarily for the benefit of the total overall patient population and for the protection of facility assets. Other arguments stressed that charges to private patients and third-party payors would necessarily increase in order to recover costs normally reimbursed by

Medicare, and that additional costs for recordkeeping would be incurred.

We are aware that insurance companies generally do not determine insurance rates for malpractice insurance based upon the financial status of the patients. However, information about malpractice loss experience by type of patient (i.e., Medicare) is readily available. Moreover, this regulation is not based on a relationship between malpractice losses and the financial status of patients. As explained above, it is grounded on a direct calculation of the costs incurred in furnishing health care to Medicare beneficiaries.

We are also aware that charges to private patients and third-party payors may increase and that additional costs for recordkeeping may be incurred; we believe that this amendment is necessary in order to prevent the program from paying a disproportionate amount of substantial malpractice costs.

2. *Direct Assignment of Overhead Costs.* We received comments urging that overhead costs other than malpractice costs also be directly apportioned. We believe that the current cost finding and apportionment procedure is generally an equitable method of allocating other overhead costs. However, because malpractice costs are so significant and the disproportionate allocation of malpractice costs to Medicare is so great, we believe a unique exception is warranted to deal with these costs.

3. *Cash Flow.* We received comments concerning the possibility of the apportionment ratio adversely affecting provider cash flow. If a provider pays a large dollar amount of Medicare malpractice claims in the current year and has little or no prior Medicare malpractice claim experience for the preceding 4-year period, the apportionment ratio of Medicare malpractice claim loss experience to total malpractice claim loss experience for the current period necessarily becomes smaller due to the averaging of the malpractice loss experience ratios for the entire 5-year period. Over the succeeding 5-year period, reimbursement would eventually reflect Medicare's malpractice claim experience. However, for the current year, the apportionment ratio (5-year average) would apportion to Medicare an amount less than what would have been apportioned had the current year's ratio for malpractice claim loss experience been used, thereby lowering Medicare reimbursement. Providers, therefore, would have to use their own funds until such time as Medicare reimbursement "catches up."

We wish to study this issue further, especially when circumstances are reversed and Medicare payment is greater than it might otherwise be, due to a particularly large malpractice claim in a given year. One possible solution could be a modification to 42 CFR section 405.454(h), Accelerated payments to providers, to provide relief to providers whose cash flow is adversely affected by the apportionment ratio. If so, a proposed change to this regulation section would be published in the **Federal Register** for comment.

4. *Claims Management.* We also received comments stating that this regulation would provide an incentive for providers to settle Medicare malpractice claims without providing the same degree of claims management as for non-Medicare malpractice claims of similar nature. We do not believe that providers would actually settle Medicare malpractice claims in such a manner. Furthermore, we do not believe that others involved in such matters, such as legal firms, insurance companies, and insurers would allow these practices. However, we will watch this carefully and take action if necessary.

EFFECTIVE DATE: This amendment to the Medicare reimbursement regulations is effective for cost reporting periods beginning on or after July 1, 1979. Instructions will be provided through fiscal intermediaries for the treatment of malpractice costs for these periods and cost reporting forms will be supplied before filing.

42 CFR Part 405 is amended as follows:

1. Section 405.452 is amended by revising paragraph (b)(1) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

* * * * *

(b) *Principle for cost reporting periods starting after December 31, 1971.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. For cost reporting periods starting after December 31, 1971, the methods of apportionment are defined as follows:

(1) *Departmental Method.* (i) Except as provided in paragraph (b)(1)(ii) of this section with respect to the direct apportionment of malpractice costs, the ratio of beneficiary charges to total patient charges for the services of each ancillary department is applied to the cost of the department; to this is added the cost of routine services for program beneficiaries, determined on the basis of a separate average cost per diem for general routine patient care areas, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential), and in hospitals, a separate average cost per diem for each intensive care unit, coronary care unit, and other special care inpatient hospital units.

(ii) *Exception:* For cost reporting periods beginning on or after July 1, 1979, costs of malpractice insurance premiums and self-insurance fund contributions must be separately accumulated and directly apportioned to Medicare. The apportionment must be based on the dollar ratio of the provider's Medicare paid malpractice losses to its total paid malpractice losses for the current cost reporting period and the preceding 4-year period. If a provider has no malpractice loss experience for the 5-year period, the costs of malpractice insurance premiums or self-insurance fund contributions must be apportioned to Medicare based on the national ratio of malpractice awards paid to Medicare beneficiaries to malpractice awards paid to all patients. The Health Care Financing Administration will calculate this ratio periodically based on the most recent departmental closed claim study.

If a provider pays allowable uninsured malpractice losses incurred by Medicare beneficiaries, either through allowable deductible or coinsurance provisions, or as a result of an award in excess of reasonable coverage limits, or as a governmental provider, such losses and related direct costs must be directly assigned to Medicare for reimbursement.

(Sections 1102, 1814(b), 1861(v)(1) of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395x(v), 1395hh).)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: May 23, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: May 24, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-16813 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 78-144; FCC 79-308]

47 CFR Part 1

Regulation of Cable Television Pole Attachments

AGENCY: Federal Communications Commission.

ACTION: Reconsideration of First Report and Order; and Second Report and Order adopting further pole attachment rules.

SUMMARY: On August 11, 1978, in response to Section 224 (b)(2) of the Communications Act Amendments of 1978, the Commission released a First Report and Order establishing procedural rules for resolving pole attachment complaints. Pursuant to § 1.429 of the Commission's rules, three parties filed Petitions for Reconsideration of the First Report and Order. The consolidated order below contains the Commission's decision in response to the Petitions for Reconsideration and sets forth in a Second Report and Order the substantive rules for resolving cable television pole attachment complaints.

EFFECTIVE DATE: July 2, 1979.

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

FOR FURTHER INFORMATION CONTACT: James M. Talens, Pole Attachments Branch, Tariff Division, Common Carrier Bureau, (202) 254–8100.

In the matter of adoption of rules for the regulation of cable television pole attachments; [43 FR 36086, August 15, 1979].

Memorandum opinion and second report and order

Adopted: May 17, 1979.

Released: May 23, 1979.

By the Commission: Commissioners Lee and Jones not participating.

1. We have before us Petitions for Reconsideration (Petitions) of our First Report and Order (*First Report*) in CC Docket 78–144, 68 FCC 2d 1585 (1978), by which we adopted initial procedural rules to resolve cable television pole attachment complaints, as mandated by Section 224(b)(2) of the Communications Act Amendments of 1978, Pub. L. No. 95–234 (the Act). We are also considering at this time the adoption, in a Second Report and Order (*Second Report*), of further rules governing the resolution of pole attachment complaints. As indicated in the *First Report*, time constraints did not permit us to examine adequately comments filed in response to some of the substantive issues presented in the Notice of Proposed Rulemaking (*NPRM*), 68 FCC 2d 3 (1978). The *Second Report* contains our analysis of these issues, including additional costs, operating expenses and actual capital costs of the utility, usable space, and guidelines for terms and conditions. It also contains several revisions to procedural requirements adopted in the *First Report* which we believe will more effectively achieve Congress' intent that we resolve pole attachment complaints expeditiously.

Reconsideration

2. The Petitions were filed by American Telephone and Telegraph Company, on behalf of itself and its associated companies (Bell); National Cable Television Association, Inc. (NCTA); and United States Independent Telephone Association (USITA). Oppositions were filed by Bell, the National Association of Regulatory Utility Commissioners (NARUC) and NCTA. Replies were submitted by Bell, NCTA and USITA. In the following paragraphs we address the various issues raised in these pleadings.

State Certification

3. Section 224(c)(1) of the Act limits the jurisdiction of the Commission in pole attachment matters to those cases "where such matters are [not] regulated by a state." Section 224(c)(2) sets forth the procedure by which a state may "certify" that it regulates pole attachment matters. It must declare that it regulates the rates, terms, and conditions of pole attachments and in so doing has the auhtority to consider and does consider the interests of CATV subscribers as well as utility consumers. These standards and requirements are contained verbatim in § 1.1414 of our Rules. NCTA argued (NCTA Petition, pp. 1–2) that the Commission should "require that state certification be by final and appealable order of the state regulatory agency setting forth the basis of its jurisdiction to regulate pole attachments" and that we "should not, upon receipt of state certification, forward all pending cases thereby affected to the appropriate state agency," i.e., that once jurisdiction of the Commission is invoked, there should be no transfer to the state. Bell and NARUC opposed NCTA's position.

4. NCTA's first contention appears to be that a challenge cannot be brought in state court if the certificate is not final and appealable. We find it difficult to believe that any state has legal procedures whereby a letter of certification that arguably has inadequate jurisdictional or substantive foundation cannot be challenged within the state. In any case, the legislative history in Pub. L. 95–234 clearly requires the Commission to "defer to any state regulatory program operating under color of State law" whether or not that "color" is final or appealable at the state level.[1] Nonetheless, instances have arisen where we have received a certification made by a state commission representative where it is not stated whether that individual has authority to make that certification for the Commission. We require more than a mere opinion. Henceforth, if the letter of certification to this Commission is not by order of the state commission itself, the person signing the letter shall be required to state that he or she has lawful delegated authority under provisions of state law to submit such certification and shall cite the law, regulation, or other instrument conferring such authority. We believe such a change is consistent with the "color of state law" intent expressed by Congress. This amended requirement is reflected in § 1.1414(d) of our Rules.[2]

5. NCTA's second contention was that any complaint pending upon certification by the state in which the utility and CATV operator are conducting business should remain under Commission jurisdiction. This would avoid, it asserted, unnecessary delay in resolution of the complaint. In support of its view, NCTA analogized to federal ancillary jurisdiction; i.e., once a federal court has parties properly before it, a state issue not otherwise within its jurisdiction may also be heard, in the interest of judicial economy. [NCTA Reply, pp. 4–5, in connection with § 1.1414(c)]. As an implied consequence of NCTA's analogy, once a complaint is filed with the Commission subsequent certification is void as to that complaint since the Commission has assumed jurisdiction, though any later complaint, even if identical, would be at the state level. The analogy to federal ancillary jurisdiction, however, is misplaced. The legislative history of Pub. L. 95–234 is quite clear in its mandate that the federal forum, i.e., this Commission, not hear pole attachment complaints once a state certifies. It states that "Receipt of such a certification . . . shall be conclusive upon the Commission."[3] We

[1] See *First Report*, at paragraph 50.

[2] This requirement will be applied to all certifications received after the release of this order.

[3] S. Rep. No. 95–580, 95th Cong., 1st Sess. 17 (1977). Also, "conclusive" means "serving to settle or decide a question . . .; tending to terminate; closing." The Random House College Dictionary, (1973).

read this to require that once certification is received, the Commission is without authority to enforce its pole attachment rulings. Otherwise there might be contrary dispositions of nearly identical pole attachment complaints in the same state. While as a general matter ancillary jurisdiction taken by a federal forum vests responsibility in that forum for deciding a nonfederal counterclaim [See *Moore* v. *New York Cotton Exchange,* 270 U.S. 593 (1926)], this Commission (a federal forum) loses jurisdiction to enforce a pole attachment decision once state certification has been filed. Put simply, certification voids all Commission pole attachment jurisdiction so there is no remaining vestige to which an earlier filed complaint may attach; in short, there can be no "ancillary" jurisdiction upon certification. Accordingly, we deny NCTA's arguments for a change in § 1.1414(c) of the Rules.

Notice of Removal

6. Section 1.1403(a) requires a utility to provide a CATV operator with no less than 60 days written notice prior to (1) removal of facilities or termination of any service to those facilities, where such removal or termination arises out of a rate, term or condition of a cable television pole attachment agreement, or (2) any increase in pole attachment rates. Bell urged that this section be amended to exempt the required notice where a safety hazard is involved. In response, NCTA pointed out that pole attachment agreements generally provide for emergency removals and suggested that any revised rule should delineate the emergency circumstances. In its Reply, Bell questioned the practicality or possibility of delineating such circumstances.

7. Section 1.1403(a) requires 60 days written notice of removal or termination only where a rate, term, or condition is in dispute. Emergency situations directly or immediately affecting health or safety of utility or CATV personnel, or the public, are not intended to fall within its purview, nor are such situations readily susceptible to delineation. We believe the parties can reach an understanding in any given case as circumstances require without relying upon an amendment to § 1.1403(a). Bell's suggestion is therefore rejected.

Make-Ready Costs

8. Section 224(d)(1) of the Act requires that the Commission accept as just and reasonable a pole attachment rate that assures a utility recovery of not less than the additional (i.e., incremental) cost of providing pole attachments nor more than an amount determined by multiplying the percentage of usable space which is occupied by the CATV operator by the sum of the operating expenses and actual capital costs attributable to the entire pole.[4] Simply put, an acceptable attachment rate would fall in the range between the incremental and fully allocated costs of providing CATV pole attachment space. The language from Section 224(d)(1) supporting this range appears verbatim in subsection (c) of § 1.1409 of our Rules. In paragraph 43 of the *First Report,* we indicated that make-ready costs, which are those costs incurred by a utility in the preparation of a pole for attachment by a CATV operator,[5] might have to be recovered over several years if they exceed the fully allocated cost in the first year. In its Petition, Bell asserted that we had implied that make-ready costs were to be included in the pole attachment rate calculation. It suggested that recovery over several years would be inappropriate and would impose an unreasonable and unauthorized burden on the utility and its ratepayers.

9. The legislative history in connection with § 224(d)(1) of the Act states that "a fee designed to recover only the utility's avoidable [or incremental] costs, which could be expected to be minimal since most of those costs are the outlays that should be *fully recovered in the make-ready charges,* would justify treating cable as a clearly secondary user subordinate in every respect to the provision of electric and telephone service." [Emphasis added.] The context of this discussion on the level of fees versus rights received does not militate against the apparent legislative recognition of a distinction between costs that are of a non-recurring nature, such as make-ready charges, and "additional cost" elements that are of a recurring nature. However, in the succeeding paragraph of the legislative history, "additional costs" are defined as including "such items as preconstruction survey costs and engineering, *make-ready,* and change-out costs incurred in preparing the utility pole for the CATV attachment." [Emphasis added.][6] Some of these costs may be recurring in nature (see paragraphs 28–31 *infra*) since in one form or another they may occur at regular intervals following initial attachment. Because of these inconsistencies in the legislative history, there is no dispositive determination as to whether make-ready and other non-recurring charges should properly be includable in the calculation of additional costs for purposes of § 1.1409(c). We believe that if an expeditious and simple approach to pole attachment regulation is to be achieved, we must favor exclusion of make-ready costs from the calculation of additional costs for purposes of determining the recurring rate. Such a decision eliminates the necessity of encumbering the utilities (and cable television operators) with the inherent complexities of carryover procedures and interest calculations. Accordingly, we will modify the position taken in paragraph 43 of the *First Report* to the extent it relates to make-ready and other non-recurring preparatory costs as components of "additional costs" for purposes of § 1.1409(c) of the Rules. These issues, including definitions of non-recurring and recurring costs, are discussed further at paragraphs 27–30, *infra.*

Information Required in a Complaint

10. Subsection 1.1404(g)(v) requires a complainant to submit the "Total number of poles owned, controlled, and used by the utility."[7] This, along with the cost and other data required by Section 1.1404(g), is intended to enable ascertainment of the unit costs for poles used to support CATV facilities whether such poles are owned or not. Such unit costs will in turn be used to decide whether a rate is just and reasonable. Bell opposed the inclusion of both "used" and "controlled" in subsection (v) because, it said, utilities are responsible only for poles they "own." Bell argues, it appears, that utilities are not able to obtain relevant cost information for "used" and "controlled" poles. NCTA responded that the language of the rule merely tracks the statute, noting the definition of "utility" contained in Section 224(a)(1) of the Act, i.e., "any person . . . who owns or controls poles. . . ."

11. Bell's position might have some credence if it were not for joint-use

[4] While the Act and our rules are directed to poles, ducts, conduits, and rights of way, our analysis here is directed only to poles, which represent by far the preponderant medium for CATV attachments. Our discussions and decisions are intended to apply in principle to these other media as well. For a discussion of the use of the various media by CATV operators, see William S. Comanor and Bridger M. Mitchell, "Cable Television and the Impact of Regulation," Bell Journal of Economics and Management Service, Vol. 2, No. 1 (Spring, 1971), p. 179.

[5] Such make-ready costs include modifications to poles or lines, installation of guy wires and anchors, or replacement of poles (change-out) where necessary due to additional loading factors caused by CATV facilities. The CATV user may be responsible for all or part of these costs.

[6] S. Rep. No. 95–580, 95th Cong., 1st Sess. 19 (1977).

[7] Section 1.1404(h) requires such information to be supplied by the utility to a CATV operator upon reasonable request.

agreements between electric and telephone companies that frequently assign or transfer the right to contract pole space with CATV operators, an arrangement which may generate revenues or expenses. As NCTA observed, telephone companies frequently enter into pole attachment agreements though they do not actually own the poles. Bell's request that we not require information regarding non-owned poles is therefore denied. In reexamining this matter, however, we have concluded the information requirement needs to be more clearly focused. The CATV attachment agreements do not generally reflect how many of the poles so used are owned, as opposed to leased or controlled, by the contracting utility. As we have stated, it is necessary to determine such information so that joint pole costs may be calculated. Accordingly, in order to ascertain total revenues and expenses attendant to joint use agreements for poles that utilities agree to permit CATV operators to use, and to determine pole responsibility, we have restructured the requirements of § 1.1404(g).[8] (See below, Subsection 1.1404(g).) The additional information we are requiring will provide a more accurate numerical pole count and cost accounting for pole plant used for CATV purposes and will disclose figures that can be used to assure that utility consumers and CATV operators are being treated properly for amounts flowing in and out of utilities' pole investment, revenues and expense accounts.

Rule Section 1.1404(g)—Form M

12. The general guidelines of Section 1.1404(g) require that Form M data or its equivalent, showing costs to the telephone company, be submitted where poles are used jointly by the telephone and electric power utility companies, yet are owned or controlled by the telephone company. Bell opposed our inclusion of "controlled" in this subsection, claiming that "Form M data reflects only poles owned by the telephone companies," not those merely controlled (or used) by it. NCTA opposed Bell's position, citing Section 224(a)(1) of the Act, which defines "utility" as "any person . . . who owns or controls poles," as requiring such information.

13. As indicated by several parties in the proceeding, the CATV operator is often obligated to contract for pole space with a telephone company which, by agreement with the electric company pole owner, has exclusive control of the communications space of that pole. In such a case, the cost to a fully subject telephone company (such as Bell) of rental fees paid to the electric company pole owner is contained in Account 671 of Schedule 35 of Form M. Account 524 of Schedule 34, Rent Revenues, serves as the converse of Account 671, and includes rents received by a telephone company pole owner for space leased to an electric utility.[9] Accordingly, Form M data do reflect cost and revenue information for poles controlled, as well as owned, by the telephone company.[10] Bell's objection to the use of Form M because it does not reflect cost for poles "controlled" does not appear to be valid.

Rules Section 1.1404(g)—Replacement Costs and FDC–7

14. The general guidelines of Section 1.1404(g) also provide for the submission, in lieu of Form M or FERC Form 1 information (see paragraph 16 below and footnote 13), of data showing costs derived from forms filed with state or other federal regulatory agencies, but require such data to be based upon historical costs, insofar as possible and on the Fully Distributed Cost method 7 (FDC–7 methodology) where possible.[11] Bell's final arguments in connection with this section where that: (a) replacement costs should be taken into account in determining pole attachment rates; and (b) reference to FDC–7 is incorrect because it does not generate data that specifically relate to pole line costs. NCTA, citing Congress' direction that the maximum rate be based upon the "actual capital costs of the utility," opposed Bell's replacement cost argument. NCTA suggested that cost should be calculated on a fully distributed cost method, similar to the FDC–7 methodology.

15. With regard to the argument advanced by Bell and others that replacement costs should be taken into account in determining pole attachment rates, we do not consider such costs to be reflective of actual costs incurred. We believe historical costs most accurately reflect actual or embedded costs. In their absence, however, we will accept whatever accounting method is utilized by the utility's regulatory authority, as we indicated in para. 25 of the *First Report*.[12] Bell's second argument was that conformance with FDC–7 submission requirements is required only for its interstate services, not for pole attachment complaints. In view of the basically intrastate nature of pole attachment matters, Bell's distinction has some merit. We realize that it is unfair to require one supplier of pole attachment space (Bell) to use a particular costing methodology, perhaps necessitating special studies, while allowing other suppliers of pole space (non-Bell telephone companies and electric companies) to submit currently available data. The congressional intent is that we avoid prescribing new systems of accounts. We do not intend, therefore, to establish separate costing methodologies for different utilities, or to burden Bell unnecessarily with special accounting requirements. Accordingly, reference to FDC–7 in § 1.1404(g) has been removed.

16. Since we are deleting reference to FDC–7 methodology in our pole attachment rules, we shall briefly discuss the accounting submissions that will be required. As indicated in Section 1.1404(g), the preferred source of investment, expense, and revenue data from Bell and certain other telephone companies fully subject to Title II of the Act, such as General Telephone and Electronics (GTE), is the FCC Form M.[13] In order to use Form M data in pole attachment proceedings, however, it is necessary to identify and segregate the intrastate components from the composite interstate-intrastate figures that are submitted in Form M, since only intrastate data are to be used for pole attachment purposes.[14] To illustrate the potential magnitude of the interstate

[8] We have also assigned Arabic numbers to the listed requirements of Section 1.1404(g). All further references herein will reflect this change.

[9] These accounts are described in Part 31 of the Rules.

[10] Those telephone companies not filing Form M and electric companies are expected to report revenues and costs flowing from joint-use agreements. New Subsections 1.1404(g) (7) and (8), contained in the Appendix hereto, require such information.

[11] The FDC–7 methodology is uniquely applicable to the Bell System's interstate service offerings. The Commission decided in Docket No. 18128, 61 FCC 2d 587 (1976), that it was proper to assign Bell's interstate costs to specified service categories according to which service causes component costs.

[12] Even in states where replacement cost accounting is accepted by local regulatory agencies, associated Bell companies and other companies fully subject to Title II regulation by this Commission are required to file historical cost data with the FCC. They will, therefore, be required to comply with our historical cost preference in pole attachment proceedings. *See* Section 220(g) of the Act, 47 U.S.C. § 220(g); *AT&T v. U.S.*, 299 U.S. 232 (1936); *FPC v. Hope Natural Gas*, 320 U.S. 591 (1944).

[13] For their part, electric utilities should use FERC Form 1, or its equivalent as filed with their state regulatory commission.

[14] Inasmuch as use of telephone plant for interstate services is already compensated for under state-federal separations processes, as is electric plant used in the production of electricity for the jurisdictional power market, we believe that it would be inappropriate for the CATV operator to be subject again to inclusion of this investment component in pole plant calculations. Also, since we will be dealing only with intrastate investment, we believe that the utility's authorized intrastate rate of return should be used. This is now reflected in § 1.1404(g)(10).

component, Bell's response for 1976 to Joint Board request No. 41 in Docket No. 20981, 63 FCC 2d 202 (1977), in connection with competition in the terminal equipment market, revealed that average Bell System interstate subscriber line usage was 6.9% of total usage, with a high of 16.16% in Nevada and a low of 3.58% in Kentucky.[15] These figures suggest that the interstate component of telephone company costs may constitute a significant portion of total pole investment. Accordingly, we shall require all cost-based telephone companies, whether they are required to file Form M or not, to supply a complainant CATV operator with a factor showing the proportion of pole plant allocated to interstate operations, as contained in the telephone company's jurisdictional separations study.[16] For reasons of expeditiousness, it will not be necessary for the telephone company to determine a separate interstate pole plant factor just for poles it uses for CATV; a factor based on its relevant study area will suffice. Section 1.1404(g) is further amended to reflect this change.

17. USITA argued in its petition that the Commission cannot abrogate existing pole attachment agreements. Its position, while presented with considerable sedulousness, offers no convincing refutation of the stance we took on the issue in the *First Report*, where we stated:

> Without authority to alter unreasonable or unjust contractual rates, terms, or conditions, the Commission would be powerless to act in accordance with its mandate.[17]

In view of the broad jurisdictional charge of Section 224 of the Act, and its attendant history, which recognizes the Commission's right to abrogate existing contracts,[18] our position on the issue remains unchanged. As indicated in the *First Report* if we did not have such power our ability to rule on the lawfulness of contracts and to prescribe changes would be meaningless.

[15] The Separations Manual, developed by the NARUC–FCC Cooperative Committee on Communications, offers suitable procedures for separating cost-based telephone company costs, revenues, and reserves into intrastate-interstate components. Section 23.3321 of the Separations Manual, which is incorporated by reference into Part 67 of our Rules, bases the separation of cost of poles on miles of aerial wire in each jurisdictional category.

[16] Average Schedule telephone companies may supply a factor equal to a ratio of interstate revenues to total operating revenues. We understand that the electric utilities may use any of several methods for jurisdictional separation of plant. They should submit a factor showing the proportion of plant allocated to interstate operations under their regulatory requirements.

[17] At paragraph 16.

[18] See, e.g., 124 Cong. Rec. S967 (daily ed. January 31, 1978).

Second Report and Order

18. In paragraph 1, we noted that the *First Report* had not considered certain substantive issues due to time limitations imposed by Section 224(b)(2) of the Act. Those issues included usable space, methodologies for determining additional costs, operating expenses and actual capital costs of the utility, and substantive guidelines for terms and conditions. Having now considered comments on these issues [19] we are setting forth our analysis and adopting relevant rules and policies as discussed in the following paragraphs.

19. The substantive guidelines contained herein are intended to provide a common framework within which both CATV operators and utilities may determine the upper (fully allocated cost) limit of the just and reasonable level of applicable pole attachment rates. Instead of attempting to develop a rigid formula to which all utilities must resolutely adhere, we have examined the elements required by the provisions of the Act, and provided a guideline framework. Section 224(d)(1), discussed in greater detail below, essentially requires ascertainment of three factors in order to determine whether a pole attachment rate exceeds the lawful, fully allocated cost maximum, namely (1) the total usable pole space; (2) the portion of this space "occupied" by the CATV operator; and (3) the fully allocated cost to the utility of providing the pole. Each of these is independently determinable, and in some cases may be assigned an average value for purposes of resolving complaints in an expeditious manner. Alternatively, parties will be permitted to utilize a more empirical approach if they so desire. In any event, once the three material factors have been determined, based upon values determined by application of the principles set forth below, the calculation of a figure that will serve as the maximum lawful pole attachment rate for the parties in any complaint becomes a reasonably simple matter. We anticipate that in many cases the parties themselves will be able to ascertain the level of a lawful rate and thus will not require the intervention of this Commission to resolve their dispute.

[19] Comments were filed by thirty-one parties. The list of those parties appears in paragraph 4 of the *First Report*. One party, New Orleans Public Service, Inc. (New Orleans) was inadvertently omitted from the list, but its informal comments were fully considered.

Usable Space; Occupied Space

20. We invited interested parties to file comments on the feasibility of developing a method of estimating CATV facility space on poles, and to submit studies estimating occupancy percentages, or usable space, for various sizes of poles in different service areas.[20] Fourteen parties offered their views but, not unexpectedly, did not share common positions, even with regard to the sizes of poles. Duquesne Light Company, for example, referred to its use of 50 foot poles with 25 feet of usable space (even though these poles comprise only 9.9% of its pole plant), whereas Colony Communications, Inc., Comcast Corporation, Cox Cable Communication, Inc., Florida Cable Television Association, Inc., and New Channels Corporation were of the view that 35 foot poles have 11.5 feet of usable space, and 40 feet poles 16 feet of such space. Most other parties reported that they primarily rely on 35 foot poles with 11 feet of usable space, and 40 and 45 foot poles with 16 feet of space,[21] although GTE Service Company, Inc. (GTE) cited its use of 30 foot poles. Metropolitan Edison Company (MetroEd) and several other parties offered the suggestion that 11 feet could be a reasonable figure to assume for all poles in order to avoid the burdensome process of measuring every pole, its attachments and attendant spacings. Bell generally felt that usable space would vary according to the utility's own needs, users' needs, topography, etc. No party, however, offered a distribution of heights of poles it uses for CATV service. One party, Philadelphia Electric Company, proffered that the CATV share of costs should be based upon the number of users on a pole and total pole length, not usable space.[22]

21. Based on the comments before us we cannot report a single definitive occupancy percentage or figure for usable space, although there was a consensus that the most commonly used poles are 35 and 40 feet high, with usable spaces of 11 and 16 feet, respectively. In order to dispose of this complication and to encourage more expeditious response to complaint

[20] See paragraph 24 of the *NPRM*.

[21] Typically, a 35 foot pole, in addition to 11 feet of usable space, has 6 feet of its height under ground and 18 feet reserved for ground clearance. The majority of parties, e.g., MetroEd, assigned 16 feet of usable space on 40 and 45 foot poles.

[22] The allocation formula provides that a cable system may bear a proportionate share of the total costs in exactly the same proportion that its attachment and attendent clearances consume usable space. See S. Rep. No. 95–580, 95th Cong., 1st Sess. 20 (1977) and Section 224(d)(1) of the Act.

information requests, we have included in Section 1.1404(g) a provision that will permit utilities the option of assigning the arithmetic average of the usable spaces of 11 and 16 feet, viz., 13.5 feet, as the amount of usable space per pole for those poles used for CATV attachments. We believe this figure represents a reasonable assignment of usable space regardless of pole height and will better serve Congress' intent that the Commission develop "a flexible program . . . [that is] simple and expeditious."[23] However, we would allow a complainant CATV operator to rebut the 13.5 foot figure in his complaint by actually identifying and measuring the poles on which his attachments have been mounted and submitting a suitable weighted average thereof. Where the number of poles is very large and a complete inspection would be impractical or unreasonable, a survey that yields a statistically reliable result would be acceptable instead.[24] The respondent utility may then respond with its own properly substantiated statistical study, or rely on the 13.5 foot figure, or submit a new figure based on actual measurement. Both parties' positions will be considered in determination of the total usable space and resolution of the complaint. We discourage the parties from resorting to surveys and counts, but if they choose to follow that route, the expenses so incurred shall be their own.

22. The remaining issue in determining the usable space attributable to CATV attachments involves allocation of the safety space that is required under the National Electric Safety Code (NESC) to be maintained between power lines and communications cables.[25] We understand that, by industry practice, power lines generally are located on the upper-most portion of utility poles, telephone cables at the minimum ground clearance level of 18 feet, and CATV facilities about 1 foot above telephone cables. The NESC requires a 40 inch safety space between electric lines carrying up to 750 volts and communications cables on the same pole.[26] The safety space is intended to minimize the likelihood of physical contact between employees working on CATV or telephone cables and the potentially lethal voltage carried by the electric lines, as well as to prevent electrical contact between such cables.

23. Teleservice Corporation of America (Teleservice), accompanied in principle by New Orleans and several other electric utilities, urged that each pole user be responsible for a share of the safety space in proportion to the pole space it actually occupies. Bell, the Cleveland Electric Illuminating Company, Dayton Power and Light Company, and GTE posited that the safety clearance should be excluded from the total usable space of the pole. Edison Electric Institute (Edison), Florida Power and Light Company (Florida) and Southwestern Public Service Company (Southwestern) considered the space strictly the responsibility of the communication users, since it is their presence that "creates it." While methods for defining usable space varied from utility to utility, all were in accord that the safety, or neutral space, required by the NESC to be maintained between electric and communications conductors must be considered as either unusable space or space occupied by CATV companies when determining total usable space for rate purposes. Most CATV operators argued, in essence, that the safety space is part of the space occupied by the electric utility and is, therefore, solely the electric utility's responsibility.

24. Since all users benefit from the inclusion of 40 inches of unused space below the power lines in terms of safety to their employees, allocation of the safety space by a ratio based upon space actually use may seem at first blush to be an equitable approach. However, for several reasons we conclude otherwise. Firstly, Section 224(d)(1) of the Act specifies that the maximum just and reasonable pole attachment rate shall be determined by "multiplying the percentage of the total usable space . . . *which is occupied by the pole attachment* . . . by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole. . . ." [Emphasis added]. The example given in the legislative history[27] contemplates that CATV would be assigned only one foot of usable space, while at the same time it lists the other facilities that occupy the remainder of the total usable space. Nowhere does the legislative history indicate any thought that cable would occupy more than one foot. Thus, assigning any portion of the safety space to CATV would contravene the clear intent of Congress that CATV be responsible only for the space it actually occupies, i.e., one foot. Secondly, we must recognize the significance of an important risk taken by CATV operators upon entry into pole attachment agreements with utility companies. Such agreements generally make the CATV operators responsible for all pole replacement costs necessitated by subsequent installation of additional electric or telephone lines that reduce available safety space to less than 40 inches. For example, if we assume that on a 35 foot pole with 18 feet of clearance between the ground and the telephone cable, 1 foot of CATV space, and 6 feet of electric space (line plus accessories), about 8 inches of space is available for electric or telephone expansion beyond the 40 inch safety space. Under this example, should such expansion require 12 inches of additional space, the CATV operator would normally be solely responsible for all pole replacement costs to insure the maintenance of the full 40 inch safety space. Without addressing the reasonableness of this typical contractual responsibility, we believe that the risk for maintaining this safety space effectively falls squarely on the CATV operator. Therefore, it is difficult to accept, in equity, arguments that seek to further assign part of the 40 inch safety space to the CATV operator. Thirdly, we note the common practice of electric utility companies to make resourceful use of this safety space by mounting street light support brackets, step-down distribution transformers, and grounded, shielded power conductors therein. While this practice may be more prevalent in urban areas and may vary from company to company, the 40 inches does appear to be of practical benefit to the electric utility. In accordance with the foregoing, we reject the position represented by Edison, Florida, New Orleans, Southwestern and Teleservice to the extent it would assign part of the safety space to CATV. Suggestions that the safety space be entirely excluded in the determination of usable space must be similarly rejected.

25. In joint-use agreements that involve the assignment of muniments of ownership and use between electric and telephone utilities, sharing responsibility for the safety space may be an issue. However, as discussed above, no such

[23] S. Rep. No. 95-580, 95th Cong., 1st Sess. 21-22 (1977). Submission of such an average figure by a utility to a CATV operator would of itself not invoke either Section 1.1406(b) or 1.1409(a). Section 1.1406(b) concerns dismissal for failure to contain substantially all the information requested under Section 1.1404; Section 1.1409(a) concerns adverse decisions entered for failure to supply requested information.

[24] All such sample surveys and statistical studies must meet the standards set forth in Section 1.363(a) of our Rules.

[25] National Electric Safety Code, Appendix C, Table 235-5, p. 163 (1977 ed.).

[26] We understand CATV cables are uniformly assigned an effective occupancy space of 1 foot, without regard to their actual ¾ or ½ inch diameter.

[27] S. Rep. No. 95-580, 95th Cong., 1st Sess. 20 (1977).

issue is fitting or proper in the case of CATV pole attachments rights. Accordingly, for purposes of determining an upper rate limit pursuant to Section 224(d)(1) of the Act and § 1.1409(c) of our Rules, no part of the safety space is to be considered usable pole space occupied by CATV.

Expenses and Capital Costs

26. The "operating expenses and actual capital costs attributable . . . ." or fully allocated costs, constitute the basis of the upper boundary of the § 1.1409(c) range of just and reasonable rates. Our position with regard to determination of these costs is well summarized by the following extract from the legislative history of Section 224 of the Act:

> The committee is advised that the majority of cost and expense items attributable to utility pole plant are already established and that publicly available accounts reflecting total annual pole costs are filed by utilities with the various regulatory agencies with rate-making jurisdiction over their activities. Since the rate-setting set forth . . . merely establishes a methodology for assigning pole costs, however determined, under applicable accounting procedures, the committee sees no need for the Commission to establish a separate system of accounting to determine operating expenses and capital costs attributable to poles, or to reexamine on its own initiative, the reasonableness of the cost methodology made by the utilities and sanctioned by State or local regulatory agencies.[28]

27. While we see no need to reexamine generally the reasonableness of state regulated utilities' cost methodologies, we may require relevant information on that methodology to ascertain compliance with legitimate accounting practices that relate to the information and the methodologies. Thus, where a utility has been directly reimbursed by a CATV operator for non-recurring costs, including plant, such costs must be subtracted from the utility's corresponding pole line capital account to insure that CATV operators are not charged twice for the same costs. To this end, we are modifying § 1.1404(g) to require that utilities submit pole line data that account for reimbursements for non-recurring costs. Where no reimbursement is made, such costs will be contained in the utility's pole line costs.

Additional Costs

28. With regard to the lower just and reasonable rate boundary of § 1.1409(c), we have already touched on one element of "additional costs" (i.e., make-ready costs) in paragraphs 8 and 9, *supra*. For reasons of practicality, we suggested characterization of additional or incremental, costs as either recurring or non-recurring. In this way the problem of potential violation of the fully allocated cost limit of § 1.1409(c) by inclusion of preparation and other one time charges will be avoided. However, three questions arise from this approach: (1) what costs are properly termed "non-recurring"; (2) what costs are to be considered "recurring"; and (3) what is the practical effect on the intended purposes of the incremental cost boundary of § 1.1409(c)?

29. *Non-recurring costs.* Such costs, defined in a general functional fashion, are those that are expended by the utility to prepare utility poles for CATV attachments. As indicated in the legislative history, pre-construction, survey, engineering, make-ready, and change-out (non-betterment) costs are included in additional costs but only to the extent they are out-of-pocket expenses specifically attributable to CATV attachments or facilities. Preparatory costs incurred by a utility that benefit more than one pole user must be allocated among the beneficiaries so that, for example, the hourly wages of a utility company engineer would only be assignable to the non-recurring pole attachment category if those hours had been devoted in part to CATV attachment projects. Tools, including vehicles, are not includible unless purchased specially and exclusively for CATV installation. In short, costs which are incurred to prepare pole plant for CATV attachments are includible, but repairs or upgrading of the plant of other users are not. Therefore, we believe these non-recurring costs, which are of a one-time only nature, are directly reimbursable by the CATV operator and should not constitute any component of "additional costs" for purposes of § 1.1409(c).[29]

30. *Recurring costs.* These are ongoing, routine expenses incurred by the utility to maintain existing CATV facilities and may include appropriate engineering surveys, inspections, repairs, etc. All such expenses must be clearly identifiable as directly CATV related, in the same fashion as "non-recurring" costs.

31. As we indicated in paragraph 42 of the *First Report*, the utility's actual rates may be based upon any methodology, but must fall between the incremental and fully allocated circumscription of § 1.1409(c). By bifurcating incremental costs into recurring and non-recurring categories and including only the former in the calculation of "additional costs" for purposes of § 1.1409(c), we are lowering the incremental boundary, thereby effectively expanding the range of rates we judge to be just and reasonable. No party should be prejudiced by this approach; the utility is still guaranteed recovery of its out-of-pocket expenses and the CATV operator is offered the possibility of an even lower lawful rate. Moreover, as a practical matter, we anticipate that reference to § 1.1409(c) guidelines will generally focus on the upper limit, not the lower one. In short, we do not envision any adverse impact upon the orderly and equitable determination of the lower boundary of just and reasonable rates, as defined by § 1.1409(c), by defining "additional costs" as excluding non-recurring costs (which will be chargeable to the CATV operator on a one time basis).[30]

Special Cost Studies

32. In our *NPRM*, we asked interested persons to give us the benefit of their reasoned comments with regard to the use of third parties and special cost studies in the process of assignment of values to the cost components attributable to pole attachments.[31] Twelve parties filed comments on this point, mostly in opposition to special cost studies. The consensus was that such studies seemed to be unnecessary and inconsistent with Congress' intent. Section 1.1406(b) of our Rules requires that a complaint contain substantially all the cost-related information called for by § 1.1404(g), whether available from public records or from the respondent utility after reasonable request. Where one of the parties fails to supply such information, the Commission may decide the complaint against that party. With such a disincentive at hand, it is unlikely a utility would submit incomplete information in response to the CATV operator's request. Where the information consists of the data normally filed with the utility's state regulatory body and such information is apparently complete, the burden normally would rest with the complainant CATV operator to support any alleged inaccuracies in that data. We therefore agree with Mississippi Power Company's position that the

[28] *Ibid.*

[29] For an agreement that does not specifically provide for such lumpsum reimbursements, appropriate accounting techniques to avoid possible non-compliance with the upper limit of § 1.1409(c) may be utilized. See paragraph 43 of the *First Report*.

[30] Such definition would not preclude an agreement between the utility and cable operator to extend payments over a period of time for these non-recurring costs.

[31] See paragraphs 17–20 of the *NPRM*.

party seeking to introduce special cost studies should be held financially responsible for them unless ". . . the requesting party can adequately justify the necessity of obtaining such additional information . . . ." NCTA suggested that a system of accounts be established to eliminate the need for third party cost studies. The establishment of a system of accounts would complicate our program and would thwart the legislative intent that we utilize existing accounting systems and other currently available data. The intent of Congress was to not ". . . require the Commission to embark upon a largescale ratemaking proceeding in each case brought before it, or by general order." [32] While adoption of the NCTA suggestion would likely lead to the desired objective, it would unnecessarily complicate what is intended to be a simple and expeditious process. We therefore reject the NCTA proposal that we establish a system of accounts.

Terms and Conditions

33. Section 224 of the Act vests this Commission with the responsibility for regulating not only the rates but also the terms and conditions of CATV pole attachments. The underlying concept is that rates ". . . should be set to avoid inhibiting the growth of cable television and to insure that cable operators and their subscribers make some equitable contribution to the fixed costs of the utility systems they use." [33] The legislative history also urges that the reasonableness of terms and conditions of pole space leasing agreements be judged with respect to the compensation received by the utility. For example, it suggests that a pole attachment fee that recovers the utility's fully allocated costs should confer rights that are comparable to other utility users, possibly subject to a higher priority for electric and telephone service restoration, but with fewer rights for a fee designed to recover only incremental costs. [34] At this time we believe it is necessary only to generally state that alleged unreasonable terms and conditions will be viewed in the perspective of relative rate levels and other factors. Generally speaking, the higher the rate the greater the rights and privileges the CATV operator should enjoy. But as we stated in the *First Report*, "we believe we should initially respond on a case-by-case basis to complaints containing such issues with a view toward adopting appropriate substantive guidelines [for terms and conditions] after we have obtained more experience in the area." [35]

Procedural Matters

34. Several minor procedural matters unrelated to the above substantive issues remain to be discussed. With the filing of several Petitions for Temporary Stay (Stay Petitions) and complaints, it has become apparent that several changes are desirable in § 1.1405, which provides for the assignment of file numbers to complaints, and in § 1.1410, which lists complaint remedies. A file number will be assigned to all Stay Petitions upon receipt for purposes of administrative control. A complaint will be assigned a file number after cursory examination for completeness, i.e., compliance with the requirements listed in § 1.1404 of the Rules. Such acceptance for filing will appear on public notices issued by the Commission. Responses, replies and all submissions or motions in these proceedings should include reference to the file number assigned to the initial complaint or Stay Petition.

35. Assignment of a file number will not assure immunity from later dismissal for failure to substantially comply with the information requirements of § 1.1404. (See § 1.1406(b)). Failure to qualify for a file number will be considered a dismissal for purposes of § 1.1406(d). Thus, if a complaint that has been dismissed for any reason is again dismissed under Section 1.1406(b), the second dismissal shall be with prejudice to refile. Since we have not previously defined what we mean by prejudice, [36] § 1.1406 (d) has been amended to permit a complaint that has been dismissed with prejudice to be refiled no earlier than six months from the date it was so dismissed. It is therefore incumbent upon complainants to exercise considerable care in the preparation of complaints. Any dismissal, whether for incompleteness or failure to comply, voids the normal commencement of the period subject to refund under § 1.1410(c) (formerly 1.1410(3)). Where the complaint is returned, the date from which any refund due shall be calculated will be the day the complaint is acceptably refiled.

36. In order to clarify the signature requirement for pole attachment complaints, and to maintain consistency with current practice in formal common carrier complaint proceedings, we have amended § 1.1404(a) to permit complainant's counsel to sign the complaint. In all cases, however, verification must be submitted with the complaint showing the complainant's direct interest in the matter complained of. Section 1.721(b) of the Rules offers an example of a form of verification that may be followed to satisfy our requirement. The complainant, or properly authorized officer thereof if the complainant is a corporation, must sign the verification. We have also amended § 1.1407(a) to permit counsel to sign responses, replies, and pleadings that are requested or authorized by the Commission. Finally, § 1.1404(j) has been amended to correct a typographical error that appeared in the *First Report*. These amendments are included in the Appendix hereto.

37. Parties that have filed complaints prior to release of this Second Report and Order may amend their submissions in accordance with the new rules. Such amendments to complaints should be filed within 90 days of the release date of this Order. [37] Any complaint on file after 90 days of the release date of this Order which is not in compliance with the revised rules will be subject to dismissal. Any pleading filed subsequent to the effective date of these revised rules which is not in accordance with them will be returned.

Conclusions

38. Accordingly, *it is hereby ordered*, That, except as indicated herein, the Petitions for Reconsideration filed by Bell, NCTA and USITA are denied;

39. *It is further ordered*, That pursuant to the authority contained in Section 4(i) and 224(b)(2) of the Communications Act, 47 U.S.C. 154(i), 224(b)(2), Part 1 of the Commission's Rules and Regulations is amended, as set forth below, effective July 2, 1979.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 1—PRACTICE AND PROCEDURE

Subpart J—Pole Attachment Complaint Procedures

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

1. Paragraphs (a), (g) and (j) of § 1.1404 are amended to read as follows:

[32] S. Rep. No. 95-580, 95th Cong., 1st Sess. 22 (1977).

[33] Id. at 19.

[34] *Ibid.*

[35] At paragraph 13.

[36] See paragraphs 44-45 of the *First Report*.

[37] Responses and replies filed pursuant to § 1.1407(a) of the Rules may be submitted within 30 and 20 days, respectively. In this regard, our experience has indicated that complainants generally require closer to 20 days in which to file replies in these proceedings. Accordingly, we have modified Section 1.1407(a) to permit a reply to be filed within 20 days of the response.

§ 1.1404 Complaint.

(a) The complaint shall contain the name and address of the complainant, name and address of the respondent, and shall contain a verification (in the form set forth in § 1.721(b)), signed by the complainant or officer thereof if complainant is a corporation, showing complainant's direct interest in the matter complained of. Counsel for the complainant may sign the complaint. Complainants may join together to file a joint complaint.

* * * * *

(g) In a case where it is claimed that either a rate is unjust or unreasonable, or a term or condition is unjust or unreasonable and examination of such term or condition requires review of the associated rate, the complaint shall provide data and information in support of said claim. The data and information shall include, where applicable:

(1) The gross investment by the utility for pole lines;

(2) The cross arm investment for pole lines;

(3) The depreciation reserve from the gross pole line investment;

(4) The depreciation reserve from the crossarm investment;

(5) The total number of poles: (i) owned; and (ii) controlled or used by the utility;

(6) The total number of poles owned, controlled or used by the utility for CATV pole attachment purposes and are the subject of the complaint;

(7) The number of poles included in (6) that are controlled or used by the utility through lease between the utility and other owner(s), and the annual amounts paid by the utility for such rental;

(8) The number of poles included in (6) that are owned by the utility and that are leased to other users by the utility, and the annual amounts paid to the utility for such rental;

(9) The annual carrying charges attributable to the cost of owning a pole. These charges may be expressed as a percentage of the net pole investment;

(10) The rate of return authorized for the utility for intrastate service;

(11) The average amount of usable space per pole for those poles used for pole attachments (13.5 feet may be in lieu of actual measurement, but may be rebutted);

(12) Reimbursements received from CATV operators for non-recurring costs; and

(13) A factor that represents the proportion of pole plant allocated to interstate operations.

Data and information should be based upon historical or original cost methodology, insofar as possible. Data should be derived from Form M, FERC 1, or other reports filed with state or federal regulatory agencies (identify source). Calculations made in connection with these figures should be provided to the complainant. Where the attachments involve ducts, conduits, or rights of way, in whole or in part, appropriate and equivalent data and information should be filed. The complainant shall also specify any other information and argument relied upon to attempt to establish that a rate, term, or condition is not just and reasonable.

* * * * *

j. Factual allegations shall be supported by affidavit of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

2. Section 1.1405 is amended to read as follows:

§ 1.1405 File numbers.

Each complaint which appears to be essentially complete under § 1.1404 will be accepted and assigned a file number. Such assignment is for administrative purposes only and does not necessarily mean that the complaint has been found to be in full compliance with other sections in this Subpart. Petitions for temporary stay will also be assigned a file number upon receipt.

3. Paragraph (d) of § 1.1406 is amended to read as follows:

§ 1.1406 Dismissal of complaints.

* * * * *

(d) Dismissal under provisions of (b) above will be with prejudice if the complaint has been dismissed previously. Such a complaint may be refiled no earlier than six months from the date it was so dismissed.

4. Section 1.1407 is amended to read as follows:

§ 1.1407 Response and reply.

(a) Respondent shall have 30 days from the date the complaint was filed within which to file a response. Complainant shall have 20 days from the date the response was filed within which to file a reply. Extensions of time to file are not contemplated unless justification is shown pursuant to § 1.46. Except as otherwise provided in § 1.1403, no other filings and no motions other than for extension of time will be considered unless authorized by the Commission. The response should set forth justification for the rate, term, or condition alleged in the complaint not to be just and reasonable. Factual allegations shall be supported by affidavit of a person or persons with actual knowledge of the facts and exhibits shall be verified by the person who prepares them. The response, reply, and other pleadings may be signed by counsel.

(b) The response shall be served on the complainant and all parties listed in complainant's certificate of service.

(c) The reply shall be served on the respondent and all parties listed in respondent's certificate of service.

(d) Failure to respond may be deemed an admission of the material factual allegations contained in the complaint.

5. Section 1.1410 is amended to read as follows:

§ 1.1410 Remedies.

If the Commission determines that the rate, term, or condition complained of is not just and reasonable, it may prescribe a just and reasonable rate, term, or condition and may:

(a) Terminate the unjust and unreasonable rate, term, or condition;

(b) Substitute in the pole attachment agreement the just and reasonable rate, term, or condition established by the Commission; and

(c) Order a refund, or payment, if appropriate. The refund or payment will normally be the difference between the amount paid under the unjust and/or unreasonable rate, term, or condition and the amount that would have been paid under the rate, term, or condition established by the Commission from the date that the complaint, as acceptable, was filed, plus interest.

6. Paragraph (d) of § 1.1414 is added to read as follows:

§ 1.1414 State certification.

* * * * *

(d) Certification shall be by order of the state regulatory body or by a person having lawful delegated authority under provisions of state law to submit such certification. Said person shall provide in writing a statement that he or she has such authority and shall cite the law, regulation or other instrument conferring such authority.

[FR Doc. 79-16997 Filed 5-31-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 1, 81

Editorial amendments reflecting the proper forms to be used for renewals and modifications of station licenses

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Editorial amendment of our rules to reflect proper forms to be used

by station licensees to effect certain changes to their station authorizations. Numerous applications are being filed on the wrong forms and this action will rectify this situation.

EFFECTIVE DATE: June 5, 1979

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

FOR FURTHER INFORMATION CONTACT: Kemp J. Beaty, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

In the matter of Editorial amendments of §§ 1.924, 81.35, 81.36, 81.37 and 81.42 of the Commission's rules to reflect the proper forms to be used for renewals and modifications of station licenses.

Order.

Adopted: May 18, 1979

Released: May 24, 1979

1. Certain sections of parts 1 and 81 of the Commission's rules do not accurately reflect the proper forms to be used by licensees wishing to renew, assign or modify their station authorizations. We are amending our rules as shown in the attached Appendix to show the proper forms to be used.

2. Therefore, under the authority of Section 4(i) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules, we are amending §§ 1.924, 81.35, 81.36, 81.37 and 81.42 as shown below. Since this amendment is editorial in nature, the public notice, procedure and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable.

3. Regarding questions on matters covered in this document contact Kemp. J. Beaty, telephone (202) 632-7175.

4. In view of the above, *it is ordered,* that the rule amendments set forth in the attached Appendix be adopted effective June 5, 1979.

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

Federal Communications Commission.

R.D. Lichtwardt,

Executive Director.

Parts 1 and 81 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE.

In § 1.924, paragraph (b)(2), subparagraphs (v) and (vi) are renumbered as (vi) and (vii) respectively and a new subparagraph (v) is added to read as follows:

§1.924 Assignment or transfer of control, voluntary and involuntary.

* * * * *

(b) * * *

(2) * * *

(v) FCC Form 503: for assignment of coast station authorizations in the Maritime Services and Alaska-Public Fixed Stations.

* * * * *

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

1. Section 81.35 is retitled and amended to read as follows:

§ 81.35 Application for a new station license.

An application for a new station license must be filed on FCC Form 503.

2. Section 81.36 is retitled and paragraph (a) is amended to read as follows:

§ 81.36 Modification of license.

(a) Except as otherwise provided in this section, an application for modification of license must be filed on FCC Form 503 when any change is to be made which would result in a deviation from the terms of the authorization.

* * * * *

3. Section 81.37 is amended to read as follows:

§ 81.37 Renewal of license.

(a) Application for renewal of station license without modification shall be submitted on FCC Form 405-A. Where a modification of license is also sought, FCC Form 503 must be used for both the modification and renewal.

(b) All applications for renewal of license must be made during the license term and should be filed within 90 days but not later than 30 days prior to the end of the license term. In any case in which the licensee has made timely application for renewal of license, the licensee may continue to operate until final action is taken on that application.

4. In § 81.42, paragraph (b)(2) is amended to read as follows:

§ 81.42 Applications for consent to assignment of station license or for consent to transfer of control of corporation holding same.

* * * * *

(b) * * *

(2) Within 30 days after the occurrence of such death or legal disability, application on FCC Form 503 shall be filed for consent to involuntary assignment of such station license or for involuntary transfer of control of such corporation. Each application must be accompanied by appropriate evidence that the applicant is legally qualified to succeed the licensee.

[FR Doc. 79-16995 Filed 5-31-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Fishery Conservation and Management: Foreign Fishing; Fixed Gear Protection

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Final regulation.

SUMMARY: This amendment to the foreign fishing regulations provides additional protection to domestic fixed gear by enlarging the broadcast fixed-gear areas in the Northwest Atlantic Ocean fishery. Foreign vessels are prohibited from trawling within the broadcast fixed-gear areas. The Coast Guard broadcasts the boundaries of these areas, based on reports from domestic fishermen of the location of their fixed gear.

EFFECTIVE DATE: June 8, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. W. Perry Allen, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7293.

SUPPLEMENTARY INFORMATION: An amendment to the regulations governing foreign fishing activities within the United States fishery conservation zone was proposed on May 8, 1979, which would provide additional protection to domestic fixed gear by enlarging the fixed-gear areas in the Northwest Atlantic Ocean fishery (44 FR 26956). The boundaries of fixed-gear areas (as broadcast by the Commander, Atlantic Area, U.S. Coast Guard) would include a buffer zone extending one to two nautical miles beyond the locations of reported gear.

One comment was received on the proposed regulation. The organization submitting the comment had no objection to the proposed regulation.

The Assistant Administrator for Fisheries has determined that this regulation is not a significant regulation under Executive Order 12044. Environmental impact statements for the preliminary fishery management plans concerned are on file with the Environmental Protection Agency.

Signed at Washington, D.C., this 25th day of May, 1979.

(16 U.S.C. 1801 *et seq.*)

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

50 CFR 611.50(d)(1)(i) is amended to read as follows:

§ 611.50 Northwest Atlantic Ocean fishery.

* * * * *

(d) * * *

(1) * * *

(i) In any fixed-gear area (as broadcast by the Coast Guard; see § 611.11 and paragraph (d)(2) of this section). Fixed-gear areas will include a buffer zone around the actual reported locations of the fixed gear.

* * * * *

[FR Doc. 79-16999 Filed 5-31-79; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 611

Foreign Fishing; Washington, Oregon, and California Trawl Fishery

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Final Regulations.

SUMMARY: This amendment promulgates the regulations governing foreign fishing in the Washington, Oregon, California trawl fishery.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109. Telephone: (206) 442-7575.

SUPPLEMENTARY INFORMATION: Proposed regulations governing foreign fishing in the Washington, Oregon, California trawl fishery were published on May 4, 1979 (44 FR 26131). No comments were received on the proposed subpart E and § 611.20 regulations. They are hereby adopted without change.

The Assistant Administrator for Fisheries has determined, because these regulations are not materially different from the 1978 regulations, that these regulations are not significant under Executive Order 12044. The environmental impact statement for the preliminary fishery management plan concerned is on file with the Environmental Protection Agency.

Signed at Washington, D.C., this 29th day of May 1979.

Authority: 16 U.S.C. 1801 *et seq.*

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

1. Table 1 to 50 CFR § 611.20 is amended by deleting all entries under Washington, Oregon, California Trawl Fishery and footnote 1 and replacing them with the following:

§ 611.20 [Amended]

* * * * * * *

Fishery	Species	Species code	TALFF (m.t.)
Washington, Oregon, California trawl	Hake, Pacific	704	[1] 109,120
Do	Flounders	129	[1] 109
Do	Mackerel, jack	208	[1] 3,274
Do	Rockfishes, including Pacific Ocean perch	849	[1] 873
Do	Perch, Pacific Ocean	780	[1] 68
Do	Sablefish	703	[1] 109
Do	Other species	499	[1] 546

[1] Unavoidable incidental catch only. Amount will be increased if additional Pacific hake is released to TALFF

2. 50 CFR Part 611 is amended by adding the following Subpart E:

Subpart E—Northeast Pacific Ocean

§ 611.70 Washington, Oregon, and California trawl fishery.

(a) *Purpose.* This subpart regulates all foreign fishing conducted under a Governing International Fishery Agreement in the fishery conservation zone seaward of Washington, Oregon and California.

(b) *Authorized fishery.*

(1) *TALFFs and reserves.* (i) *TALFFs.* The total allowable levels of foreign fishing (TALFFs) and the amounts of fish set aside as reserve are set forth in Table I of this section.

Table I.—*Washington, Oregon, and California Trawl Fishery: TALFF and Reserve by Species*[1]

[Metric tons]

Species	TALFF	Reserve	Total
Pacific Hake	109,120	39,780	148,900
Flounders[2]	109	40	149
Jack Mackerel[2]	3,274	1,193	4,467
Rockfishes, including Pacific Ocean Perch[2]	873	318	1,191
Pacific Ocean Perch[2]	68	25	93
Sablefish[2]	109	40	149
Other species[2 3]	546	199	745

[1] The TALFFs specified in this table may be modified during the year if reserves are apportioned to TALFF.

[2] Unavoidable incidental catch only. Reserve amounts may be apportioned to TALFFs to the extent the Pacific hake reserve is apportioned to TALFF during the year.

[3] The category "other species" includes all species of fish except: (A) the other fish listed in the table; and (B) billfish, Pacific halibut, salmon, scallops, sharks (except dogfish), shrimp, steelhead trout, and Continental Shelf fishery resources.

(ii) *Reserves.*

(A) *Apportionment of reserves.* As soon as practicable after August 1, the Regional Director shall apportion all or a part of the reserves to TALFF. The Regional Director may withhold all or part of the Pacific hake reserve based on the criteria in paragraph (b)(1)(ii)(B) of this section. Apportionment of the reserves for other species shall be based on the following maximum incidental catch rates, expressed as a percentage of the Pacific hake TALFF.

Species:	*Percentage*
Flounders	0.1
Jack mackerel	3.0
Rockfishes, including Pacific ocean perch	0.8
Pacific ocean perch	0.062
Sablefish	0.1
Other species	0.5

(B) *Criteria.* The Regional Director may withhold all or part of the Pacific hake reserves if, as of July 15:

(*1*) the average catch rate of Pacific hake by vessels of the U.S.S.R. is less than 27 m.t. per trawler per day; or

(*2*) all or part of the Pacific hake reserve will be harvested by vessels of the United States during the rest of the fishing year, as determined by the following factors:

(*i*) Reported U.S. catch and effort compared to previously projected U.S. harvesting capacity; and

(*ii*) Projected U.S. catch and effort for the rest of the fishing year; or

(*3*) the all-nation catch of Pacific ocean perch in the Columbia Area (see Appendix II to § 611.9) is greater than 80 percent of the equilibrium yield for that species in that area and the Regional Director determines that further catch of Pacific ocean perch by foreign vessels would not be consistent with conservation of that species. Factors which shall be considered in this determination are:

(*i*) Catch per unit of effort;

(*ii*) Any new or proposed State restrictions on domestic catch of Pacific

ocean perch in the Columbia Area during the rest of the fishing year;

(*iii*) Condition of the stocks within the Columbia Area; and

(*iv*) Any other factors relevant to abundance of Pacific ocean perch.

(C) *Public comment.*

(*1*) Comments may be submitted to the Regional Director concerning all matters relevant to the determinations made by the Regional Director under paragraph (b)(1)(ii)(B) of this section. (Address: NMFS, 1700 Westlake Avenue North, Seattle, Washington 98109.)

(*2*) Comments must be submitted no later than July 15.

(*3*) The Regional Director shall consider any timely comment filed in accordance with this section in making the determinations specified in paragraph (b)(1)(ii)(B) of this section.

(*4*) The Regional Director shall compile, in aggregate form, the most recent available reports on: (*i*) foreign catch of Pacific hake per unit of effort; (*ii*) catch and effort by vessels of the U.S fishing for hake seaward of Washington, Oregon, and California; and (*iii*) catch, effort, and abundance of Pacific ocean perch in the Columbia Area. This data shall be available, as it is compiled, for public inspection during business hours at the National Marine Fisheries Service, Northwest Regional Office, 1700 Westlake Avenue North, Seattle, Washington, during the period July 1–15.

(D) *Procedure.* As soon as practicable after August 1, the Regional Director shall publish in the Federal Register. (*1*) the amounts of reserves to be apportioned to the TALFFs; (*2*) the reasons for the determinations regarding apportionment to TALFF of the Pacific hake reserve; and (*3*) responses to comments received.

(2) *Fishing permitted.* The catching and retention of any species for which a nation has an allocation is permitted, provided that:

(i) The vessels of that nation have not caught:

(A) the allocation of that nation for Pacific hake, or

(B) the maximum allowable incidental catch limitation of that nation for any species or species group (e.g., "other species"). When vessels of a foreign nation have caught a maximum allowable incidental catch limitation, all further fishing (as defined in § 611.2(r)(1)) by vessels of that nation must cease, even if the Pacific hake allocation has not been reached. Therefore, it is essential that a foreign nation plan its fishing strategy to ensure that the reaching of an incidental catch limit does not close its Pacific hake fishery.

(ii) A directed fishery is not conducted for species or species groups other than Pacific hake.

(iii) The fishery has not been closed for other reasons under § 611.15.

(c) *Open season.* Foreign fishing authorized under this subpart may begin at 0700 G.m.t. on June 1 and will terminate not later than 0800 G.m.t. on November 1, except as specified otherwise in a permit.

(d) *Open areas.* Except as prohibited in paragraph (e) of this section, foreign fishing under this Subpart is permitted beyond twelve nautical miles from the baseline used to measure the U.S. territorial sea between 39°00′ N. latitude and 47°30′ N. latitude, and as otherwise specifically authorized by permit.

(e) *Closed areas.* Trawling by foreign vessels is prohibited in the following areas:

(1) "Columbia River recreational Fishery Sanctuary"—that area between 46°00′ N. latitude and 47°00′ N. latitude and east of a line connecting the following coordinates in the order listed: 46°00′ N. lat., 124°55′ W. long.; 46°20′ N. lat., 124°40′ W. long.; and 47°00′ N. lat., 125°20′ W. long.

(2) "Klamath River Pot Sanctuary"—that area between 41°20′ N. latitude and 41°37′ N. latitude and east of a line connecting the following coordinates in the order listed: 41°20′ N. lat., 124°32′ W. long.; and 41°37′ N. lat., 124°34′ W. long.

(f) *Gear restrictions.*

(1) No foreign vessel may use any gear other than a pelagic trawl with a minumum mesh size of 100 mm, stretched measure. No liners are permitted in the cod end of the trawl.

(2) Except as specifically authorized in writing by the Regional Director, no foreign fishing vessel may:

(i) attach any device to pelagic fishing gear or use any other means that would, in effect, make it possible to fish on the bottom; or

(ii) use any device or method which would have the effect of reducing mesh size.

(g) *Statistical reporting.*

(1) *Daily fishing log.* The basis for all reports shall be a daily fishing log. On-deck estimates of catch shall be logged prior to the next fishing operation, and adjusted, if necessary, with processed catch information within 24 hours. The following information must be included in the log.

(i) Date.

(ii) Times of commencement and completion of each set.

(iii) Vessel's positions in degrees and minutes of latitude and longitude at the time of commencement and completion of each set.

(iv) Bottom depth, averaged over length of tow.

(v) Depth of gear during tow.

(vi) Catch, to the nearest tenth of a metric ton (0.1 m.t.), of the following species:

(A) Pacific hake.

(B) Jack mackerel.

(C) Pacific ocean perch.

(D) Other rockfishes.

(E) Sablefish.

(F) Flounders.

(G) Other Species.

(vii) Catch, in numbers of fish, of the following prohibited species:

(A) Pacific halibut.

(B) Salmon.

(2) In addition to the requirements of § 611.9, the owner or operator of each foreign fishing vessel shall maintain catch and effort statistics and shall submit reports as follows to the Regional Director. (Address: Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.)

(i) *Daily report.* From the time the NMFS estimates that 90 percent of a nation's allocation of any species (directed or incidental) has been reached, and so notifies the designated representative of that nation, the information required under § 611.9(e) (Weekly Catch Report) shall be submitted on a daily basis and must reach the Regional Director not later than three days after the reported fishing day.

(ii) *Annual report.* Each nation whose fishing vesels operate in the fishery shall report by May 30 of the following year, annual catch and effort statistics, in tabular form, as follows:

(A) *Effort* in hours trawled, by vessel-class, by gear-type, by month, by ½° latitude by 1° longitude statistical area;

(B) *Catch* by vessel-class, by gear-type, by month, by ½° latitude by 1° longitude statistical area: (*1*) to the nearest tenth of a metric ton (0.1 m.t.) for the following species or species groupings: Pacific hake, jack mackerel, Pacific ocean perch, other rockfishes, sablefish, flounder, and any other species taken in excess of 1,000 metric tons; and (*2*) in numbers of fish for Pacific halibut and salmon.

(h) *Additional report.* Each foreign vessel entering this fishery with fish on board shall report to the Regional Director, before operating in this fishery, the species and amounts of fish on board which were harvested in any other fishery. Any fish on board not so reported will be presumed to have been harvested in this fishery. Such reports

shall be submitted in acccordance with the procedures specified in § 611.4(b).

[FR Doc. 79-17170 Filed 5-30-79; 10:42 am]

BILLING CODE 3510-22-M

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50 CFR Part 662

Northern Anchovy Fishery; Closure of Northern Anchovy Fishery

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of closure of northern anchovy fishery.

SUMMARY: This document provides notice that the Regional Director of the Southwest Region, National Marine Fisheries Service, has determined that the 1978–79 season quota of northern anchovy for the southern management subarea (subarea B) will be reached on June 8, 1979. Consequently, it shall be unlawful to fish for northern anchovy for reduction purposes in the southern management subarea of the fishery conservation zone (FCZ) from 0001 hours, June 9, 1979, through 2400 hours, June 30, 1979, when the 1978–79 fishing season shall end.

EFFECTIVE DATE: 0001 hours, June 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald V. Howard, Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, Telephone (213) 548–2575.

SUPPLEMENTARY INFORMATION: Regulations were published on September 13, 1978 (43 FR 40868) implementing the fishery management plan for the northern anchovy fishery. Section 662.5(e) of those regulations provided that fishing in one or both subareas by the reduction fishery would be terminated before the end of the fishing season if the reduction harvest quota, the subarea B harvest quota, or the total fishery harvest quota is about to be reached.

Accordingly, notice is hereby given that the Regional Director has determined, through an analysis of landing records provided by the California Department of Fish and Game (CFG), that the 1978–79 reduction fishery quota (52,500 short tons) for the southern management subarea (subarea B) will be achieved on or before midnight, June 8, 1979. Therefore, the fishery for anchovy for reduction purposes in subarea B shall be closed from 0001 hours, June 9, 1979, through 2400 hours, June 30, 1979, when the 1978–79 fishing season ends. No person shall fish for anchovy for reduction purposes during the time specified in this notice of closure of the fishery. Fishing for northern anchovy for live or frozen bait or for human consumption in subarea B is not affected by this notice. Fishing for anchovy for any purpose in the northern management subarea (subarea A) also is not affected by this notice.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this the 30th of May, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-17283 Filed 5-31-79; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 107
Friday, June 1, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

COST ACCOUNTING STANDARDS BOARD

[4 CFR Parts 331, 332, 351]

Contract Coverage and Disclosure Statement

AGENCY: Cost Accounting Standards Board.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to revise its regulations on contract coverage, Parts 331 and 332, and requirements for filing Disclosure Statements, Part 351. Revisions are proposed affecting the treatment of increased costs paid by the Government under firm fixed price contracts as well as a number of revisions to remove obsolete material, increase clarity and achieve greater consistency of language. The revisions result from a review of the Board's contract and disclosure regulations which was recommended by participants at the Board's last Evaluation Conference.

DATE: Comments are due by August 31, 1979.

ADDRESS: Send all written comments to: Cost Accounting Standards Board, 441 G Street NW., Room 4836, Washington, D.C. 20548.

FOR FURTHER INFORMATION CONTACT: Noah Minkin, General Counsel, Cost Accounting Standards Board, 441 G Street NW., Washington, D.C. 20548, 202–275–5940.

SUPPLEMENTARY INFORMATION: In 1978 the Cost Accounting Standards Board undertook a project to review Part 331 of the Board's regulations. Parts 332 and 351 were also included in the project since these three parts are interrelated. The purpose of the review was to simplify these Parts where possible and to revise them where experience indicated that changes in procedures would be desirable.

In the course of the review substantial attention was focused on the treatment of firm fixed price contracts. The Board at its Evaluation Conference in 1977 as well as at other times has been requested to reexamine this subject.

After studying the operation of the current regulations with respect to firm fixed price contracts and after hearing from a number of parties who have expressed interest in the subject, the Board has concluded that it is appropriate to provide special treatment for firm fixed price contracts. The objective would be to eliminate adjustments in price after contract award, provided that the contractor in estimating costs in his contract proposal has used his current cost accounting practices together with any anticipated changes in practices which he plans on making during contract performance. To accomplish this the Board is proposing to prescribe under Parts 331 and 332 a special certificate and clause for firm fixed price contracts. If adopted, the primary consequence of the certificate and clause will be that increased costs paid by the Government will result under covered firm fixed price contracts only when the contractor's estimates on which price is based are not consistent with the accounting practices which he certified would be used on the contract. Additionally, firm fixed price contracts will not be entitled to equitable adjustments as are other covered contracts nor will they be included in computations of set-offs.

In regard to the proposed exclusion of firm fixed price contracts from equitable adjustments and from computation of set-offs, the Board has been urged to recognize there are some circumstances in which these contracts should be included in these actions and consequently subject to adjustment. After considering the various situations in which changes in cost accounting practices and potential adjustments may occur, the Board's present conclusion in none of the situations should lead to inclusion of firm fixed price contracts in the computation of set-offs and price adjustments. However, if any commentator considers that situations exist in which firm fixed price contracts should be included, it is requested that the circumstances be identified together with reasons for inclusion.

The Board believes that the use of a certificate and a clause tailored to firm fixed price contracts is the most appropriate approach to provide special treatment for firm fixed price contracts. The Board recognizes that other approaches are possible and welcomes comments and suggestions on alternatives as well as on the proposed revisions

One alternative to its regulations which has been suggested to the Board is a change to § 331.70 to make set-offs available in all situations for all types of contracts. The Board has not revised its regulations to accommodate this suggestion but invites comments in this area. Any recommendations for change should be presented in sufficient detail to enable the Board to determine how the recommended procedure would operate and what its anticipated advantages are.

The Board's review also focused on its regulations dealing with the determination of increased costs on individual contracts. As a result ot that review the Board reaffirms the substance of the methods precribed in existing regulations. However, the Board has been advised that the statement in § 331.70(b) that "any increased costs to the United States by reason of that failure must be measured by the difference between the cost estimates used in negotiations and the cost estimates that would have been used had the contractor proposed on the basis of the parctices actually used during contract performance" has been read by some to mean that the price of the contract must be adjusted by exactly the same amount as the difference between the cost estimates. The Board recognizes that such an adjustment may be appropriate, but it is not the only means by which a contract price may be adjusted. The establishment of the proper contact price is a matter for determination by the contracting parties. The revision of Section 331.70 reflects these views.

Other changes have been made in Parts 331, 332 and 351 to remove material that has become obsolete, to achieve greater consistency of language and to increase clarity. For example, the Board proposes to collect the various rules applicable to the filing of Disclosure Statements in Part 351 of its regulations, and consequently has modified Parts 331 and 332 to remove rules concerning Disclosure Statements from those Parts. In publishing Part 351,

as revised, for comments the Board is not republishing the Disclosure Statement in § 351.130. However, in any final promulgation of a revised Part 351 the Disclosure Statement will be published and will be incorporated as a section of that part.

In revising Part 351 the Board is proposing an amendment to § 351.60 which will permit foreign contractors and subcontractors who are required to disclose their cost accounting practices to file either a Form No. CASB–DS–1 or to disclose in accordance with a disclosure form prescribed by the contractor's government. The Board would retain the right to determine that the alternate disclosure form would develop the information required to meet the objectives of Public Law 91–379.

All interested parties wishing to submit comments to the Board on the proposed revisions published below should mail their comments to: Cost Accounting Standards Board, 441 G Street, N.W., Room 4836, Washington, D.C. 20548.

All written comments received will be available to the public at the Board's offices during normal working hours.

* * * * *

Parts 331, 332 and 351 of the Board's regulations proposed to be revised as follows:

PART 331—CONTRACT COVERAGE

Sec.

331.10 Purpose and scope.
331.20 Definitions.
331.30 Applicability, exemption, and waiver.
331.40 Certification of practices.
331.50 Contract clause.
331.60 Disclosure requirements.
331.70 Interpretation.
331.80 Effective date.

(Sec. 103, 84 Stat. 796 (50 U.S.C. App. 2168))

§ 331.10 Purpose and scope.

The regulations contained in this part are promulgated to implement the standards and the rules and regulations established by the Cost Accounting Standards Board pursuant to 50 U.S.C. App. 2168 (Pub. L. 91-379, August 15, 1970). The requirements set forth herein shall be binding upon all relevant Federal agencies and upon defense contractors and subcontractors.

§ 331.20 Definitions.

(a) A "relevant Federal agency" is any Federal agency making a national defense procurement and any agency whose responsibilities include review, approval, or other action affecting such a procurement.

(b) A "defense contractor" is any person who enters into a contract with the United States for the production of material or the performance of services for the national defense.

(c) A "defense subcontractor" is any person other than the United States who contracts, at any tier, to perform any unit of a defense contractor's contract.

(d) "National defense" is any program for military and atomic energy production or construction, military assistance to any foreign nations, stockpiling, space, and directly related activity.

(e) An "established catalog or market price of commercial items sold in substantial quantities to the general public" is as defined in the Defense Acquisition Regulation (32 CFR 3.807–1(b)), in effect at the date of the contract.

(f) A "negotiated subcontract" is any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two persons not associated with each other or with such contractor or subcontractor, providing (1) the solicitation to all competing persons is identical, (2) price is the only consideration in selecting the subcontractor from among the competing persons solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted.

(g) A "Diclosure Statement" is the Disclosure Statement required by Cost Accounting Standards Board regulation (Part 351 of this chapter).

(h) A "covered contract" is any negotiated national defense prime contract or subcontract which exceeds $100,000 and pursuant to requirements of the Cost Accounting Standards Board is required to include a Cost Accounting Standards clause (see 4 CFR Part 331 and this chapter).

(i) A "business unit" is any segment of an organization, or an entire business organization which is not divided into segments.

(j) A "segment" is one of two or more divisions, product departments, plants, or other subdivisions of an organization reporting directly to a home office, usually identified with responsibility for profit and/or producing a product or service. The term includes Government-owned contractor-operated (GOCO) facilities, and joint ventures and subsidiaries (domestic and foreign) in which the organization has a majority ownership. The term also includes those joint ventures and subsidiaries (domestic and foreign) in which the organization has less than a majority of ownership, but over which it exercises control.

(k) A "cost accounting practice" is any disclosed or established accounting method or technique which is used for measurement of cost, assignement of cost to cost accounting periods, or allocation of cost to cost objectives.

(l) Measurement of cost encompasses accounting methods and techniques used in defining the components of cost, determining the basis for cost measurement, and establishing criteria for use of alternative cost measurement techniques. The determination of the amount paid or a change in the amount paid for a unit of goods and services is not a cost accounting practice. Examples of cost accounting practices which involve measurement of costs are:

(i) The use of either historical cost, market value, or present value;

(ii) The use of standard cost or actual cost; or

(iii) The designation of those items of cost which must be included or excluded from tangible capital assets or pension cost.

(2) Assignment of cost to cost accounting periods refers to a method or technique used in determining the amount of cost to be assigned to individual cost accounting periods. Examples of cost accounting practices which involve the assignment of cost to cost accounting periods are requirements for the use of specified accrual basis accounting or cash basis accounting for a cost element.

(3) Allocation of cost to cost objectives includes both direct and indirect allocation of cost. Examples of cost accounting practices involving allocation of cost to cost objectives are the accounting methods or techniques used to accumulate cost, to determine whether a cost is to be directly or indirectly allocated, to determine the composition of cost pools, and to determine the selection and composition of the appropriate allocation base.

(l) A "change to a cost accounting practice" is any alteration in a cost accounting practice, as defined in paragraph (k) of this section, whether or not such practices are covered by a Disclosure Statement, except that:

(1) The initial adoption of a cost accounting practice for the first time a cost is incurred, or a function is created, is not a change in cost accounting practice. The partial or total elimination of a cost or the cost of a function is not a change in cost accounting practice. As used here, function is an activity or group of activities that is identifiable in scope and has a purpose or end to be accomplished.

(2) The revision of a cost accounting practice for a cost which previously had been immaterial is not a change in cost accounting practice.

(m) *Illustrations of changes.* (1) In all of the following cases where a "change to a cost accounting practice" has taken place, modifications to the affected contracts would be considered in accordance with this Part 331, Contract Coverage, and Part 332, Modified Contract Coverage, as amended. In accordance with § 331.71, price adjustments, with appropriate application of offsets, would be required only if the net cost impact of the change were material.

(2) The following are illustrations of changes which meet the proposed definition of "change to a cost accounting practice because:

I. The method or technique used for measuring costs has been changed.

Description of changes	*Accounting treatment*
1. Contractor changes his acturial cost method for computing pension costs.	1. (a) Before change: The contractor computed pension costs using the aggregate cost method. (b) After change: The contractor computes pension cost using the unit credit method.
2. Contractor uses standard costs to account for his direct labor. Labor cost at standard was computed by multiplying labor-time standard by actual labor rates. The contractor changes the computation by multiplying labor-time standard by labor-rate standard.	(a) Before change: Contractor's direct labor cost was measured with only one component set at standard. (b) After change: Contractor's direct labor cost is measured with both the time and rate components set at standard.

II. The method or technique used for assignment of cost-to-cost accounting periods has been changed.

Description of change	*Accounting treatment*
1. Contractor changes his established criteria for capitalizing certain classes of tangible capital assets whose acquisition costs totaled $1 million per cost accounting period.	1. (a) Before change: Items having acquisition costs of between $200 and $400 per unit were capitalized and depreciated over a number of cost accounting periods. (b) After change: The contractor charges the value of assets costing between $200 and $400 per unit to an indirect expense pool which is allocated to the cost objectives of the cost accounting period in which the cost was incurred.
2. Contractor changes his method for computing depreciation for a class of assets.	2. (a) Before change: The contractor assigned depreciation costs to cost accounting periods using an accertated method. (b) After change: The contractor assigns depreciation costs to cost accounting periods using the straight line method.
3. Contractor changes his general method of determinating asset lives for classes of assets acquired prior to the effective date of CAS 409.	3. (a) Before change: The contractor identified the cost accounting periods to which the costs of tangible capital assets would be assigned using guideline class lives provided in IRS Rev. Pro. 72-10. (b) After change: The contractor changes the method by which he identifies the cost accounting periods to which the costs of tangible capital assets will be assigned. He now uses the expected actual lives based on past usage.

III. The method or technique used for allocating costs has been changed.

Description of changes	*Accounting treatment*
1. Contractor changes his method of allocating G&A expenses under the requirements of Cost Accounting Standard 410.	1. (a) Before change: The contractor operating under Cost Accounting Standard 410 has been allocating his general and administrative expense pool to final cost objectives on a total cost input base in compliance with the Standard. The contractor's business changes substantially such that there are significant new projects which have only insignificant quantities of material. (b) After change: After the addition of the new work, an evaluation of the changed circumstances reveals that the continued use of a total cost input base would result in a significant distortion in the allocation of the G&A expense pool in relation to the benefits received. To remain in compliance with Standard 410, the contractor alters his G&A allocation base from a total cost input base to a value added base.
2. The contractor changes the accounting for hardware common to all projects.	2. (a) Before change: The contractor allocated the cost of purchased or requisitioned hardware directly to projects. (b) After change: The contractor charges the cost of purchased or requistioned hardware to an indirect expense pool which is allocted to projects using an appropriate allocation base.
3. The contractor merges operating segments A and B which use different cost accounting practices in accounting for manufacturing overhead costs.	3. (a) Before change: In segment A, the costs of the manufacturing overhead pool have been allocated to final cost objectives using a direct labor hours base; in segment B, the costs of the manufacturing overhead pool have been allocated to final cost objectives using a direct labor dollars base. (b) After change: As a result of the merger of operations, the combined segment decides to allocate the cost of the manufacturing overhead pool to all final cost objectives, using a direct labor dollars base. Thus, for those final cost objectives referred to in segment A, the cost of the manufacturing overhead pool will be allocated to the final cost objectives of segment A using a direct labor dollars base instead of a direct labor hours base.

(3) The following are illustrations of changes which do not meet the definition of "change to a cost accounting practice and accordingly do not require price adjustments under subparagraphs (a)(4) and (a)(5) of the CAS contract clause set forth in § 331.50(b).

Description of changes	*Accounting treatment*
1. Changes in the interest rate levels in the national economy have invalidated the prior actuarial assumption with respect to anticipated investment earnings. The pension plan administrators adopted an increased (decreased) interest rate actuarial assumption. The company allocated the resulting pension costs to all final cost objectives.	1. Adopting the increase (decrease) in the interest rate actuarial assumption is not a change in cost accounting practice.
2. The basic benefit amount for a company's pension plan is increased from $8 to $10 per year of credited service. The change increases the dollar amount of pension cost allocated to all final cost objectives.	2. The increase in the amount of the benefits is not a change in cost accounting practice.
3. A contractor who has never paid pensions establishes for the first time a pension plan. Pension costs for the first year amounted to $3.5 million.	3. The initial adoption of an accounting practice for the first time incurrence of a cost is not a change in cost accounting practice.
4. A contractor maintained a Deferred Incentive Compensation Plan. After several years' experience, the plan was determined not to be attaining its objective, so it was terminated, and no future entitlements were paid.	4. There was a termination of the Deferred Incentive Compensation Plan. Elimination of a cost is not a change in cost accounting practice.
5. A contractor eliminates a segment that was operated for the purpose of doing research for development of products related to nuclear energy.	5. The projects and expenses related to nuclear energy projects have been terminated. No transfer of these projects and no further work in this area is planned. This is an elimination of cost and not a change in cost accounting practice.
6. For a particular class of assets for which technological changes have rarely affected asset lives, a contractor starts with a five year average of historical lives to estimate future lives. He then considers technological changes and likely use. For the past several years the process resulted in an estimated future life of ten years for this class of assets. This year a technological change leads to a prediction of a useful life of seven years for the assets acquired this year for this class of assets.	6. The change in estimate (not in method) is not a change in cost accounting practice. The contractor has not changed the method or technique used to determine the estimate. The methodology applied has indicated a change in the estimated life, and this is not a change in cost accounting practice.
7. The marketing department of a segment has reported directly to the general manager of the segment. The costs of the marketing department have been combined as part of the segment's G&A expense pool. The company reorganizes and requires the marketing department to report directly to a vice president at corporate headquarters.	7. After the organizational change in the company's reporting structure, the parties agree that the appropriate recognition of the beneficial or causal relationship between the costs of the marketing department and the segment is to continue to combine these costs as part of the segment's G&A expense pool. Thus, the organizational change has not resulted in a change in cost accounting practice.

(n) A "small business concern" is any concern, firm, person, corporation, partnership, cooperative or other business enterprise which pursuant to 15 U.S.C. 637(b)(6) and the rules and regulations of the Small Business Administration set fort in Part 121 of Title 13 of the Code of Federal Regulations, is detemined to be a small business concern for the purpose of Government procurement.

§ 331.30 Applicability, exemption, and waiver.

(a) The head of each relevant Federal agency shall cause or require a clause set forth in § 331.50 captioned Cost Accounting Standard to be inserted in all negotiated defense contracts in excess of $100,000, except as provided in paragraph (b) of this section, other than contracts entered into by the agency where the price is based on: (1) Established catalog or market prices of commerical items sold in substantial quantities to the general public, or (2) prices set by law or regulation.

(b) The requirements of paragraph (a) of this section shall not be applicable to:

(1) Any contract or subcontract awarded to a small business concern.

(2) Any contract or subcontract awarded for performance in a business unit which is eligible to use the provisions of Part 332 of the Board's regulations and which elects to use that part.

(3) Any contract or subcontract awarded to an educational institution whose cost principles are subject to Federal Management Circular 73–8 except contracts that are to be performed by a federally funded research and development center (FFRDC) operated by such an institution. A FFRDC is a laboratory or similar operation which is designated as such by the National Science Foundation. If a contract or any part of a contract awarded to an exempt educational institution is to be performed by a FFRDC, the contract shall contain the clause set forth in § 331.50 or § 332.50, as appropriate, and the requirements of that clause shall be applicable to that part of the contract effort, and the costs thereof, which are performed by the FFRDC. Costs incurred by the institution which may be allocated to the FFRDC are specifically exempted by this provision as is the requirement to prepare part VIII of the disclosure statement (CASB–DS–1 or CASB–DS–2).

(4) Any contract awarded to a labor surplus area concern pursuant to procedures providing for a partial set-aside for such concern as set out in DAR 1–804, 32 CFR 1–804, and FPR 1–1.804, 41 CFR 1–1.804.

(5) Any contract or subcontract awarded to a foreign government or an agency or instrumentality of such government or, insofar as the requirements of Cost Accounting Standards 403 (4 CFR Part 403) or any subsequent standards are concerned, any contract or subcontract awarded to a foreign concern.

(Note.—This exemption does not relieve foreign concerns of any obligation to comply with the Cost Accounting Standards set forth in 4 CFR Parts 401 and 402 and to submit a Disclosure Statement.)

(6) Any subcontract to be performed outside the United States either by an agency of a foreign government or by a foreign concern in connection with the class of hydrofoil guided missile ship know as the "NATO PHM Ship."

(7) Any contract or subcontract of $500,000 or less, unless the business unit to whom it is awarded (i) is performing one or more covered contracts and (ii) has not received notification of final acceptance of all items of work to be delivered under all such contracts. For the purposes of this paragraph (b)(7) an order issued by one segment to another segment shall be treated as a subcontract.

(8) Any contract or subcontract awarded to a United Kingdom contractor for performance substantially in the United Kingdom: *Provided,* That the contractor has filed with the U.K. Ministry of Defence, for retention by the Ministry, a completed Disclosure Statement (Form CASB–DS–1) which shall adequately describe its cost accounting practices. Whenever that contractor is already required to follow U.K. Government Accounting

Conventions, the disclosed practices shall be in accord with the requirements of those Conventions. Such contract or subcontract shall also contain the following provision:

Consistency in Cost Accounting Practices

The contractor agrees that it will consistently follow the cost accounting practices disclosed on Form CASB–DS–1 in estimating, accumulating and reporting costs under this contract. In the event the contractor fails to follow such practices, it agrees that the contract price shall be adjusted, together with payment of interest, if such failure results in increased costs paid by the U.S. Government. Interest shall be determined in accordance with the rules and regulations of the Cost Accounting Standards Board. The contractor agrees that the Disclosure Statement filed with the U.K. Ministry of Defence shall be available for inspection and use by representatives of the contracting agency, the Cost Accounting Standards Board, and the Comptroller General of the United States.

(c)(1) Upon request of the Secretary of Defense, the Deputy Secretary of Defense, an Under Secretary of Defense, or the Deputy Under Secretary of Defense, Research and Engineering (Acquisition Policy), or outside the Department of Defense, of officials in equivalent positions, the Cost Accounting Standards Board may waive all or any part of the requirements of paragraph (a) of this section with respect to a national defense contract or subcontract. Any request for a waiver shall describe the proposed contract or subcontract for which waiver is sought and shall contain (i) an unequivocal statement that the proposed contractor or subcontractor refuses to accept a contract containing all or a specified part of the Cost Accounting Standards clause and the specific reason for that refusal, (ii) a statement whether the proposed contractor or subcontractor has accepted any prime contract or subcontract with any Federal department or agency containing the Cost Accounting Standards clause, (iii) the amount of the proposed award and the sum of all awards by the department or agency requesting the waiver to the proposed contractor or subcontractor in each of the preceding 3 years, (iv) a statement that no other source of the supplies or services being procured is available to satisfy the needs of the agency on a timely basis, (v) a statement of any alternative methods of fulfilling the project or program needs and the agency's reasons for rejecting such alternatives, (vi) a statement of the steps being taken by the procuring agency to establish other sources of supply for future procurements of the products or services for which a waiver is being requested, and (vii) any other information that may aid the Board in evaluating the requested waiver.

(2) Except as provided herein, the authority in paragraph (c)(1) of this section shall not be delegated. For any contract or subcontract for the procurement of substantially the same product or service from the same contractor for whom, pursuant to subparagraph (1) of this paragraph, a waiver has previously been requested and granted by the Cost Accounting Standards Board, authority contained in subparagraph (1) may be delegated by the Secretary of Defense to the Secretaries of the Military Departments and to the Director, Defense Supply Agency, and by the heads of other agencies to officials in equivalent positions.

§ 331.40 Certification of practices.

Prior to award of a firm fixed price contract or subcontract which will contain the clause set forth in § 331.50(a) or 332.50(a), the official responsible for cost accounting practices of the business unit which will perform the contract or subcontract shall execute or have executed on his behalf the following certificate. The certificate shall be filed with the cognizant contracting officer.

Cost Accounting Practice Certificate

This is to certify that, to the best of my knowledge and belief, the cost accounting practices used in estimating costs for pricing the proposal for this contract are the current practices of the offeror except for changes in practices which the offeror intends to make during the period of contract performance and which he has advised the Government of and taken into account in estimating costs.

_____

(Contractor)

_____

(Name)

_____

(Title)

_____

(Date of execution)

The penalty for making a false statement in this certificate is prescribed in 18 U.S.C. 1001.

§ 331.50 Contract clause.

(a) Except as provided in § 331.30 or Part 332 the clause set forth below shall be inserted in all firm fixed price contracts and subcontracts in excess of $100,000.

Cost Accounting Standards

(Firm Fixed Price Contract)

(a) Unless the Cost Accounting Standards Board has prescribed rules or regulations exempting the contractor or this contract from standards, rules, and regulations promulgated pursuant to 50 U.S.C. App. 2168 (Pub. L. 91–379, August 15, 1970), the contractor, in connection with this contract, shall by submission of a Disclosure Statement, disclose in writing his cost accounting practices as required by regulations of the Cost Accounting Standards Board. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the contractor and which contain a Cost Accounting Standards clause. If the contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(b) The contractor shall follow consistently his cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in disclosed practices is made for purposes of any contract or subcontract subject to Cost Accounting Standards Board requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly.

(c) The contractor shall comply with all Cost Accounting Standards in effect on the date of award of this contract or if the contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the contractor's signed certificate of current cost or pricing data. The contractor shall also comply with any Cost Accounting Standards which hereafter become applicable to a contract or subcontract of the contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(d) If the price of this contract, including any profit negotiated in connection therewith, was increased materially because the contractor failed to estimate costs based upon applicable

Cost Accounting Standards or the cost accounting practices as certified in the contractor's Cost Accounting Practice Certificate, such increase shall constitute an increased cost paid by the United States. The contract price shall be reduced by the amount of that increase, together with interest thereon, and the contract shall be modified as necessary to reflect such reduction. Interest upon the amount of the increase shall be computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92–41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time payment was made by the United States to the time adjustment is effected.

(e) If the parties fail to agree whether the contractor or a subcontractor has complied with an applicable Cost Accounting Standard, rule, or regulation of the Cost Accounting Standards Board and as to any price reduction demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(f) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(g) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause, and shall require such inclusion in all other subcontracts of any tier, except that this requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

(1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or

(2) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a cost accounting standards clause by reason of § 331.30(b) of Title 4, Code of Federal Regulations (4 CFR 331.30(b)).

(b) Except as provided in either § 331.30 or Part 332 of this chapter the clause set forth below shall be inserted in all negotiated national defense prime contracts and subcontracts in excess of $100,000 other than firm fixed price contracts and subcontracts.

Cost Accounting Standards

(Other Than Firm Fixed Price Contracts)

(a) Unless the Cost Accounting Standards Board has prescribed rules or regulations exempting the contractor or this contract from standards, rules, and regulations promulgated pursuant to 50 U.S.C. App. 2168 (Pub. L. 91–379, August 15, 1970), the contractor, in connection with this contract shall:

(1) By submission of a Disclosure Statement, disclose in writing his cost accounting practices as required by regulations of the Cost Accounting Standards Board. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the contractor and which contain a Cost Accounting Standards clause. If the contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(2) Follow consistently his cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in disclosed practices is made for purposes of any contract or subcontract subject to Cost Accounting Standards Board requirements, the change must be applied prospectively to this contract, and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) below, as appropriate.

(3) Comply with all Cost Accounting Standards in effect on the date of award of this contract or if the contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the contractor's signed certificate of current cost or pricing data. The contractor shall also comply with any Cost Accounting Standard which hereafter becomes applicable to a contract or subcontract of the contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(A) Agree to an equitable adjustment as provided in the changes clause of this contract if the contract cost is affected by a change which, pursuant to (3) above, the contractor is required to make to his cost accounting practices.

(4)(B) Negotiate with the contracting officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of this subparagraph (4): *Provided*, That no agreement may be made under this provision that will increase costs paid by the United States.

(4)(C) When the parties agree to a change to a cost accounting practice, other than a change under (4)(A) above, negotiate an equitable adjustment as provided in the changes clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with an applicable Cost Accounting Standard or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92–41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the contractor or a subcontractor has complied with an applicable Cost Accounting Standard, rule, or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, including the obligation to comply with all Cost Accounting Standards in effect on the date of award of the subcontract or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed certificate of current cost or pricing data. This requirement shall apply only to

negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

(1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or

(2) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a Cost Accounting Standards clause by reason of § 331.30(b) of Title 4, Code of Federal Regulations (4 CFR 331.30(b)).

§ 331.51 Findings.

Prior to the utilization of the provisions of subparagraph (a)(4)(C) of the contract clause set out in § 331.50(b), the contracting officer shall make a finding that the change is desirable and is not detrimental to the interests of the Government.

§ 331.60 Disclosure requirements.

General provisions concerning filing of a Disclosure Statement and the time at which such Disclosure Statement must be filed are set forth in Part 351 of this Chapter.

§ 331.70 Interpretation.

(a) *Firm Fixed Price Contracts.* Increased costs paid by the United States under contracts containing the clause set forth in § 331.50(a) is measured by the difference between the contract price agreed to and the contract price that would have been agreed to had the contractor proposed in accordance with the requirements of that contract clause.

(b) *Contracts Other Than Firm Fixed Price Contracts.* The following interpretations apply only to the clause set forth in § 331.50(b) and to contracts containing that clause.

(i) Increased costs paid by the United States as referred to in Cost Accounting Standards clause in § 331.50(b) shall be deemed to have resulted whenever the cost paid by the Government results from application of practices other than the contractor's disclosed or established practices or from failure to comply with applicable Cost Accounting Standards, and such cost is higher than it would have been had those practices been followed or applicable Cost Accounting Standards been complied with.

(ii) The contractor and the contracting officer may enter into an agreement as contemplated by paragraph (a)(4)(B) of the Cost Accounting Standards clause in § 331.50(b), covering a change in practice proposed by the Government or the contractor for the contractor's other contracts for which the contracting officer is responsible, provided that the agreement does not permit any increase in the cost paid by the Government. Such agreement may be made final and binding, notwithstanding the fact that experience may subsequently establish that the actual impact of the change differed from that agreed to.

(iii) To facilitate agreements with a contractor who has a large number of contracts other than firm fixed price affected by a proposed change in his cost accounting practices or affected by application of Cost Accounting Standards, contracting agencies are urged to establish procedures under which the contractor may seek, and in proper cases obtain, agreement with a single official concerning the impact of the proposed change or application of standards upon all such constracts of that agency.

(iv) In one circumstance an adjustment to the contract price or of cost allownces pursuant to paragraph (a)(4)(B) of the Cost Accounting Standards clause in § 331.50(b) may not be required when an amendment to a cost accounting practice is estimated to result in increased costs being paid under a particular contract by the United States. This circumstance may arise when a contractor is performing two or more contracts, with an agency or agencies of the United States, and when he proposes to change a cost accounting practice for all such contracts. The amendment may increase the cost paid under one or more of the contracts, while decreasing the cost paid under one or more of the contracts. In such case, the Government will not pursuant to paragraph (a)(4)(B) require price adjustment for any increased costs paid by the United States so long as the costs decreased under one or more contracts are at least equal to the increased cost under the other affected contracts, provided that the contractor and all affected contracting officers agree on the method by which the price adjustments are to be made for all affected contracts. In this situation, the contracting agencies would, of course, require an adjustment of the contract price or cost allowances, as appropriate, to the extent that the increases under certain contracts were not offset by the decreases under the remaining contracts.

(v) Where, through inadvertence, the contractor has failed to use applicable Cost Accounting Standards or to follow his cost accounting practices and has not notified his contracting officer or officers of that failurer, if the result of that failure is to increase costs paid under one or more contracts, while decreasing costs paid under one or more contracts, the contracting officer or officers of the agency or agencies concerned are urged, in the interest of administrative convenience, to negotiate the adjustment of the contract prices or cost allowances, as appropriate, of the affected contracts by requiring repayment of only the difference between the estimated price increases and the estimated price increases and the estimated price decreases, together with any applicable interest.

§ 331.71 Materiality.

(a) In determining whether amounts of cost are material or immaterial, the following criteria shall be considered where appropriate; no one criterion is necessarily determinative.

(1) The absolute dollar amount involved. The larger the dollar amount, the more likely that it will be material.

(2) The amount of contract cost compared with the amount under consideration. The larger the proportion of the amount under consideration to contract cost the more likely it is to be material.

(3) The relationship between a cost item and a cost objective. Direct cost items, especially if the amounts are themselves part of a base for allocation of indirect cost, will normaly have more impact than the same amount of indirect costs.

(4) The impact on Government funding. Changes in accounting treatment will have more impact if they influence the distribution of costs between Government and non-Government cost objectives than if all cost objectives have Government financial support.

(5) The cumulative impact of individually immaterial items. It is appropriate to consider whether such impacts (a) tend to offset one another, or (b) tend to be in the same direction and hence to accumulate into a material amount.

(6) The cost of administrative processing of the price adjustment modification shall be considered. If the cost to process exceeds the amount to be recovered, it is less likely the amount will be material.

(b) (1) A contract modification for price adjustment or cost allowance under a Cost Accounting Standards clause is required only if the cost impact is material.

(2) On other than a firm fixed price contract where a contractor is in noncompliance and does not change a cost accounting practice because the cost impact is immaterial, the

contracting agency is not relieved of its responsibilities to assure that an appropriate price adjustment is obtained if the cost impact of the noncompliance subsequently becomes material. The contractor shall be notified that the Government's decision to forbear action for noncompliance is solely because the cost impact at the time of the notice is immaterial. If at any time thereafter, the Government determines that the cost impact of noncompliance with respect to the practice in question is material, the Government then must require action under paragraph (a)(5) of the contract clause set forth in § 331.50(b) for any cost accounting period in which the cost impact is material. The fact that the Government does not pursue a price adjustment does not excuse the contractor from his obligation to comply with the Standard involved.

(3) Whether cost impact is recognized by modifying a single contract, several but not all contracts, or all contracts, or any other suitable technique, is a contract administration matter. The Standards, rules, and regulations of the Board do not in any way restrict the capacity of the parties to select the method by which the cost impact attributable to a change in cost accounting practice is recognized.

§ 331.72 Relationship to Part 332.

Contracts subject to this part may be performed during a cost accounting period in which a previously awarded contract subject to Part 332 of this part is also being performed. Compliance with the requirements established by this part may compel the use of cost accounting practices for contracts covered by this part that are not required under Part 332. Under these circumstances, the cost accounting practices applicable to contracts subject to Part 332 of this part need not be changed. Any resulting differences in practices between the contracts subject to this part and those subject to Part 332 of this part shall not constitute violations of Standards 401 or 402.

§ 331.80 Effective date.

Part 331, as amended, must be applied to contracts with a date of award after [Reserved] or if the contractor has submitted cost or pricing data, with a date of final agreement on price after that date.

PART 332—MODIFIED CONTRACT COVERAGE

Sec.
332.10 Purpose.
332.20 Definition.
332.30 Applicability.
332.40 Certification of practices.
332.50 Contract clause.
332.60 Disclosure requirements.
332.70 Interpretation.
332.80 Effective date.

Authority: Sec. 103, 84 Stat. 796; 50 U.S.C. App. 2168.

§ 332.10 Purpose.

The regulations contained in this part are promulgated to provide modified contract coverage for certain classes of business units.

§ 332.20 Definition.

The definitions set forth in § 331.20 of this chapter shall apply to this part.

§ 332.30 Applicability.

(a) Except for the award of a single covered contract of $10 million or more the provisions of this part may be applied in lieu of Part 331 of this chapter to any covered contract received by a business unit which in its immediately preceding cost accounting period received less than $10 million in awards of covered contracts: *Providing*, That the sum of such awards equals less than 10 percent of the business unit's total sales during that period.

(b) If in any cost accounting period the provisions of this part are applied to any one award to a business unit, they must be applied to all covered contracts awarded to that unit during that period, except under the following conditions. If the business unit receives a single contract award of $10 million or more, that contract must contain a clause set forth in § 331.50 of this chapter. Thereafter any covered contract awarded in the same cost accounting period must also contain that clause.

(c) Any covered contract awarded subject to this part shall remain subject thereto even if a portion of the contract is performed in a subsequent cost accounting period in which the business unit is exempt from the requirements of the Cost Accounting Standards Board or ineligible to use this part.

§ 332.40 Certification of practices.

Prior to award of a firm fixed price contract of subcontract which will contain the clause set forth in § 332.50(b), the official responsible for cost accounting practices of the business unit which will perform the contract or subcontract shall execute or have executed on his behalf the certificate set forth in § 331.40 of the Board's regulations. The certificate shall be filed with the cognizant contracting officer.

§ 332.50 Contract clause.

(a) Upon appropriate certification by the offeror that he is eligible and elects to use this part, one of the following clauses shall be inserted in any resulting contract in lieu of the clauses prescribed in § 331.50 of this chapter.

(b) If the contract is a firm fixed price contract or subcontract, the following clause shall be included in the contract.

Disclosure and Consistency of Cost Accounting Practices

(Firm Fixed Price Contract)

(a) The contractor, in connection with this contract shall comply with the requirements, of 4 CFR Parts 401, Consistency in Estimating, Accumulating and Reporting Costs, and 402, Consistency in Allocating Costs Incurred for the Same Purpose, in effect on the date of award of this contract. If the contractor is a business unit of an company required to submit a Disclosure Statement, he shall disclose in writing his cost accounting practices as required by the regulations of the Cost Accounting Standards Board. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts performed by the contractor and which contain a Cost Accounting Standards clause. The contractor's cost accounting practices shall be followed consistently in accumulating and reporting contract performance cost data concerning this contract. If the contractor has notified the contracting officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(b) If the price of this contract, including any profit negotiated in connection therewith, was increased materially because the contractor failed to estimate costs based upon applicable Cost Accounting Standards or the cost accounting practices as certified in the contractor's Cost Accounting Practice Certificate, such increase shall constitute an increased cost paid by the United States. The contract price shall be reduced by the amount of such increase, together with interest thereon, and the contract shall be modified as necessary to reflect such reduction. Interest upon the amount of the increase shall be computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, or 7% per annum, whichever is less, from the time payment was made by the United States to the time adjustment if effected.

(c) If the parties fail to agree whether the contractor or a subcontractor has complied with an applicable Cost Accounting Standard, rule, or regulation of the Cost Accounting Standards Board and as to any price reduction demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(d) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(e) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause, and shall require such inclusion in all other subcontracts of any tier, except that this requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

(1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or

(2) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a cost accounting standards clause by reason of § 331.30(b) of Title 4, Code of Federal Regulations (4 CFR 331.30(b)).

(c) If the contract is other than a firm fixed price contract or subcontract the following clause shall be included in the contract.

Disclosure and Consistency of Cost Accounting Practices

(Other Than Firm Fixed Price Contracts)

(a) The contractor, in connection with this contract shall: (1) Comply with the requirements of 4 CFR Parts 401, Consistency in Estimating, Accumulating and Reporting Costs, and 402, Consistency in Allocating Costs Incurred for the Same Purpose, in effect on the date of award of this contract.

(2) If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by regulations of the Cost Accounting Standards Board. If the contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(3) Follow consistently, his cost accounting practices. A change to such practices may be proposed, however, by either the Government or the contractor, and the contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement if affected must be amended accordingly.

The contractor shall, when the parties agree to a change to a cost accounting practice and the contracting officer has made the finding required in § 332.51 of the Cost Accounting Standards Board's regulations, negotiate an equitable adjustment as provided in the changes clause of this contract. In the absence of the required finding no agreement may be made under this contract clause that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with the applicable Cost Accounting Standards or to follow any cost accounting practice and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92–41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the contractor has complied with an applicable Cost Accounting Standard, rule of regulation or the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b) and shall require such inclusion in all other subcontracts of any tier, except that:

(1) If the subcontract is awarded to a business unit which pursuant to Part 331 is required to follow all Cost Accounting Standards, the clause entitled "Cost Accounting Standards" set forth in § 331.50 of the Board's regulations shall be inserted in liew of this clause, or

(2) This requirement shall not apply to negotiated subcontracts where the price negotiated is based on:

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public or

(ii) Prices set by law or regulation, or

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to accept a Cost Accounting Standards clause by reason of § 331.30(b) of the Board's regulation.

§ 332.51 Findings.

Prior to the utilization of the provisions of subparagraph (a)(3) of the contract clause set out in § 332.50(c) the contractiong officer shall make a finding that the change is desirable and is not detrimental to the interests of the Government.

§ 332.60 Disclosure requirements.

General provisions concerning filing of a Disclosure Statement and the time at which such Disclosure Statement must be filed are set forth in Part 351 of this Chapter.

§ 332.70 Interpretation.

(a) For the purpose of determining under § 332.30(a) whether the sum of covered contract awards equals less than 10 percent of the business unit's total sales, an order received by the one segment from another segment shall be treated in the same way that a subcontract award to the receiving segment would be treated. In measuring sales for a year, a transfer by one segment to another shall be deemed to be a sale by the transferor.

(b) Contracts subject to this Part 332 may be performed during a cost accounting period in which a subsequently awarded contract subject to Part 331 is also being performed. Compliance with the requirements established by Part 331 may compel the use of cost accounting practices for the subsequently awarded contract that are not required under this Part 332. Under these circumstances, the cost accounting practices applicable to contracts subject to this part 332 need not be changed. Any resulting differences in practices between the contracts subject to this Part and those subject to Part 331 of this chapter shall not constitute violations of Standards 401 or 402.

(c) In applying § 332.30(a), business units using Federal Management Circular 73–8 (Cost Principles for Educational Institutions) shall use the amount of current funds expenditures in lieu of total sales.

(d) The interpretation set forth in § 331.70(a) applies to contracts under § 332.50(b). The interpretations under § 331.70(b) apply to contracts under § 332.50(c).

§ 332.80 Effective date.

Part 332, as amended, must be applied to contracts whose date of award is [Reserved] or if the contractor has submitted cost or pricing data, whose date of final agreement on price is after that date.

PART 351—BASIC REQUIREMENTS

Subchapter E—Disclosure Statement

Sec.
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351.30 Definitions.
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351.50 [Reserved]
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§ 351.10 [Reserved]

§ 351.20 Purpose.

This regulation is promulgated pursuant to section 719 of the Defense Production Act of 1950, as amended by 84 Stat. 796 (Pub. L. 91–379), to provide the means by which affected persons can satisfy the requirements established by that law for disclosure of their cost accounting practices and to promulgate the Disclosure Statement form. The regulation also sets forth the administrative procedures to be followed by the Cost Accounting Standards Board and relevant Federal agencies in connection with such disclosures.

§ 351.30 Definitions.

The definitions set forth in § 331.20 of this chapter shall apply to this part.

§ 351.40 Filing requirement.

(a) Who must file.

(1) Any defense contractor which, together with its segments, received net awards of negotiated national defense prime contracts and subcontracts subject to Cost Accounting Standards totaling more than $10 million in its most recent cost accounting period, must submit a completed Disclosure Statement as specified in (b)(1) below.

(2) Any business unit which receives a negotiated national defense contract or subcontract which is subject to Cost Accounting Standards and is for $10 million or more must submit a completed Disclosure Statement as specified in (b)(2) below.

(3) Except as provided in 4 CFR 331.30(b) or except where such costs are based on (i) established catalog or market prices of commercial items sold in substantial quantities to the general public or (ii) prices set by regulation, a separate Disclosure Statement must be submitted covering the practices of each segment of a defense contractor whose costs included in the total price of any contract exceeds $100,000. If the cost accounting practices are identical for more than one segment of a contractor then only one statement need be submitted for those segments, but each such segment must be identified.

(4) Each corporate or other home office which allocates costs to one or more disclosing segments performing covered contracts shall file a Part VII of the Disclosure Statement.

(b) Time of Filing. (1) Any defense contractor required by (a)(1) above to file a Disclosure Statement must do so prior to award of the first covered contract received by the contractor or by a segment in the cost accounting period immediately following the period in which the company receives awards totaling $10 million except that if the first covered contract is received within 90 days of the start of the cost accounting period, the contractor is not required to file until the end of the 90 days.

(2) Any business unit required by (a)(2) above to submit a Disclosure Statement as part of its proposal for such contract must do so then unless the business unit has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of its proposal.

(3) A corporate or home office required by (a)(4) to file a Disclosure Statement shall do so at the same time its disclosing segment files its Disclosure Statement.

(4) In the event the agency head determines that it is impractical to secure a required Disclosure Statement, he may authorize award of such contract or subcontract without its submission. He shall within 30 days thereafter submit a report to the Cost Accounting Standards Board setting forth all material facts.

(c) Confidentiality of disclosure statement. (1) If the business unit submitting a Disclosure Statement notifies the contracting agency and the CASB that the Disclosure Statement contains trade secrets and commercial or financial information which it regards as privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government. (Persons submitting Disclosure Statements containing such information should place an appropriate legend on the face of the document at the time of submission.)

(2) If a subcontractor considers that the information in its Disclosure Statement is privileged and confidential and declines to provide it to the contractor or higher tier subcontractor, the contractor may authorize direct submission of that subcontractor's Disclosure Statement to the same Government offices to which the contractor was required to submit its Disclosure Statement.

§ 351.50 [Reserved]

§ 351.60 Forms.

(a) For the convenience of persons required to submit Disclosure Statements, the Cost Accounting Standards Board has devised forms which should be used. Form No. CASB–DS–1 is for general use. Form No. CASB–DS–2 may be used by educational institutions operating FFRDCs. Copies of the form may be requested by relevant Federal agencies for distribution to affected contractors and subcontractors from the Administrative Officer of the Cost Accounting Standards Board, 441 G Street NW., Washington, DC 20548. If for any reason, copies of the form cannot be obtained, the required information shall be supplied in a form substantially in accord with the arrangement set forth in § 351.130.

(b) Foreign contractors and subcontractors who are required to submit a Disclosure Statement may, in lieu of filing a Form No. CASB–DS–1, make disclosure by use of a disclosure form prescribed by an agency of its Government, provided that the Cost Accounting Standards Board determines that the information disclosed by that means will satisfy the objectives of Public Law 91–379.

§ 351.70 Submission.

Each national defense contractor shall submit a copy of each Disclosure Statement, and any amendments thereto in accordance with the method prescribed by each Federal agency for which the contractor is performing or proposes to perform contracts subject to the rules, regulations, and standards of the Cost Accounting Standards Board. Within ten days after the prime contractor or subcontractor receives notice that his Disclosure Statement, or any amendment thereto, has been determined to be adequate, he shall submit a copy of the Statement or amendment as appropriate to the Cost Accounting Standards Board, 441 G Street N.W., Washington, D.C. 20548.

§ 351.80 Incorporation of disclosure statement.

Every solicitation for a contract which will be subject to the standards, rules, and regulations of the Cost Accounting Standards Board shall contain a

provision allowing the contractor to identify and incorporate by reference, a Disclosure Statement already on file which will be applicable to that solicitation. Such identification and incorporation shall satisfy the requirement for disclosure as a condition of contracting. Agencies may, nonetheless, require submission of additional copies of such Disclosure Statement to the extent deemed necessary.

§ 351.90 Adequacy of disclosure statement.

Federal agencies shall prescribe regualtions by which each will determine that a Disclosure Statement has adequately disclosed the practices required to be disclosed by Cost Accounting Standards Board's standards, rules, and regulations. Agencies are urged to coordinate development of such regulations. The Disclosure Statement submitted to the Cost Accounting Standards Board in accord with § 351.70, is for evaluation and development of Board programs only. Consequently, such submission to the Board does not satisfy the requirement for disclosure as a condition of contracting, nor does any action by the Board with respect to such statement constitute a finding of any kind regarding the adequacy of the statements as submitted.

§ 351.100 Effect of filing disclosure statement.

Unless the Federal agency involved provides otherwise either by regulation or by specific notice to the contractor involved, a Disclosure Statement submitted to the agency or incorporated by reference shall be presumed adequate to meet the requirement that disclosure be made as a condition of contracting. The fact that the condition of contracting has been met shall serve only to establish what the contractor's cost accounting practices are or are proposed to be. In the absence of specific regulation or agreement, a disclosed practice shall not, by virtue of such disclosure, be deemed to have been approved by the agency involved as a proper, approved or agreed practice for pricing proposals or accumulating and reporting contract performance cost data.

§ 351.110 [Reserved]

§ 351.120 Amendment of disclosure statement.

(a) Disclosure Statement amendments may be submitted at any time. Contractors are reminded, however, that any amendments to Disclosure Statements must be made applicable prospectively to all contracts and subcontracts subject to Cost Accounting Standards. For this reason, all relevant Federal agencies are strongly urged to establish interagency procedures for promptly coordinating agency activities stemming from changes in disclosed practices.

(b) Disclosure Statements must be amended for practices that must be changed to comply with Cost Accounting Standards which become applicable subsequent to the initial filing of the Disclosure Statements. Equitable adjustment of contract price or cost allowance will be made as set out in paragraph (a)(4)(A) of the clause set forth in § 331.50(b) of § 331.50 of this chapter.

(c) Disclosure Statements must also be amended for changes in practices voluntarily agreed to by the parties. In this event, the contractor and the contracting officer(s) may enter into an agreement as contemplated by paragraph (a)(4)(B) or (C) of the clause set forth in § 331.50(b) of this chapter.

(d) Amendment shall be submitted to the same offices, including the Cost Accounting Standards Board, to which submission would have to be made were an original Disclosure Statement being filed. Revised responses for Items 1.4.0 through 1.7.0, 8.1.0 or 8.2.0 must be submitted at the beginning of the contractor's fiscal year only if the response to an item in the Disclosure Statement on file requires a change. If the contractor's sales were such that it would check the same boxes in the Disclosure Statement, resubmission of responses concerning these particular items is not required.

(e) For each revision of the Disclosure Statement (addition, change or deletion), only the pages containing such revision shall be resubmitted. Each resubmission shall include a new cover sheet and a signed certification. In the first line of Item 0.4 of the cover sheet, companies shall enter the date of the revision. On the next line of Item 0.4 the date of the last cover sheet that was submitted shall be entered. The numbers of the pages being revised and submitted with the cover sheet shall be entered immediately above the certification. The upper right corner of each revised page being submitted shall be marked "Revised" and dated with the date shown in the first line of Item 0.4. Companies shall enter in the right margin of each page, an asterisk (*) alongside each line containing a revision. For continuation sheets, asterisks may be used in the right margin to identify revised material. Agencies may prescribe criteria under which submission of a complete, updated Disclosure Statement will be required.

§ 351.130 Disclosure statement and instructions.

* * * * *

Arthur Schoenhaut,

Executive Secretary.

[FR Doc. 79-17060 Filed 5-31-79; 8:45 am]

BILLING CODE 1620-01-M

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[9 CFR Parts 318 and 381]

Use of Certain Proteolytic Enzymes in Certain Meat and Poultry Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Federal meat inspection regulations to permit the use of aspergillus oryzae, aspergillus flavus oryzae group, bromelin, ficin and papain as proteolytic enzymes to tenderize the muscle tissue of all cuts of meat, not just beef cuts, as presently authorized by the regulations. In addition, this proposal would amend the Federal poultry products inspection regulations to permit the use of these proteolytic enzymes to tenderize the muscle tissue of mature poultry. This proposal would also limit the moisture gain, from the solution containing the approved proteolytic enzymes in the uncooked tissue, to 3 percent above the weight of the untreated tissue, or require products cooked after the enzyme treatment to return to a maximum weight of no more than that of the untreated product. This proposal would amend the Federal meat inspection regulations and Federal poultry products inspection regulations to provide that meat and poultry muscle tissue that has been tenderized with a proteolytic enzyme shall bear a statement as to the presence of the enzyme. This proposal is a response to petitions by industry.

DATE: Comments must be received on or before August 1, 1979.

ADDRESSES: Written comments and data must be sent to Executive Secretariat, Attention: Annie Johnson, Room 3807, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments on poultry inspection regulations to Mr. Irwin Fried, (202) 447-

6042. See also comments under supplementary information.

FOR FURTHER INFORMATION CONTACT:
Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Room 202, Annex Building, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Executive Secretariat. Comments should bear a reference to the date and page number of this issue of the **Federal Register**. Any person desiring opportunity for oral presentation of views concerning the proposed amendments to the poultry products inspection regulations must make such request to Mr. Fried so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the Office of the Executive Secretariat during regular hours of business.

Background

Approval of Substances for Use in the Preparation of Meat Products

The present Federal meat inspection regulations (9 CFR 318.7) permit the use of aspergillus oryzae, aspergillus flavus oryzae group, bromelin, ficin and papain as proteolytic enzymes to soften the tissues of cuts of beef. These substances currently are considered generally recognized as safe for use in human food by the Food and Drug Administration. In this connection, the Food and Drug Administration has proposed to affirm the generally recognized as safe status of papain as a direct human food ingredient (43 FR 31349).

Several months ago the Department received requests to permit the use of certain proteolytic enzymes to tenderize pork muscle tissue. In connection with those requests, the Department received data [1] from the industry which showed that meat from larger and older swine is effectively tenderized by the action of these enzymes. The Department also conducted a taste panel which concluded that the enzyme treatment of pork muscle tissue makes the meat from larger and older swine more palatable.[2]

The Acting Administrator has reviewed the data, and it appears that these substances would be safe for use in meat and that they would not adulterate the meat. On the basis of these previous findings for beef and now for pork, there is no apparent reason to think that aspergillus oryzae, aspergillus flavus oryzae group, bromelin, ficin and papain used as proteolytic enzymes would not be efficacious in lamb, mutton and goat (chevon).

Therefore, the Acting Administrator has determined that this proposal should cover all species of meat amenable to the Federal Meat Inspection Act so that public comments can be received.

Use of Substances in Poultry Products

Agway, Inc., Syracuse, New York, has also petitioned the Departmnent to amend the Federal poultry products inspection regulations to allow the use of certain proteolytic enzymes to tenderize poultry muscle tissue.

Each year approximately 250,000,000 egg laying hens reach a stage where they are no longer economically useful as layers and must be slaughtered. The poultry meat from these birds generally requires long cooking times in a wet-cook media to make it palatable, and the amount consumed in the home has reportedly been declining the past several years. As a result, the market for spent hens has been primarily limited to commercial users rather than for home consumption.

Poultry technologists, in evaluating this situation on behalf of producers, developed a method for tenderizing the tissue derived from the older birds by using a proteolytic enzyme (papain) in a manner similarly used for treating tissue from cattle. The Department has observed the tests conducted by the industry, examined the treated muscle tissue, conducted its own taste panel and evaluated other available data.[3] The tests show that the use of papain as a proteolytic enzyme softens and tenderizes poultry muscle tissue from fowl. There is no reason to believe that aspergillus oryzae, aspergillus flavus oryzae group, bromelin, and ficin would not function in the same manner.

The proposal would permit the use of these tenderizing substances only in mature poultry, which is defined in section 381.170 of the poultry products inspection regulations (9 CFR 381.170).

This proposal does not provide for the use of these tenderizing substances for immature poultry; i.e., broilers and turkeys which constitute the overwhelming proportion (approximately 95 percent) of poultry processed under Federal inspection. These birds are by definition tender meated. Therefore, the application of enzymatic tenderizers to such birds would not be efficacious. In contrast, however, young red meat animals (lamb and veal), whole muscle structure is significantly different from immature poultry, could benefit from these substances since most are raised on pasture as opposed to mill feed.

This proposed use of proteolytic enzymes would make it possible to prepare and market a product from mature birds which could serve to open new market outlets for such birds. Such a move could provide some economic stimulus to that agricultural commodity.

The Acting Administrator has examined the data that has been submitted, and it appears that these substances would be safe for use in poultry and that they would not adulterate the poultry.

Amount Limitations

The present Federal meat inspection regulations (9 CFR 318.7) specify the amount of proteolytic enzyme to be used in preparation of the beef cuts. The regulations provide that the solutions consisting of water, salt, monosodium glutamate, and approved proteolytic enzymes applied or injected into cuts of beef shall not result in a gain of more than 3 percent above the weight of the untreated product. The Department has examined the current use of a 3 percent limitation on the gain of the uncooked product, and it appears that the 3 percent limitation is a sufficient amount for the purpose of softening tissues. This 3 percent limitation for uncooked products would be retained in the Federal meat inspection regulations and would be used in the poultry products proposal.

This proposal would also amend the Federal meat inspection regulations and propose for the poultry products inspection regulations a limitation on the weight of the finished product if cooked. Meat cuts or poultry can, prior to leaving the official establishment, be cooked after enzyme treatment. In the expected cooking process, the normal processing effect is that the products lose moisture rather than gain moisture during cooking. This proposal would specify a limit, if cooked, for the weight of the finished product. Therefore, it is proposed that if the product is cooked,

[1] A copy of these tests will be placed on file in the Office of the Executive Secretariat, U.S. Department of Agriculture, Washington, D.C.

[2] A copy of these tests will be placed on file in the Office of the Executive Secretariat, U.S. Department of Agriculture, Washington, D.C.

[3] A Copy of these tests will be placed on file in the Office of the Executive Secretariat, U.S. Department of Agriculture, Washington, D.C.

the weight of the finished product shall not be greater than the weight of the raw meat cuts or poultry prior to the application or injection of the solution containing the enzyme treatment.

Labling Requirements

The present Federal meat inspection regulations (9 CFR 317.8(b)(25)) provide that when approved proteolytic enzymes are used on steaks or other meat cuts in an official establishment, there shall appear on the label contiguous to the product name a prominent descriptive statement such as "Dipped in a solution of Papain," to indicate the use of such enzymes. This descriptive statement provides the information that a proteolytic enzyme has been used on a product prepared in an official establishment.

An Attorney General's opinion of August 17, 1972 (Vol. 42, Op. No. 44), concludes that the adulteration and misbranding provisions (which include labeling requirements) of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) apply to all retail establishments, even those exempt from the inspection requirements of the Act. The adulteration and misbranding provisions of the Federal Meat Inspection Act and the Poultry Products Inspection Act and regulations thereunder, other than the requirement of the official inspection legend, apply to custom operations and other operations exempted from routine inspection under the Acts. (See 21 U.S.C. 623(c) and 464(d), 9 CFR 303.1(e) and 381.10(d)(4)). Therefore, the proposed labeling requirements regarding the use of proteolytic enzymes should not be limited to those products in which the enzymes are used in official establishments.

Accordingly, it is proposed to amend § 317.8(b)(25) of the Federal meat inspection regulations by deleting the words "in an official establishment."

It is also proposed to amend § 381.120 of the Federal poultry products inspection regulations, (9 CFR 381.120) "Antioxidants, chemical preservatives; and other additives", by providing that when approved proteolytic enzymes are used on mature poultry muscle tissue there shall appear on the label contiguous to the product name a prominent descriptive statement such as "Dipped in a solution of Papain", to indicate the use of such enzymes.

Therefore, the Food Safety and Quality Service is proposing to amend the Federal meat inspection regulations (9 CFR 317.8(b)(25) and 318.7) and the Federal poultry products inspection regulations (9 CFR 381.120 and 381.147) as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

§ 317.8 [Amended]

1. Section 317.8(b)(25) of the Federal meat inspection regulations (9 CFR 317.8(b)(25)) would be amended by deleting the words "in an official establishment."

§ 318.7 [Amended]

2. The chart listing the substances approved for use in the preparation of products in § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)) would be amended as follows: In connection with the class of substances listed as "Proteolytic enzymes," in the "Products" column, the term "Beef cuts" would be amended to read "Meat cuts", and the "Amount" column would be amended to read "Solutions consisting of water, salt, monosodium glutamate, and approved proteolytic enzymes applied or injected into meat cuts shall not result in a gain of more than 3 percent above the weight of the untreated product when not cooked. If the product is cooked, the weight of the finished product shall not be greater than the weight of the raw meat cuts prior to enzyme treatment."

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

§ 381.120 [Amended]

3. Section 381.120 of the Federal poultry products inspection regulations (9 CFR 381.120) would be amended by adding a new sentence at the end of this section to read as follows: "When approved proteolytic enzymes as permitted in § 381.147 of this subchapter are used in mature poultry muscle tissue there shall appear on the label contiguous to the product name, a prominent descriptive statement, such as 'Dipped in a solution of Papain', to indicate the use of such enzymes."

§ 381.147 [Amended]

4. The chart listing the restrictions on the use of substances in poultry products in § 381.147(f)(3) of the Federal poultry products inspection regulations (9 CFR 381.147(f)(3)) would be amended by inserting a new class of substance, "Proteolytic enzymes", immediately before the class of substance listed as "Synergists (used in combination with antioxidant)" and in the correct columns, the following information about those enzymes:

Class of substance	Substance	Purpose	Products	Amounts
Proteolytic enzymes.	Aspergillus oryzae.	To soften tissue.	Poultry muscle tissue of Hen, Cock, Mature Turkey, Mature Duck, Mature Goose, and Mature Guinea.	Solutions, consisting of water, salt, monosodium glutamate, and approved proteolytic enzyme applied or injected into poultry tissue shall not result in a gain of more than 3 percent above the weight of the untreated product when not cooked. If the product is cooked, the weight of the finished product shall not be greater than the weight of the raw poultry prior to enzyme treatment.
	Aspergillus flavus oryzae group.	do	do	Do.
	Bromelin	do	do	Do.
	Ficin	do	do	Do.
	Papain	do	do	Do.

* * * * * * *

This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations", and has been designated "significant". A draft Impact Analysis has been prepared and is available from Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Room 202, Annex Building, Washington, DC 20250, 202–447–6042.

Done at Washington, D.C., on: May 29, 1979.

Donald L. Houston,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 79-17017 Filed 5-31-79; 8:45 am]

BILLING CODE 3410-37-M

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Parts 141 and 142]

[T.D. 79-144]

Revised Customs Form to Facilitate Entry of Imported Merchandise

Correction

In FR Doc. 79-15860 appearing at page 29916 in the issue for Wednesday, May 23, 1979 make the following corrections:

(1) On page 29920 in the Table, Entry number 1 under the heading Description, "(code to be exclude informal entries)," should appear as "(code to be expanded to include informal entries)."

(2) On page 29920 in the Table, Entry number 10 under the heading Block and title, "Page" should appear as "Pages."

(3) On page 29921 in the Table, Entry number 35 under the heading Present customs form, "7501, 7501" should appear as "7501, 7502."

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 401]

Disclosure of Official Records and Information About Individuals Public Meetings and Extension of Comment Period

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Public Meetings and Extension of Comment Period.

SUMMARY: On April 10, 1979, the Secretary of Health, Education, and Welfare announced in the Federal Register proposed regulations which describe the general principles the Social Security Administration will follow in deciding whether to disclose official records and information about individuals and the limitations on those disclosures. We recognize the sensitivity of the proposed regulations and the broad range of concerns that people may have about them. Therefore, we have scheduled meetings in 7 locations around the country to allow the public to discuss their concerns with social security staff members. Further, we are extending the comment period on the proposed regulations from June 11, 1979 to August 31, 1979.

DATES: All written comments are due by August 31, 1979. The public meetings are scheduled as follows:

City, Date and Place

Boston, July 10, Charles F. Hurley, Employment Security Building, Minihan Lecture Hall, 6th Floor Auditorium, 19 Staniford Street, corner of Cambridge Street, Boston, Massachusetts, 02114.

Denver, July 10, Federal Office Building, Room 239, 19th and Stout Streets, Denver, Colorado 80294.

Atlanta, July 12, Richard B. Russell Building, Lower Plaza Auditorium, 75 Spring Street, S.W., Atlanta, Georgia 30323.

San Francisco, July 12, "Golden Gateway" Holiday Inn, Redwood Room, 1500 Van Ness Avenue, corner of California Street, San Francisco, California 94109.

Chicago, July 17, Great Lakes Program Service Center, The Center Auditorium, First Floor, 600 W. Madison Street, Chicago, Illinois 60606.

Dallas, July 17, Holiday Inn Downtown, Holiday Ballroom, 1015 Elm Street, Dallas, Texas 75202.

Washington, D.C. July 24, Hubert H. Humphrey Building, Ground Floor Auditorium, 200 Independence Avenue, S.W., Washington, D.C. 20201.

ADDRESSES: All written comments should be submitted to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

For information about the meetings or to reserve speaking time, call or write the following individuals (marking envelopes—"Social Security Meeting").

City and Contact

Boston—Mr. William G. Sheehan, Social Security Administration, Room 1100, John F. Kennedy Building, Boston, Massachusetts 02203, Telephone (617) 223-4551.

Denver—Mr. Francis Gay, Social Security Administrtation, Room 822, Federal Office Building, 19th and Stout Streets, Denver, Colorado 80294, Telephone (303) 837-5481.

Atlanta—Ms. Claudette Thigpen, Social Security Administration, Suite 2001, 101 Marietta Tower, Atlanta, Georgia 30323, Telephone (404) 221-2290.

San Francisco—Mr. Ed. Kramer, Social Secuirty Administration, 100 Van Ness Avenue, San Francisco, California 94102, Telephone (415) 556-4270.

Chicago—Mr. Lee Forest, Social Security Administration, 300 South Wacker Drive, Chicago, Illinois 60606, Telephone (312) 353-5200.

Dallas—Mr. Elbert Winn, Social Security Administration, 1200 Main Tower, Suite 2535, Dallas, Texas 75202, Telephone (214) 767-4222.

Washington, D.C.—Ms. Gene Boulé, Social Security Administration, P.O. Box 1585, Baltimore, Maryland 21203, Telephone (301) 594-8305.

SUPPLEMENTARY INFORMATION: As many speakers will be scheduled at each meeting site as time permits. Because the meeting hours will be limited, individuals are encouraged to speak about the issues on which they feel most strongly and to submit further written comments on other issues. Persons unable to speak at the meetings may submit written comments on any issue up to August 31, 1979.

Information About the Proposed Regulations

The Social Security Administration (SSA) generally provides information which individuals request about themselves. The proposed regulations describe how individuals may get access to their own records. The regulations also describe the rules SSA proposes to use in deciding whether to discolose information about individuals without their consent. Generally, we would disclose information for use in other programs having purposes similar to the purpose of SSA's programs. For example, we would disclose information to the Railroad Retirement Board for pension and unemployment compensation programs, to the Veterans Administration for its benefit program, and to health-maintenance programs like Medicare and Medicaid. In limited situations, we would also disclose information to law enforcement agencies and courts. These regulations will apply to information about an individual in SSA's records, to health insurance records which SSA maintains for the Health Care Financing Administration and to records which SSA maintains for administering the Federal Coal Mine Health and Safety Act. The proposed regulations were published in the Federal Register on April 10, 1979, and begin on page 21496.

Information on the Public Meetings

We will conduct these meetings along the lines of an informal forum. Following a presentation by SSA officials on the history and application of the rules regarding the disclosure of information from SSA's records, we will begin the public comment portion of the meeting. A panel of SSA saff members will be available to answer questions. Each meeting will be from 9 to 12 noon and from 1 p.m. to 4 p.m. Speakers will be permitted a maximum of 10 minutes each. Any person, including those who speak, may also submit written statement.

We will accept requests to speak from public officials, representative of civic and public interest organizations and concerned citizens. The allotments of 10

minutes or less will be governed by the number of requests we receive. If the requests for speaking time exceed the available time, we will ask individuals speaking on similar issues or with similar views to combine their presentations. If accommodation cannot be made, speakers will be chosen by lot.

Any public official, representative of an organization, or individual desiring to participate at the hearing should write or telephone the contact person for the specific meeting (see list under Addresses) at least 10 days prior to the public meeting, and provide the following information: (1) name, (2) business address; (3) telephone number during normal working hours; (4) capacity in which presentation will be made, i.e., public official, organization presentation, or citizen; and (5) time desired (10 minutes or less). Late requests and requests to speak received on the day of the meeting will be honored as time permits.

The public and the press are invited to attend the meetings. The meetings will be transcribed. The transcriptions and all written submissions will become a part of the record of these proceedings.

General telephone inquiries should be directed to Ms. Gene Boulé, telephone number (301) 594–8305.

(Catalog of Federal Domestic Program Numbers 13.800–13.805 and 13.807–18.814, Social Security Programs.)

Dated: May 29, 1979.

Stanford G. Ross,

Commissioner of Social Security.

[FR Doc. 79–17033 Filed 5–31–79; 8:45 am]

BILLING CODE 4110–07–M

Food and Drug Administration

[21 CFR Part 145]

[Docket No. 78P–0147]

Canned Pears; Amendment of Standards of Identity and Quality

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the standards of identity and quality for canned pears to provide for a new optional style of pears designated as "chunky." The proposal is based upon a petition submitted by Libby, McNeill and Libby, Inc. The agency also proposes definitions for the styles of pears provided for in the standard of identity. The purpose of this proposal is to promote honesty and fair dealing in the interest of consumers.

DATES: Comments by July 31, 1979; proposed compliance for products initially introduced into interstate commerce: July 1, 1981.

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

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: A petition to amend the standards of identity and quality for canned pears (21 CFR 145.175(a) and (b)) to provide for an optional style of pear designated as "chunky" has been filed by Libby, McNeill and Libby, Inc., 200 S. Michigan Ave., Chicago, IL 60604 in conjunction with a request to extend and amend its temporary permit to market test the new product. The temporary permit was issued to Libby, McNeill and Libby, Inc., July 8, 1977 (42 FR 35221) and was amended on November 4, 1977 (42 FR 57749) to provide for an expanded marketing area and an additional quantity of canned "chunky" pears. The canned pears deviate from the standard in that the style of "chunky" pears, consisting of units predominantly greater than 13 millimeters (mm) (0.5 inch) in the smallest dimension and less than 44 mm (1.75 inches) in the largest dimension, is not provided for in the standard.

One of the grounds given in support of the proposal was that information gathered from the market test program reflected high consumer acceptance of the new product. Libby, McNeill and Libby, Inc., stated that the new style gives the consumer an additional selection of a pear ingredient that is convenient to use.

FDA proposes, based on the Libby, McNeill and Libby, Inc., petition, amendment of the standard of identity for canned pears to provide in § 145.175(a)(2)(vii) for chunky pears as an optional style defined as peeled pears, with cores removed, and cut into parts 13 mm (0.5 inch) or greater in the smallest dimension and 44 mm (1.75 inches) or less in the largest dimension. The agency also proposes on its own initiative to define the styles already provided for in the standard of identity for canned pears, to be consistent with those currently provided for in the identity standard for canned peaches and in the International Codex standard for canned pears and other canned fruits.

In addition, FDA proposes, based on information submitted by Libby, McNeill and Libby, Inc., to amend the standard of quality to provide in § 145.175(b)(1)(viii) that in the case of chunky style pears not more than 25 percent of the drained weight of the contents of the container consists of units that are less than 13 mm (0.5 inch) in the smallest dimension or more than 44 mm (1.75 inches) in the largest dimension. The agency also proposes to provide in § 145.175(b)(3)(viii) for the labeling of substandard chunky pears. These proposed changes in the quality standard for canned pears are in addition to those proposed in the **Federal Register** of July 25, 1978 (43 FR 32143). The agency is also making certain editorial changes in § 145.175(a)(4).

FDA proposes that all affected products initially introduced into interstate commerce on or after July 1, 1981 be required to comply with any regulation adopted on the basis of this proposal, except as to any provisions of the regulation that may be stayed by the filing of proper objections.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 145 be amended in § 145.175 by revising paragraph (a)(2) and the first three sentences of paragraph (a)(4)(ii), adding new paragraph (b)(1)(viii), and inserting new item (b)(3)(viii) immediately following item (b)(3)(vii) to read as follows:

§ 145.175 Canned pears.

(a) * * *

(2) *Styles and forms of units.* The optional pear styles and forms of units referred to in paragraph (a)(1) of this section are:

(i) *Whole*—consisting of peeled or unpeeled pears, with cores removed or left in.

(ii) *Halves*—consisting of peeled or unpeeled pears, with cores removed, and cut into two approximately equal parts.

(iii) *Quarters*—consisting of peeled pears, with cores removed, and cut into four approximately equal parts.

(iv) *Slices*—consisting of peeled pears, with cores removed, and cut into wedge-shaped sectors.

(v) *Dice*—consisting of peeled pears, with cores removed, and cut into cubelike parts.

(vi) *Pieces or irregular pieces*—consisting of peeled pears, with cores removed, cut into parts of irregular shapes and sizes.

(vii) *Chunky*—consisting of peeled pears, with cores removed, and cut into parts 13 millimeters (0.5 inch) or greater in the smallest dimension and 44 millimeters (1.75 inches) or less in the largest dimension.

* * * * *

(4) * * *

(ii) The style and forms of units of the pear ingredient as provided in paragraph (a)(2) of this section and the name of the packing medium specified in pargraph (a)(3)(i) and (ii) of this section, preceded by "In" or "Packed in" or the words "Solid pack," where applicable, shall be included as part of the name or in close proximity to the name of the food, except that "Halves" may be alternatively designated as "Halved," "Quarters" as "Quartered," "Slices" as "Sliced," and "Dice" as "Diced." Pieces or irregular pieces shall be designated as "Pieces," "Irregular pieces," or "Mixed pieces of irregular sizes and shapes." "Chunky" may be designated as "Chunks." The style of the pear ingredient shall be preceded or followed by "Unpeeled" when the units are whole or halves and are unpeeled. * * *

* * * * *

(b) * * *

(1) * * *

(viii) In the case of chunky style, not more than 25 percent of the drained weight of the contents of the container consists of units that are less than 13 millimeters (0.51 inch) in the smallest dimension or more than 44 millimeters (1.75 inches) in the largest dimension.

* * * * *

(3) * * * (viii) "Undersized and/or oversized pieces." * * *

* * * * *

Intersted persons may, on or before July 31, 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. Reeived coments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Executive Order 12044 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption.

Dated: May 24, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 17009 Filed 5–31–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Parts 803, 882 and 888]

[Docket No. R–79–670]

Section 23 and Section 8 Existing Housing—Amendment of Schedules and Change in Methodology in Determinations of Fair Market Rents

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs committee the rulemaking document described below:

24 CFR Parts 803, 882 and 888—Section 23 and Section 8, Existing Housing — Amendment of Schedules and Change in Methodology in Determinations of Fair Market Rents

This proposed rule would amend 24 CFR Parts 803, 882 and 888 to change the methodology for determining fair market rents applicable to existing housing for Section 23 and Section 8 housing programs for all market areas. The new methodology would reflect use of more accurate and current data for determination of appropriate fair market rents.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 2535(o); Section 8(c)(1) of the United States Housing Act of 1937, as amended.)

Issued at Washington, D.C., May 25, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79–17028 Filed 5–31–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. S–004]

Occupational Safety and Health Standard for Fire Brigades; Public Hearing and Request for Written Comments

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of Informal Public Hearing on Proposed Standard and Request for Written Comments.

SUMMARY: This notice schedules an informal public hearing concerning the proposed standard for fire brigades.

The purpose of this hearing is to receive testimony on certain issues concerning the proposed occupational safety and health standard for fire brigades, 29 CFR 1910.165 [43 FR 60048, 60071].

The notice also requests written comments on certain other issues which will not be the subject of the informal hearing, but on which additional information is requested.

DATES: All notices of intention to appear at the public hearing and all written comments, relating to the hearing issues, must be received by July 31, 1979.

All written comments relating to the other issues must be received by September 14, 1979.

All testimony and evidence which will be introduced into the hearing record must be received by August 14, 1979.

Dates on which the informal public hearings will commence, locations and times are as follows:

August 28, 1979: 9:30 a.m., Auditorium, New Department of Labor Building, 3rd Street & Constitution Avenue, N.W., Washington, D.C. 20210.

September 5, 1979: 9:30 a.m. at the Ramada Inn Downtown, 101 Main Street, Houston, Texas 77002.

September 10, 1979: 9:30 a.m. at the Bellevue Hotel, Riviera Room, 505 Geary Street, San Francisco, CA 94102.

ADDRESSES: Send written comments to: Docket Officer, Docket S–004, Room S–6212, U.S. Department of Labor, Washington, D.C. 20210.

Send notices of intention to appear, testimony and evidence which will be introduced into the hearing record to: Occupational Safety and Health Administration, Division of Consumer Affairs, N–3635, Docket S–004, U.S. Department of Labor, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Ms. J. Goodell, Division of Consumer Affairs, U.S. Department of Labor, Room N–3635, Washington, D.C. 20210—(202) 523–8017.

SUPPLEMENTARY INFORMATION: On December 22, 1978, OSHA published in the **Federal Register** (43 FR 60048) a proposed standard for fire protection, means of egress, and hazardous materials under sections 4(b)(2), 6(b), and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653, 655, 657), and Title 29, Code of Federal Regulations (CFR) Part 1911.

Interested persons were given until March 16, 1979 to submit written data, views, and arguments on the proposal, to file objections, and request a hearing thereon.

At the request of several commenting parties this period was subsequently extended until April 16, 1979 (44 FR 17757). Over 180 written comments have been received including several requests that a public hearing be held.

The outstanding requests for hearing relate solely to the proposed requirements contained in § 1910.165, Fire Brigades. Therefore, the proposed § 1910.165 is being separated from the rest of the original proposal and the evidence to be adduced at the informal public hearing will only be addressed to specific issues concerning fire brigades. The remaining parts of this proposal will be the subject of a final rule which is being prepared based on the existing record.

Hearing Issues

Issue 1

Several commenters have requested that a public hearing be held regarding the requirements for positive pressure breathing apparatus proposed in paragraph 1910.165(f)(2). The commenters question the requirement that fire brigade members, while performing interior structural fire fighting, may use only pressure demand or other positive pressure type breathing apparatus. The commenters recommend that any self-contained respirator be acceptable as long as it has a protection factor of at least 10,000.

OSHA invites information and testimony on the following issues concerning the type of respirators to be used by members of a fire brigade:

a. Whether positive pressure breathing apparatus should be the only acceptable respirator for interior structural fire fighting?

b. What protection factor should be provided by respirators to be used for interior structural fire fighting? How should it be measured?

Issue 2

The Oil, Chemical and Atomic Workers Union (OCAW) raised objections pertaining to a specific issue related to § 1910.165 that was not addressed in the proposal. The issue concerns an employee's right to refuse to perform the duties assigned to members of fire fighting teams or fire brigades when the employee has not been hired by the employer to be a full-time fire fighter.

OCAW contends that employers currently have the discretion to require employees to perform fire brigade duties as a part of their regular production or maintenance jobs. It is the position of OCAW that employees who are not hired as full-time fighters, should be permitted to refuse to participate as members of fire fighting teams or fire brigades especially in view of the high hazard nature of the industry in which OCAW members are involved.

OCAW states that fighting fires in high hazard industries, such as oil refining and petrochemical industries, is particularly dangerous and that such fire fighting should be performed by well trained, full-time fire fighters. Additionally, OCAW believes that if an employer wants employees, who are other than full-time fire fighters, to perform fire brigade duties, then such employees should be permitted to refuse to do so.

The OCAW hearing request raises several questions which should be discussed. The first question is whether OSHA should require employers to permit employees to refuse to perform fire brigade duties?

Another question is whether employers should be required to ensure that those brigade members who are expected to perform interior structural fire fighting are physically capable to perform the duties assigned to them?

Several consequences might follow if employees were, in fact, permitted to refuse to perform fire brigade duties. An employer might want to transfer employees into lower job classifications with or without the same pay and seniority status. The employer might decide to disband the fire brigade and rely on local or municipal fire departments or, instead, organize fire brigades or industrial fire departments composed of full-time fire fighters. The employer might also offer employees an economic incentive to induce them to accept fire fighting duties.

It is clear that a regulation allowing employees the right to refuse fire brigade duties raises many diverse and difficult questions; therefore, OSHA would like the following issues addressed at the hearing:

a. Whether OSHA should require employers to permit employees to refuse to perform fire brigade duties in any workplace?

b. Whether employers should be required to ensure that brigade members, who are expected to perform interior structural fire fighting, are physically capable of performing the duties assigned to them? If so, how should "physically capable" be defined? What physical test requirements are appropriate for part-time or full-time fire brigade members?

c. What would be the economic impact if OSHA did permit employees to refuse to perform fire brigade duties? How many employees are now required to join fire brigades as a condition of employment? Are these employees subject to discharge if they become physically unable to continue fire brigade duties or if they refuse to perform these duties? How often does this occur?

Issues for Written Comment

Issue 3

After an analysis of the comments received relating to certain requirements for personal protective equipment, OSHA has determined that additional

information would be helpful in preparing the final regulation. Therefore, it is requested that the following issues, while not the subject of the hearing, be addressed by written comment.

In paragraph 1910.165(e)(2)(iii), OSHA has proposed that when tested in accordance with "Military Specification for Firemen's Boots," MIL–B–2885 D (1973 and amendment dated 1975), protective footwear shall provide protection against penetration of the midsole by a size 8D common nail when at least 300 pounds of static force is applied to the nail.

a. Is the 300 pounds of static force an adequate criterion or should it be higher?

In paragraph 1910.165(e)(3)(ii), OSHA has proposed that the performance, construction, and testing of fire-resistive coats and trousers be at least equivalent to that of the National Fire Protection Association (NFPA) standards NFPA No. 1971–1975, "Protective Clothing for Structural Fire Fighting," with certain permissible variations in those requirements.

In relation to those proposed permissible variations to the requirements contained in the referenced NFPA standards:

b. What should be the tearing strength value of the outer shell? What is the appropriate test method to determine tearing strength?

c. Should the 6-inch char length criterion for the outer shell, as proposed, be adopted by OSHA, or should some other criterion be adopted, such as the 4-inch char length specified in NFPA No. 1971–1975?

d. What methods should be used to determine acceptable heat resistance? How many test cycles should be conducted on outer shells and linings and should tearing strength and char length specifications be included in the pass and fail criteria?

In paragraph 1910.165(e)(5)(i), OSHA has proposed that head protection shall meet the performance, construction, and testing requirements of the National Fire Prevention and Control Administration, which are contained in "Model Performance Criteria for Structural Fire Fighters' Helmets" (August 1977). Several commenters have questioned the adequacy of this document regarding testing of helmets.

OSHA requests written information on the following criteria for testing helmets:

e. Whether ambient conditions should be controlled during the radiant heat conditioning period which is specified for impact testing?

f. Whether the severity of the flame exposure should be specified during the flame resistance test? If so, what criteria should be specified?

g. Whether the chin strap and retention system criteria should be different from those specified in the referenced document?

All written comments on these issues must be received by September 14, 1979, at the Docket Office, Docket S–004, Room S–6212, U.S. Department of Labor, Washington, D.C. 20210. The written comments will be available for inspection and copying at this address.

Public Participation in Hearing

In response to a number of requests from commenting parties and under section 6(b)(3) of the Act, and 29 CFR Part 1911, an opportunity to submit oral testimony concerning the above hearing issues will be provided at an informal hearing scheduled to begin at 9:30 a.m. on August 28, 1979, in the Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210. The hearing will continue at regional locations as follows: 9:30 a.m. on September 5, 1979, in the Ramada Inn Downtown, Houston, TX and 9:30 a.m. on September 10, 1979, in the Bellevue Hotel, San Francisco, CA 94102.

Those witnesses appearing on behalf of OSHA and NIOSH will testify only at the Washington, D.C. hearing. A copy of the transcripts of their testimony will be available for public inspection at the regional hearings in Houston and San Francisco.

Notice of Intention to Appear

Persons desiring to participate at the hearing, including those who previously requested that a public hearing be held, must file a notice of intention to appear, which must be received by July 31, 1979, with Ms. J. Goodell, OSHA Division of Consumer Affairs, Docket No. S–004, Room N–3635, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210. Telephone: (202) 523–8017. Those persons who do not intend to appear at the hearing may submit written comments on the hearing issues No. 1 and No. 2 to the Docket Office, Docket S–004, Room S–6212, U.S. Department of Labor, Washington, D.C. 20210 by July 31, 1979.

The notice of intention to appear, which will be available for inspection and copying at the OSHA Division of Consumer Affairs, must contain the following information:

1. The name, address and telephone number of each person to appear;

2. The capacity in which the person will appear;

3. The city where the person intends to appear;

4. The approximate amount of time required for the presentation;

5. The specific issues that will be addressed;

6. A detailed statement of the position that will be taken with respect to each issue addressed; and

7. Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

Filing of Testimony and Evidence Before Hearing

Any party requesting more than 15 minutes for presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of its testimony, including all documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. The testimony will be available for inspection and copying in Room S–6212 of the New Department of Labor Building in Washington, D.C. This material must be received by August 14, 1979. Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of the fact.

Any party who has not substantially complied with the above requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

Conduct of the Hearings

The hearing will commence at 9:30 a.m. on August 28, 1979 with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Adminstrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the powers:

1. To regulate the course of the proceedings;

2. To dispose of procedural requests, objections, and comparable matters;

3. To confine the presentation to the matters pertinent to the issues raised;

4. To regulate the conduct of those present at the hearing by appropriate means;

5. In the Judge's discretion, to question and permit questioning of any witness; and

6. In the Judge's discretion, to keep the record open for a reasonable, stated time to receive written information and additional data, views and arguments from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. Proposed section 1910.165 will be reviewed in light of all testimony and written submissions received as part of the record, and a standard will be issued or a determination will be made not to issue a rule, based on the entire record of this proceeding.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of May 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-17224 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR 122, 123, 124 and 146]

[FRL 1239-4]

Proposed Consolidated Permit Regulations; Reproposed Underground Injection Control Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule; Notice of Public Hearings.

SUMMARY: Notice is hereby given of four three-day hearings open to the public to discuss and receive comments on the proposed consolidated permit regulations and application form due to be published in mid-June in the Federal Register and reproposed Part 146 of the Underground Injection Control (UIC) regulations which was published in the Federal Register on April 20, 1979.

The consolidated permit regulation is an effort by the Agency to streamline and unify five permit programs into one set of regulations. These programs include:

- Hazardous Waste Management program under the Resource Conservation and Recovery Act;
- Underground Injection Control program under the Safe Drinking Water Act;
- National Pollutant Discharge Elimination System program under the Clean Water Act;
- State 404 (Dredge or Fill) program under the Clean Water Act;
- Prevention of Significant Deterioration (PSD) program under the Clean Air Act, where this program is operated by EPA.

DATES: Four public hearings have been scheduled for the following dates and places:

July 16, 17*, 18, 1979—Dallas, Texas.
July 23, 24*, 25, 1979—Washington, D.C.
July 26*, 27, 28, 1979—Chicago, Illinois.
July 30, 31*, August 1, 1979—Seattle, Washington.

Registration for the meetings will be held from 8:30 to 9:00 a.m. each day. The hearings will start at 9:00 a.m. and continue until concluded, but no later than 5:00 p.m. In addition to the three daily hearings, an evening session, scheduled from 7:30 to 10:00 p.m. unless concluded earlier, will be held on the dates noted above (designated by an asterisk).

ADDRESSES: The four public hearings are to be held at the following addresses:

July 16, 17[1], 18, 1979, Northpark Inn, 9300 North Central Expressway, Dallas, Texas.
July 23, 24[1], 25, 1979, HEW Auditorium, 330 Independence Avenue S.W., Washington, D.C.
July 26[1], 27, 28, 1979, Water Tower Hyatt, 800 North Michigan Avenue, Chicago, Illinois.
July 30, 31[1], August 1, 1979, EPA—Region X, 1200 6th Avenue, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:

Consolidated Permit Regulations and Application Form: Judy Shaffer, Environmental Protection Agency, Permits Division (EN-336), 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0750.

Part 146—Underground Injection Control Regulations: Sharon Gascon, Environmental Protection Agency, State Programs Division (WH-550), 401 M Street SW., Washington, D.C. 20460, telephone 202-426-8290.

SUPPLEMENTARY INFORMATION: These four three-day public hearings are being held to jointly discuss the following regulations:

(1) 40 CFR 146—State Underground Injection Control Programs—reproposed in the Federal Register on April 20, 1979, 44 FR 23738 (April 20, 1979);

(2) 40 CFR 122, 123, and 124—Consolidated Permit Regulations—to be proposed in the Federal Register in mid-June; and

(3) 40 CFR 122, 123, and 124—Consolidated Permit Application Form (Notice) and Regulations (Proposal—to appear in the Federal Register in mid-June.

The format for each of the hearings will be the same. Day 1 will cover the reproposed Part 146 UIC technical regulations, Day 2 and Day 3 will cover the proposed consolidated regulations, the application form, and proposed changes to the NPDES permit program regulations on application requirements. The evening session will cover all subjects. Following registration there will be a short presentation by EPA officials concerning the topic of that day's hearings an opportunity for anyone in the audience to make a statement, and a question and answer session.

A court recorder will be present at each of the public hearings. Official transcripts will be available at cost.

Anyone wishing to make an oral statement at the hearings should indicate in writing to the above mentioned contacts which hearing (city and date) they plan to attend.

Barbara Blum,

Deputy Administrator.

May 25, 1979.

[FR Doc. 79-17122 Filed 5-31-79; 8:45 am]

BILLING CODE 6560-01-M

[1] Day and evening sessions.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 79-122; RM-3119]

FM Broadcast Station in Duncan, Okla.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a second Class A channel to Duncan, Oklahoma, in response to a petition filed by R & R Broadcasting Company. The proposed assignment would provide for a second fulltime aural broadcast outlet in the community.

DATES: Comments must be filed on or before July 17, 1979, and reply comments

must be filed on or before August 6, 1979.

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

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Duncan, Oklahoma); Notice of Proposed Rule Making.

Adopted: May 18, 1979.

Released: May 25, 1979.

By the Chief, Broadcast Bureau:

1. R & R Broadcasting, Inc., requests [1] the assignment of a second commercial FM channel (244A) to Duncan, Oklahoma. Duncan (1970 population 19,718) is the seat of Stephens County (1970 pop. 35,902). Local radio service is now provided by a daytime-only AM station, KRHD, and co-owned KRHD-FM, both assigned to Duncan.

2. No existing or proposed FM channel assignments would be affected by this proposal. However, if Channel 243 is assigned to Elk City, Oklahoma, as proposed in BC Docket No. 78-225, a station on Channel 244A at Duncan, Oklahoma, would have to be located so as to provide the requisite minumum of 105 miles. This should pose no problem as the coordinates of Duncan and Elk City are 104 miles apart.

3. Also, if Channel 243 is assigned to Elk City, the assignment of Channel 244A to Duncan would preclude its use in two cities which had 1970 populations of at least 1,000 and have no local radio outlet: Comanche, Oklahoma (pop. 1,862) and Iowa Park, Texas (pop. 5,796). Petitioner should indicate whether other channels could be assigned to these communities.[2]

4. Consideration of this assignment appearing warrented, the Commission proposes the following amendment to the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) for Duncan, Oklahoma:

City	Channel No.	
	Present	Proposed
Duncan, Oklahoma	272A	244A, 272A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note:—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before July 17, 1979, and reply comments on or before August 6, 1979.

7. For further information concerning this proceeding, contact Louis C. Stephens, Broadcast Bureau, (202) 632-6302. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments filed officially in the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* above.

2. *Showing required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making above. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.1420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* above. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-16994 Filed 5-31-79; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on June 7, 1978, Report No. 1125.

[2] In addition, if Elk City is not assigned Channel 243, the preclusion would affect the following cities without local aural service: Cache (1,106), Temple (1,354), Walters (2,611), Snyder (1,671), Grandfield (1,524), Oklahoma, and Burkburnett (9,230), and Electra (3,895), Texas. Petitioner should provide information on other possible channels for these localities as well.

[47 CFR Part 90]

[PR Docket No. 79-106; FCC 79-282]

Changing the Co-Channel Mileage Separation and Frequency Loading Standards for Conventional Land Mobile Radio Systems in the Bands 806-821 and 851-866 MHz

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action concerns frequency shortages for "conventional" private land mobile radio systems in the 800 MHz bands. The proposals contained in the Notice of Proposed Rule Making would revise the present mileage separation and frequency loading standards for "conventional" 800 MHz radio systems contained in Part 90 of the Rules to increase the use of these frequencies.

DATES: Comments must be received on or before July 2, 1979, and Reply comments must be received on or before July 18, 1979.

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

FOR FURTHER INFORMATION CONTACT: Lewis H. Goldman, Private Radio Bureau, 202-632-6497.

In the matter of Amendment of §§ 90.365 and 90.377 of the Commission's rules to change the co-channel mileage separation and frequency loading standards for conventional land mobile radio systems in the bands 806-821 and 851-866 MHz; Notice of Proposed Rule Making.

Adopted: May 3, 1979.

Released: May 23, 1979.

By the Commission: Commissioners Lee and Quello concurring; Commissioner Washburn concurring and issuing a statement.

1. In its Second Report and Order in the 900 MHz land mobile allocation proceeding, Docket No. 18262 (46 FCC 2d 752, adopted May 1, 1974), the Commission allocated a total of 30 MHz of radio spectrum (the bands 806-821 and 851-866 MHz) for private land mobile communication systems. This spectrum was divided into 600 two-frequency channels. Of these, 200 were earmarked for so-called "trunked" systems. These are sophisticated multi-channel (5 to 20 channels) systems. One hundred channels were allocated for so-called "conventional" systems. These are the traditional, usually single-channel, systems of the type used in the lower bands for two-way mobile radio communications. The remaining three hundred channels were placed in reserve for a later decision on whether or not to allocate them for trunked, conventional, or some other type of system.

2. We have now been licensing conventional 800-MHz radio systems for nearly three years. The program has been highly popular and the demand for these frequencies great. In fact, as early as the summer of 1978 all of the 100 conventional channels initially allocated were exhausted in the three largest urbanized areas of the country (New York, Chicago, and Los Angeles), and the Commission allocated 50 more out of those being held in reserve. That additional allotment has now been exhausted in both the Chicago and Los Angeles metropolitan areas, and it is expected that the same situation will occur in New York City shortly.

3. Moreover, we have had nearly three years of experience with the frequency assignment standards adopted in Docket 18262 for conventional systems. This experience indicates that the present co-channel separation and frequency loading rules for conventional systems have resulted in under-utilization of the frequencies. Therefore, it appears that, aside from the short-term frequency shortage problem, there is a need to re-examine the frequency assignment standards adopted in Docket 18262.

4. We are, therefore, proposing to revise the present co-channel and frequency loading standards for conventional systems at 800 MHz in the following respects:

(a) Reduce the mileage separation between base stations on the same channel:

(1) From 100 to 70 miles for "urban conventional" stations (e.g., conventional stations operation in the top 50 urban areas);

(2) From 110 miles to 60 miles for "suburban conventional" stations (e.g., all stations operating outside the top 50 urban areas); and,

(3) From 120 or 130 miles for stations operating on four transmitter sites on very high ground near Los Angeles, California.

Note.—The shorter mileage separations would apply in those situations where the channel is assigned for the exclusive use of a single or shared conventional station at a single site. The present mileage separations would continue to apply to frequencies used at multiple sites by multiple stations within the same urban or suburban general area.

(b) Increase total channel loading for shared systems or for individual systems sharing the same channel in the same area to the level now prescribed for non-shared, single licensee systems. That is now, generally, 50 mobiles for Public Safety, 90 for Business, and 70 mobiles for most other services. (See Table in § 90.377(b)). Under this proposal, the loading in the Business Radio Service, for example, where five or more licensees share a channel or a system (which is very typical), would increase from 50 to 90 mobile units;

(c) Increase from 70 percent to 90 percent the level to which a licensee or a group of licensees must load a channel before it is assigned for the exclusive use of that user or users;

(d) Require that the 90 percent loading level be achieved in four months, rather than in eight months as is now allowed before the channel would be retained by the licensee for its exclusive use;

(e) Eliminate the maximum ceiling on loading a channel. Under this change, a licensee or group of licensees would be able to add an unlimited number of mobiles on a channel; and

(f) Apply the foregoing revised standards retroactively as well as prospectively, so that additional users can be accommodated on the existing channels.

5. These changes would increase substantially the availability of the frequencies to additional users without seriously affecting the quality of service. For example, the proposed closer geographic re-use can be accomplished without significantly increasing interference between stations because the same co-channel protection standards would be retained. To explain, although the rules now prescribe co-channel separations of 100 miles between stations in the top 50 urban areas, the protection accorded is actually 70 miles. The additional 30 miles consists of two 15-mile circles (or loading zones) surrounding the center of each urbanized area. These zones were added to permit licensing multiple single-user stations at various locations within the 15-mile circle or loading zone and assure that in all cases the 70-mile co-channel separation would be maintained. Where a channel is assigned for the exclusive use of a single user or shared station at a single location, the extra 30-mile separation is not needed for the requisite protection. On the other hand, where a channel is assigned to multiple stations at various locations, the 30-mile extra separation will continue to be used, so that all stations in that zone, including those in the "worst case" situations, will be afforded the 70-mile protection. The result will be the same, and for the same reason, where the 110-mile separation for suburban stations is reduced to 60 miles and where the 120- or 130-mile separation for stations in the four sites

near Los Angeles is reduced to 105 miles. Further, as we have indicated, the present frequency loading standards are conservative and, in our view, can be increased while still affording good quality of service.

6. In addition, we believe that the marketplace should determine the maximum number of mobile units to be placed on a frequency to be used by conventional systems in a given geographic area. Accordingly, we would leave to the users, their equipment suppliers, and the operators of shared systems the determination of how many mobile units, if any, beyond the minimum we contemplated prescribing, can be placed on a channel consonant with efficient usage.

7. We propose to make this new plan retroactive as well as prospective in effect. To do otherwise would preclude any relief to those urban areas where channels are or will soon be exhausted, i.e., Los Angeles, Chicago and New York. Our proposal here would not constitute a modification that would afford a right to a hearing under Section 316(a) of the Communications Act, as amended, 47 U.S.C. § 316(a). It is settled that a Section 316(a) hearing right arises only where a Commission modification order "is concerned with the conduct and other facts peculiar to an individual licensee" and not where the Commission proposes a rule of general modification. *California Citizens Band Association* v. *U.S.* 375 F. 2d 43, 52 (9th Cir. 1967), *cert. denied,* 389 U.S. 844 (1967). It is further settled that operating authority or privileges in existing Commission authorizations may be modified retroactively by rules of general applicability in a rule-making proceeding. As the court has stated: "Where a rule has retroactive effects, it may nonetheless be sustained in spite of such retroactivity, if it is reasonable .... In a complex and dynamic industry such as the communications industry, it cannot be expected that the agency charged with its regulation will have perfect clairvoyance." *General Telephone Co. of Southwest* v. U.S., 449 F. 2d 846, 863 (5th Cir. 1971). See also *U.S.* v. *Storer Broadcasting Company,* 351 U.S. 192 (1956); *American Airlines* v. *CAB,* 359 F. 2d 624 (D.C. Cir. 1966), *cert. denied,* 385 U.S. 843 (1966); *cert. denied,* 385 U.S. 843 (1966); *Air Line Pilots Ass'n* v. *Quesada,* 276 F. 2d 892 (2nd Cir. 1960); *WBEN, Inc.* v. *U.S.,* 396 F. 2d 601 (2nd Cir. 1968), *cert. denied,* 393 U.S. 914 (1968).

8. Those precedents apply here. Moreover, there would be no change in the co-channel protection now provided because, as we have indicated, the same technical standards would be retained. While there would be increased loading where frequencies are to be shared by more than a single licensee or user, these are the kind of changes which the decisions cited above demonstrate can be properly made through rule making.

9. In soliciting comments on the proposed rule changes set forth herein, we are mindful that the largest demand for 800 MHz conventional radio systems, and thus the greatest scarcity of channels, are found, as we have noted, in the major urban areas, particularly New York, Chicago, and Los Angeles. For this reason, we specifically invite comments as to whether these proposals should be implemented on a nationwide basis or solely in specific large metropolitan areas, and if so, which ones.

10. The need for prompt relief compels the Commission to promulgate rule revisions as quickly as possible after analysis and consideration of all comments and replies received in response to this Notice. Therefore, we are reducing the customary time periods for comments and replies from 60 and 30 days respectively to 30 and 15 days. Requests for extensions of time in which to file comments or replies will not be viewed with favor absent a compelling showing of good cause.

11. Nevertheless, we realize that even if we expedite this proceeding, as we intend to do, it would not be concluded soon enough to accommodate the immediate requirements of those who have filed applications for conventional systems in the 800 MHz band in those urban areas where all such frequencies have been assigned. For this reason, we reviewed very carefully the option of releasing additional channel pairs from the reserve pool, but have concluded that it would be unwise to do so now because the frequencies in reserve could better be used for the more efficient trunked systems. Trunked systems have been developed and are now being introduced in the marketplace successfully. Trunked systems are now operational in some of the areas where the shortage of conventional channels is now greatest. We believe that our decision here will ensure the development and use of trunked systems and is consistent with the Commission's decision in Docket 18262 to promote the use of spectrally efficient land mobile radio systems in the 800 MHz bands.

12. However, the Commission has instructed its staff to undertake a program which looks toward accommodating pending applications on existing frequencies and on systems already authorized. A number of the 150 conventional channels already assigned, particularly those licensed to operators of Specialized Mobile Radio Systems (SMRS), have additional capacity, even under present frequency assignment standards. In addition, trunked systems which have been authorized and are or will shortly become operational in those areas may be able to accommodate some of the present applicants. Further, some applicants may be able to use channels below 800 MHz, especially if present eligibility restrictions are waived. Finally, in situations where none of the foregong solutions would be possible or appropriate, the Commission has instructed the staff to consider and grant, upon a proper showing, waiver of the present minimum channel loading standards and other rule restrictions (in accordance with the proposals in this proceeding and subject to its outcome) so as to assign additional users on the present 800 MHz conventional frequencies. These alternatives will be brought to the attention of each of the present applicants by letter. In addition, operators of 800 MHz private radio systems with capacity available in each of the three urban areas will be sent a list of pending applications in the urban area where they operate. This notification procedure will bring the applicants for 800 MHz facilities and the entrepreneurs to each other's attention. With this program we expect to meet the immediate land mobile communications requirements in the three urban areas. However, we plan to watch the progress of this program closely and evaluate its result carefully.

13. Accordingly, Notice is hereby given for proposed rule making in the above-captioned matter. Any interested person may participate in this proceeding by filing comments by July 2, 1979, and reply comments by July 18, 1979. Comments and reply comments may be addressed to the issues and proposals set forth in this Notice and to such other issues as the participants believe are relevant and necessary to the resolution of these matters.

14. Authority for the proposed amendments is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. In accordance with § 1.419 of the Commission's rules, an original and five (5) copies of all comments, reply comments, and other pleadings and submissions shall be furnished to the Commission. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

15. For further information concerning this document, you may contact Lewis H. Goldman, (202) 632–6497.

Federal Communications Commission.[1]

William J. Tricarico,

Secretary.

Concurring Statement of Commissioner Abbott Washburn Re: Shortage of Conventional Land Mobile Radio Systems

I am concurring in today's action on the categorical assurance given to us by the Chief of the Private Radio Bureau that the waiting list of over 150 companies and government agencies in New York, Chicago, and Los Angeles can and will be accommodated within the next two or three months, without the necessity of releasing additional channels from the reserve pool of 250 channels. My preference would have been to take care of this backlog immediately by releasing 50 additional channels for conventional use.

Should it turn out *not* to be possible to accommodate these users' needs reasonably promptly, it was the sense of today's discussion that the Commission has the authority to revisit the matter and to take direct action releasing the needed channels, without waiting for the end of the rulemaking.

Rather than relying on the interplay of marketplace factors, the Commission continues, in this proceeding, to substitute its own judgment and, in effect, force users to particular service vendors (SMRs and RCCs), irrespective of price. It does this by withholding additional conventional channels from the market—even though these channels are sitting on the shelf, so to speak, unused. The excuse given for this waste is that otherwise there would be insufficient incentive for the industry to move to trunked service.

This reasoning is wrong and it is unsubstantiated by what has been happening in the past year. The industry *is* so moving. We are now in a transition period. Releasing additional channels would make for a smoother transition. It would also assure uninterrupted service to the public.

While trunked systems do hold promise of greater efficiency, the degree of that improvement is not yet known. The speculative assertion by the staff that they are "nearly" twice as efficient as conventional systems is baseless. Spectrum, unlike most commodities, is not consumed through use. Five years after our Second Report and Order in Docket 18262,[2] for one regulatory reason or another, over 70% of the available frequencies are still being held in reserve.[3] Clearly, to require spectrum to lie fallow in a reserve pool in the face of users who have petitioned the Commission for its use can hardly be termed efficient.

I fully support the steps taken to reduce mileage separations between systems and to increase channel loading. Commission prescription of the channel loading criteria is an appropriate regulatory supplement to enable free market forces to account for spectrum efficiency, in addition to the other facets of service. For any given level of loading the system with the greater spectrum efficiency will offer its users less congestion and higher quality service, while with the less efficient system users will suffer more congestion, longer waiting times and lower quality service. These choices are best made by each user in a marketplace that is not warped by regulatory freezes and thaws.

It is to be hoped that the measures adopted today will satisfy the real and growing need for mobile communications in our major cities. We shall rely on the Private Radio Bureau staff to monitor closely the implementation of these measures. I would hope that the Commissioners could receive progress reports at least monthly.

[FR Doc. 79-16996 Filed 5-31-79; 8:45 am]

BILLING CODE 6712-01-M

[1] See Statement of Commissioner Washburn below.

[2] 46 F.C.C. 2d 752 adopted May 1, 1974.

[3] 85 MHz out of 115 MHz available.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 508]

Receipt of Petitions for Temporary Public Interest Exemptions for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978 and Proposed Order Granting the Petitions for Temporary Exemptions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Petitions and Proposed Orders.

SUMMARY: A number of petitions have been received and filed with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for temporary public interest exemptions for the use of natural gas as a primary energy source. Such exemptions are authorized by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, November 9, 1978 (FUA or the Act). The owners/operators of the powerplants have provided the information given below.

DATES: Written comments relating to these petitions and the proposed order are due on or before July 6, 1979. Requests for a public hearing are due on or before June 15, 1979.

ADDRESSES: Requests for a public hearing and/or 10 copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW., 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, NW., Washington, D.C. 20461, (202) 634–2170.

Elmer Lee (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 7219–F, 2000 M Street, NW., Washington, D.C. 20461, (202) 254–5436.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 7202, 2000 M Street, NW., Washington, D.C. 20461, (202) 254–3910.

James H. Heffernan (Office of General Counsel), Department of Energy, Room 7134, 12th & Pennsylvania Avenue, N.W., Washington, D.C., 20461, (202) 633–8820.

SUPPLEMENTARY INFORMATION: On April 9, 1979, ERA issued a final rule implementing the authority granted to DOE by Section 311(e) of FUA. This final rule, set forth in 10 CFR part 508, establishes the policy ERA has adopted in implementing its authority under Section 311(e) of FUA and the eligibility criteria, which petitioners for a temporary public interest exemption for use of natural gas must demonstrate. This temporary exemption will allow certain existing electric powerplants to use natural gas as a primary energy source in excess of the amounts which are mandated by Section 301(a) (2) and (3) of FUA.

The use of natural gas, permitted under these temporary exemptions, will allow existing electric powerplants to displace distillate and residual fuel oils as their primary energy source.

The expanded use of natural gas in these powerplants will be a significant step towards reducing our short term oil consumption and will help the United States in meeting its goals to reduce its demand for imported oil, protect the Nation from the effects of any oil shortages, and will serve to cushion the impact of increasing world oil prices.

The owners/operators listed below have filed petitions with ERA to request

a temporary public interest exemption for their existing electric powerplants. ERA has reviewed their petitions and has found that the powerplants meet the eligibility criteria established in Part 508.2 of the final rule (44 FR 21230).

ERA, in its proposed order, is granting temporary public interest exemption for the below listed powerplants.

This is not the final notice of petitions and proposed orders under the special rule. ERA will continue to comply with the requirements of Section 701(c) of FUA and will publish further notices as petitions are received.

Petitioner's name generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual	Maximum quantity of coal displaced (tons)
Public Service Electric and Gas Company of New Jersey:			
Bergen	#1	1,655 Residual	0
	#2		
Essex	CT 9	53 Distillate	0
	CT 10		
	CT 11		
	CT 12		
Hudson	#1	1,426 Residual	0
	CT 3		
Kearny	CT 10	5 Distillate	0
	CT 11		
Linden	CT 5	3 Distillate	0
	CT 6		
	CT 7		
	CT 8		
Sewaren	#1	540 Residual	0
	#2		
	#3		
	#4		
	CT 6		
Edison	CT 1	44 Distillate	0
	CT 2		
	CT 3		
Arkansas-Missouri Power Company: Jim Hill	#1	139 Residual	0
Consumers Power Company:			
Gaylord	CT 1	7 Distillate	0
	CT 2		
	CT 3		
	CT 4		
	CT 5		
Thetford	#5	240 Distillate	0
	#6		
	#7		
	#8		
	#9		
Columbus and Southern Ohio Electric Company: Walnut.	#7	187 Distillate	0
	#8		
	#9		
Iowa Power and Light Company: Sycamore	CT 1	41 Distillate	0
	CT 2		
Louisiana Power and Light Company:			
Waterford	#1	1,346 Residual	0
Ninemile Point	#1	21 Residual	0
Sterlington	#6	142 Residual	0
Dayton Power and Light Company:			
Hutchings	CT 1	42 Distillate	0
Yankee Street	CT 1	357 Distillate	0
	CT 2		
	CT 3		
	CT 4		
	CT 5		
	CT 6		
	CT 7		
El Paso Electric Company: Rio Grande	#1		0
	#2		
	#3		
	#4		
	#5		
	#6		
	#7	375 Distillate	
	#8	139 Residual	0
Mississippi Power and Light Company:			
Natchez	#1	7,050 Residual	0
Bater Wilson	#1	12,410 Residual	0
	#2		
Delta	#1	2,263 Residual	0
	#2		
Rex Brown	#1	4,196 Residual	0
	#2		
	#3		
	#4		
Georgia Power Company:			
McDonough	CT 1	29 Distillate	0
	CT 2		
Atkinson	#1	495 Distillate	0
	#2		
	#3		
	#4		
	CT 1		
	CT 2		

Petitioner's name generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual	Maximum quantity of coal displaced (tons)
Arkwright	CT 1	15 Distillate	0
	CT 2		
City of Vero Beach, Florida: Vero Beach	#1	497 Residual	0
	#2		
	#3		
	#4		
Mississippi Power Company: Watson	#1	931 Distillate	0
	#2		
	#3		
Western Massachusetts Electric Company: West Springfield.	#3	200 Residual	0
Salt River Project:			
Agua Fria	#1	150 Distillate	0
	#2	825 Residual	
	#3		
	#4		
	#5		
	#6		
Kyrene	#1	30 Distillate	0
	#2	213 Residual	
	#5		
	#6		
Crosscut	#1	292 Residual	0
	#2		
	#3		
	#4		
Central Louisiana Electric Company:			
Coughlin	#5	52 Distillate	0
	#6		
	#7		
Teche	#3	8 Distillate	0
Rodemacker	#1	34 Residual	0
Wisconsin Public Service Company:			
Marinette	CT 31	164 Distillate	0
	CT 32		
Weston	CT 31	360 Distillate	0
	CT 32		
Public Utilities Board of Brownsville, Texas: Silas Ray.	#4	775 Distillate	0
	#5		
	#6		
	#7		
	#8		
Applied Energy Incorporated:			
Naval Training	#1	154 Distillate	0
32nd Street	#1	433 Distillate	0
Duke Power Company:			
Urquhart	3 G	92 Distillate	0
Buzzard Roost	CT 6	788 Distillate	0
	CT 7		
	CT 8		
	CT 9		
	CT 10		
	CT 11		
	CT 12		
	CT 13		
	CT 14		
	CT 15		
Lee	CT 4	616 Distillate	0
	CT 5		
	CT 6		
Riverbend	CT 8	805 Distillate	0
	CT 9		
	CT 10		
	CT 11		
Buck	CT 7	733 Distillate	0
	CT 8		
	CT 9		
Dan River	CT 4	180 Distillate	0
	CT 5		
	CT 6		
Reedy Creek Utilities Company: Lake Buena Vista	#1	60 Distillate	0
	#2		
Arkansas Power and Light Company:			
Mabelvale	#1	15 Distillate	0
	#2		
	#3		
	#4		
Ritchie	#1	4,909 Residual	0
	#2		
Lynch	#1	255 Distillate	0
	#2		
	#3		
Lake Catherine	#1	3,233 Residual	0
	#2		
	#3		
	#4		
Couch	#1	1,300 Residual	0
	#2		

Petitioner's name generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual		Maximum quantity of coal displaced (tons)
Long Island Lighting Company: E. F. Barrett	CT 5	50	Distillate	0
	CT 6			
	CT 7			
	CT 8			
	CT 9			
	CT 10			
	CT 11			
	CT 12			
Tucson Gas and Electric Company:				
Irvington	#1	29	Distillate	0
	#2	2,766	Residual	
	#3			
	#4			
	CT 1			
	CT 2			
	CT 3			
DeMoss-Petrie	#1	19	Distillate	0
	#2	308	Residual	
	#3			
	#4			
	CT 1			
North Loop	CT 1	38	Distillate	0
	CT 2			
	CT 3			
	CT 4			
Metropolitan Edison Company: Titus	CT 5	5	Distillate	0
Empire District Electric Company: Riverton	#1	91	Distillate	0
	#2	37	Residual	
	#3			
	#4			
	CT 9			
Wisconsin Electric Power Company:				
Lakeside	#1	679	Distillate	0
	#2			
	#3			
	#4			
	#5			
	#6			
	#7			
	#8			
	#9			
	#10			
	#11			
	#12			
	#13			
	#14			
	#15			
	#16			
	#17			
	#18			
	#19			
	#20			
	CT 21			
	CT 22			
Commerce	#1	10	Distillate	0
Oak Creek	CT 9	2	Distillate	0
Madison Gas & Electric Company:				
Blount	#1	18	Distillate	0
	#2			
	#3			
	#11			
Sycamore	CT 1	13	Distillate	0
	CT 2			
Fitchburg	CT 1	33	Distillate	0
	CT 2			
Nine Spring	CT 1	2	Distillate	0
South Mississippi Electric Power Association: Moselle	#1	274	Residual	0
	#2			
	#3			
City of Stillwater Electric Department: Bloomer Lake	#1	286	Distillate	0
	#2			
South Carolina Gas and Electric Company:				
Hagood	#1	700	Residual	0
	#2			
	#3			
Parr	CT 1	300	Distillate	0
	CT 2			
	CT 3			
	CT 4			
Urquhart	CT 1	150	Distillate	0
	CT 2			
Coit	CT 1	150	Distillate	0
	CT 2			
Canadys	CT 1	50	Distillate	0
Burton	CT 1	100	Distillate	0
	CT 2			
	CT 3			
A. M. Williams	CT 1	200	Distillate	0
	CT 2			

Petitioner's name generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual		Maximum quantity of coal displaced (tons)
Toledo Edison:				
Richland	CT 2	39	Distillate	0
	CT 3			
Acme	#9	1	Residual	0
	#10			
	#11			
	#12			
Narragansett Electric Company: Manchester Street	#9	1,661	Residual	0
	#10			
	#11			
Commonwealth Edison Company: Ridgeland	#1	5,110	Residual	0
	#2			
	#3			
	#4			
Baltimore Gas and Electric Company:				
Westport	CT 5	26	Distillate	0
Riverside	CT 6	26	Distillate	0
Arizona Public Service Company:				
Ocotillo	#1	9	Distillate	0
	#2	976	Residual	0
	CT 1			
	CT 2			
West Phoenix	#4			
	#5	11	Distillate	0
	#6	184	Residual	0
	CT 1			
	CT 2			
Saguaro	#1	457	Residual	0
	#2	11	Distillate	0
	CT 1			
	CT 2			
Yuma	#1	78	Residual	0
	CT 1	81	Distillate	0
	CT 2			
	CT 3			
St. Joseph Light and Power Company:				
Edmond Street	#4	26	Residual	0
	#5			
	#7			
Lake Road	#1	38	Distillate	0
	#2	115	Residual	0
	#3			
	CC 5			
Virginia Electric Power Company:				
Surry	CT 1	80	Distillate	0
	CT 2			
Portsmouth	CT 2	420	Distillate	0
	CT 4			
	CT 6			
	CT 7			
	CT 8			
	CT 9			
	CT 10			

FUA became effective May 8, 1979. FUA prohibits the use of natural gas as a primary energy source in certain existing powerplants and also authorizes an exemptions procedure in regard to that and other prohibitions.

ERA intends to issue proposed orders which would grant temporary public interest exemptions to all of the petitioners enumerated above. These proposed orders would grant a temporary exemption from the prohibition against natural gas use, contained in Section 301(a)(2) and (3) of FUA, to the subject powerplants. These proposed orders to grant temporary public interest exemptions are issued under the authority of Section 311(e) of FUA and 10 CFR 508, published by ERA on April 9, 1979 (44 FR 21230).

ERA is publishing this notice of petitions filed and its proposed order to grant these exemptions, to invite interested persons to submit written comments pursuant to the requirements of FUA. In addition, any interested person may request that a public hearing be convened in regard to these petitions under the provisions of Section 701(d) of FUA.

Proposed Order Granting Special Temporary Public Interest Exemptions

The Department of Energy's (DOE) Economic Regulatory Administration (ERA) hereby sets forth its Order proposing to grant a special temporary public interest exemption from the prohibitions of Section 301 (a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), Pub. L. 95–620, authorized by Section 311(e) of FUA, and pursuant to ERA–FUA Regulations Section 501.73 and Part 508, to the following powerplant(s):

Case control number	Petitioner's name	Generating station	Unit ident.	Location
52414-2398-01-41	Public Service Electric and Gas Company of New Jersey.	Bergen	#1	Ridgefield, New Jersey.
52414-2398-02-41			#2	
52414-2402-29-41		Essex	CT 9	Newark, New Jersey.
52414-2402-30-41			CT 10	
52414-2402-31-41			CT 11	
52414-2402-32-41			CT 12	
52414-2403-01-41		Hudson	#1	Jersey City, New Jersey.
52414-2403-23-41			CT 3	
52414-2404-30-41		Kearny	CT 10	Kearny, New Jersey.
52414-2404-31-41			CT 11	
52414-1406-25-41		Linden	CT 5	Linden, New Jersey.
52414-1406-26-41			CT 6	
52414-1406-27-41			CT 7	
52414-1406-28-41			CT 8	
52414-2411-01-41	Public Service Electric and Gas Company of New Jersey.	Sewaren	#1	Sewaren, New Jersey.
52414-2411-02-41			#2	
52414-2411-03-41			#3	
52414-2411-04-41			#4	
52414-2411-26-41			CT 6	
52414-2400-21-41		Edison	CT 1	Edison, New Jersey.
52414-2400-22-41			CT2	
52414-2400-23-41			CT3	
50104-2073-01-41	Arkansas-Missouri Power Company.	Jim Hill	#1	Campbell, Missouri.
50658-1706-21-41	Consumers Power Company	Gaylord	CT 1	Gaylord, Michigan.
50658-1706-22-41			CT 2	
50658-1706-23-41			CT 3	
50658-1706-24-41			CT 4	
50658-1706-25-41			CT 5	
50658-1719-05-41		Thetford	#5	Mt. Morris, Michigan.
50658-1719-06-41			#6	
50658-1719-07-41			#7	
50658-1719-08-41			#8	
50658-1719-09-41			#9	
50633-2845-07-41	Columbus and Southern Ohio Electric Company.	Walnut	#7	Groveport, Ohio.
50633-2845-08-41			#8	
50633-2845-09-41			#9	
51407-8029-21-41	Iowa Power and Light Company.	Sycamore	CT 1	Johnstown, Iowa.
51407-8029-22-41			CT 2	
51694-9038-01-41	Louisiana Power and Light Company.	Waterford	#1	Killona, Louisiana.
51694-1403-01-41		Ninemile Point	#1	Westwego, Louisiana.
51694-1404-06-41		Sterlington	#6	Ouachita, Louisiana.
50752-2848-21-41	Dayton Power and Light Company.	Hutchings	CT 1	Miamisburg, Ohio.
50752-2854-21-41		Yankee Street	CT 1	Dayton, Ohio.
50752-2854-22-41			CT 2	
50752-2854-23-41			CT 3	
50752-2854-24-41			CT 4	
50752-2854-25-41			CT 5	
50752-2854-26-41			CT 6	
50752-2854-27-41			CT 7	
50868-2444-01-41	El Paso Electric Company	Rio Grande	#1	Dona Ana County, New Mexico.
50868-2444-02-41			#2	
50868-2444-03-41			#3	
50868-2444-04-41			#4	
50868-2444-05-41			#5	
50868-2444-06-41			#6	
50868-2444-07-41			#7	
50868-2444-08-41			#8	

Case control number	Petitioner's name	Generating station	Unit ident.	Location
51887-2052-01-41	Mississippi Power and Light Company.	Natchez	#1	Natchez, Mississippi.
51887-2050-01-41	.....	Bater Wilson	#1	Vicksburg, Mississippi.
51887-2050-02-41	.....	.....	#2	.....
51887-2051-01-41	.....	Delta	#1	Cleveland, Mississippi.
51887-2051-02-41	.....	.....	#2	.....
51887-2053-01-41	.....	Rex Brown	#1	Jackson, Mississippi.
51887-2053-02-41	.....	.....	#2	.....
51887-2053-03-41	.....	.....	#3	.....
51887-2053-04-41	.....	.....	#4	.....
51100-0710-21-41	Georgia Power Company	McDonough	CT 1	Smyrna, Georgia.
51100-0710-22-41	.....	.....	CT 2	.....
51100-0700-01-41	Georgia Power Company	Atkinson	#1	Smyrna, Georgia.
51100-0700-02-41	.....	.....	#2	.....
51100-0700-03-41	.....	.....	#3	.....
51100-0700-04-41	.....	.....	#4	.....
51100-0700-21-41	.....	.....	CT 1	.....
51100-0700-22-41	.....	.....	CT 2	.....
51100-0699-21-41	.....	Arkwright	CT 1	Macon, Georgia.
51100-0699-22-41	.....	.....	CT 2	.....
53132-0693-01-41	City of Vero Beach, Florida	Vero Beach	#1	Vero Beach, Florida.
53132-0693-02-41	.....	.....	#2	.....
53132-0693-03-41	.....	.....	#3	.....
53132-0693-04-41	.....	.....	#4	.....
51888-2049-01-41	Mississippi Power Company	Watson	#1	Gulfport, Mississippi.
51888-2049-02-41	.....	.....	#2	.....
51888-2049-03-41	.....	.....	#3	.....
53266-1642-03-41	Western Massachusetts Electric Company.	West Springfield	#3	West Springfield, Massachusetts.
52564-0141-01-41	Salt River Project	Agua Fria	#1	Glendale, Arizona.
52564-0141-02-41	.....	.....	#2	.....
52564-0141-03-41	.....	.....	#3	.....
52564-0141-04-41	.....	.....	#4	.....
52564-0141-05-41	.....	.....	#5	.....
52564-0141-06-41	.....	.....	#6	.....
52564-0147-01-41	.....	Kyrene	#1	Tempe, Arizona.
52564-0147-02-41	.....	.....	#2	.....
52564-0147-05-41	.....	.....	#5	.....
52564-0147-06-41	.....	.....	#6	.....
52564-0143-01-41	.....	Crosscut	#1	Tempe, Arizona.
52564-0143-02-41	.....	.....	#2	.....
52564-0143-03-41	.....	.....	#3	.....
52564-0143-04-41	.....	.....	#4	.....
50490-1396-05-41	Central Louisiana Electric Company	Coughlin	#5	St. Landry, Louisiana.
50490-1396-06-41	.....	.....	#6	.....
50490-1396-07-41	.....	.....	#7	.....
50490-1400-03-41	Central Louisiana Electric Company.	Teche	No. 3	Baldwin, Louisiana.
50490-6190-01-41	.....	Rodemacker	No. 1	Lena, Louisiana.
53333-4076-31-41	Wisconsin Public Service Company.	Marinette	CT 31	Marinette, Wisconsin.
53333-4076-32-41	.....	.....	CT 32	.....
53333-4078-31-41	.....	Weston	CT 31	Rothschild, Wisconsin.
53333-4078-32-41	.....	.....	CT 32	.....
50349-3559-04-41	Public Utilities Board of Brownsville, Texas.	Silas Ray	No. 4	Brownsville, Texas.
50349-3559-05-41	.....	.....	No. 5	.....
50349-3559-06-41	.....	.....	No. 6	.....
50349-3559-07-41	.....	.....	No. 7	.....
50349-3559-08-41	.....	.....	No. 8	.....
61007-9046-01-41	Applied Energy Incorporated	Naval Training	No. 1	San Diego, California.
61007-9045-01-41	.....	32nd Street	No. 1	San Diego, California.
50816-6278-23-41	Duke Power Company	Urquhart	3G	Urquhart, South Carolina.
50816-3254-26-41	.....	Buzzard Roost	CT 6	Greenwood, South Carolina.
50816-3254-27-41	.....	.....	CT 7	.....
50816-3254-28-41	.....	.....	CT 8	.....
50816-3254-29-41	.....	.....	CT 9	.....
50816-3254-30-41	.....	.....	CT 10	.....
50816-3254-31-41	.....	.....	CT 11	.....
50816-3254-32-41	.....	.....	CT 12	.....
50816-3254-33-41	.....	.....	CT 13	.....
50816-3254-34-41	.....	.....	CT 14	.....
50816-3254-35-41	.....	.....	CT 15 3	..
50816-3264-24-41	.....	Lee	CT 4	Pelzer, South Carolina.
50816-3264-26-41	.....	.....	CT 5	.....
	Central Louisiana Electric Company..	.....	CT 6	.....
501816-2732-28-41	Duke Power Company	Riverbend	CT 8	Mt. Holly, North Carolina.
50816-2732-29-41	.....	.....	CT 9	.....
50816-2732-30-41	.....	.....	CT 10	.....
50816-2732-31-41	.....	.....	CT 11	.....
50816-2720-27-41	.....	Buck	CT 7	Spencer, North Carolina.
50816-2720-28-41	.....	.....	CT 8	.....
50816-2720-29-41	.....	.....	CT 9	.....
50816-2732-24-41	.....	Dan River	CT 4	Eden, North Carolina.
50816-2732-25-41	.....	.....	CT 5	.....
50816-2732-26-41	.....	.....	CT 6	.....
66001-9042-01-41	Reedy Creek Utilities Company.	Lake Buena Vista	#1	Lake Buena Vista, Florida.
66001-9042-02-41	.....	.....	#2	.....
50105-0171-01-41	Arkansas Power & Light Company.	Mabelvale	#1	Little Rock, Arkansas.
50105-0171-02-41	.....	.....	#2	.....
50105-0171-03-41	.....	.....	#3	.....
50105-0171-04-41	.....	.....	#4	.....

Case control number	Petitioner's name	Generating station	Unit ident.	Location
50105-0173-01-41	.....	Ritchie	#1	Helena, Arkansas.
50105-0173-02-41	.....	.....	#2	.....
50105-0167-01-41	.....	Lynch	#1	North Little Rock, Arkansas.
50105-0167-02-41	.....	.....	#2	.....
50105-0167-03-41	.....	.....	#3	.....
50105-0170-01-41	.....	Lake Catherine	#1	Hot Springs, Arkansas.
50105-0170-02-41	.....	.....	#2	.....
50105-0170-03-41	.....	.....	#3	.....
50105-0170-04-41	.....	.....	#4	.....
50105-0169-01-41	.....	Couch	#1	Stamps, Arkansas.
50105-0169-02-41	.....	.....	#2	.....
51685-2511-25-41	Long Island Lighting Company	E. F. Barrett	CT 5	Mineola, New York.
51685-2511-26-41	.....	.....	CT 6	.....
51685-2511-27-41	.....	.....	CT 7	.....
51685-2511-28-41	.....	.....	CT 8	.....
51685-2511-29-41	.....	.....	CT 9	.....
51685-2511-30-41	.....	.....	CT 10	.....
51685-2511-31-41	.....	.....	CT 11	.....
51685-2511-32-41	.....	.....	CT 12	.....
52970-9039-01-41	Tucson Gas and Electric Company.	Irvington	#1	Tucson, Arizona.
52970-9039-02-41	.....	.....	#2	.....
52970-9039-03-41	.....	.....	#3	.....
52970-9039-04-41	.....	.....	#4	.....
52970-9039-21-41	.....	.....	CT 1	.....
52970-9039-22-41	.....	.....	CT 2	.....
52970-9039-23-41	.....	.....	CT 3	.....
52970-9040-01-41	.....	DeMoss-Petrie	#1	Tucson, Arizona.
3652970-9040-02-41	.....	.....	#2	.....
3652970-9040-03-41	.....	.....	#3	.....
3652970-9040-04-41	.....	.....	#4	.....
3652970-9040-21-41	.....	.....	CT 1	.....
52970-6088-21-41	.....	North Loop	CT 1	Tucson, Arizona.
52970-6088-22-41	.....	.....	CT 2	.....
52970-6088-23-41	.....	.....	CT 3	.....
52970-6088-24-41	.....	.....	CT 4	.....
54020-3115-25-41	Metropolitan Edison Company	Titus	CT 5	Reading, Pennsylvania.
50904-1239-01-41	Empire District Electric Company.	Riverton	#1	Riverton, Kansas.
50904-1239-02-41	.....	.....	#2	.....
50904-1239-03-41	.....	.....	#3	.....
50904-1239-04-41	.....	.....	#4	.....
50904-1239-29-41	.....	.....	CT 9	.....
53330-4038-01-41	Wisconsin Electric Power Company.	Lakeside	#1	St. Francis, Wisconsin.
53330-4038-02-41	.....	.....	#2	.....
53330-4038-03-41	.....	.....	#3	.....
53330-4038-04-41	.....	.....	#4	.....
53330-4038-05-41	.....	.....	#5	.....
53330-4038-06-41	.....	.....	#6	.....
53330-4038-07-41	.....	.....	#7	.....
53330-4038-08-41	.....	.....	#8	.....
53330-4038-09-41	.....	.....	#9	.....
53330-4038-10-41	.....	.....	#10	.....
53330-4038-11-41	.....	.....	#11	.....
53330-4038-12-41	.....	.....	#12	.....
53330-4038-13-41	.....	.....	#13	.....
53330-4038-14-41	.....	.....	#14	.....
53330-4038-15-41	.....	.....	#15	.....
53330-4038-16-41	.....	.....	#16	.....
53330-4038-17-41	.....	.....	#17	.....
53330-4038-18-41	.....	.....	#18	.....
53330-4038-19-41	.....	.....	#19	.....
53330-4038-20-41	.....	.....	#20	.....
53330-4038-21-41	.....	.....	CT 21	.....
53330-4038-22-41	.....	.....	CT 22	.....
53330-4036-01-41	.....	Commerce	#1	Milwaukee, Wisconsin.
53330-4039-29-41	.....	Oak Creek	CT 9	Oak Creek, Wisconsin.
51738-9-043-01-41	Madison Gas & Electric Company	Blount	#1	Madison, Wisconsin.
51738-9043-02-41	.....	.....	#2	.....
51738-9043-03-41	.....	.....	#3	.....
51738-0-43-11-41	.....	.....	#11	.....
51738-3993-21-41	.....	Sycamore	CT 1	Madison, Wisconsin.
51738-3993-22-41	.....	.....	CT2	.....
51738-3991-21-41	.....	Fitchburg	CT 1	Madison, Wisconsin.
51738-391-22-41	.....	.....	CT 2	.....
51738-9674-21-41	.....	Nine Springs	CT 1	Madison, Wisconsin.
52703-2070-01-41	South Mississipi Electric Power Association.	Moselle	#1	Moselle, Mississippi.
52703-2070-02-41	.....	.....	#2	.....
52703-2070-03-41	.....	.....	#3	.....
52821-3000-01-41	City of Stillwater Electric Department.	Bloomer Lake	#1	Stillwater, Oklahoma.
52821-3000-02-41	.....	.....	#2	.....
52692-3285-01-41	South Carolina Gas & Electric Company.	Hagood	#1	Charleston, South Carolina.
52692-3285-02-41	.....	.....	#2	.....
52692-3285-03-41	.....	.....	#3	.....
52692-3290-21-41	.....	Parr	CT 1	Parr, South Carolina.
52692-3290-22-41	.....	.....	CT 2	.....
52692-3290-23-41	.....	.....	Ct 3	.....
52692-3290-24-41	.....	.....	CT 4	.....
52692-3295-21-41	.....	Urquhart	CT 1	Beech Island, South Carolina.
52692-3295-22-41	.....	.....	CT 2	.....
52692-3281-21-41	.....	Coit	CT 1	Columbia, South Carolina.
52692-3281-22-41	.....	.....	CT2	.....
52692-3280-21-41	.....	Canadys	CT 1	Canadys, South Carolina.
52692-3277-21-41	.....	Burton	CT 1	Beaufort, South Carolina.
52692-3277-22-41	.....	.....	CT 2	.....
52692-3277-23-41	.....	.....	CT 3	.....

Case control number	Petitioner's name	Generating station	Unit ident.	Location
52692-3298-21-41	.....	A. M. Williams.....	CT 1.....	Goose Creek, Carolina.
52692-3298-22-41	.....	.....	CT 2.....	.....
52927-9041-22-41	Toledo Edison.....	Richland	CT 2.....	Defiance, Ohio.
52927-9041-23-41	.....	.....	CT 3.....	.....
52927-2877-09-41	.....	.....	#9.....	Toledo, Ohio.
52927-2877-10-41	.....	.....	#10.....	.....
52927-2877-11-41	.....	.....	#11.....	.....
52927-2877-12-41	.....	.....	#12.....	.....
54013-3236-09-41	Narragansett Electric Company.	Manchester Street ...	#9.....	Providence, Rhode Island.
54013-3236-10-41	.....	.....	#10.....	.....
54013-3236-11-41	.....	.....	#11.....	.....
50643-0881-01-41	Commonwealth Edison	Ridgeland.....	#1.....	Stickney Township, Illinois.
50643-0881-02-41	Company.	.....	#2.....	.....
50643-0881-03-41	.....	.....	#3.....	.....
50643-0881-04-41	.....	.....	#4.....	.....
50154-1560-25-41	Baltimore Gas and Electric Company.	Westport.....	CT 5.....	Baltimore, Maryland.
50154-1559-26-41	.....	Riverside	CT 6.....	Baltimore County, Maryland.
50101-0116-01-41	Arizona Public Service	Ocotillo	#1.....	Tempe, Arizona.
50101-0116-02-41	Company	.....	#2.....	.....
50101-0116-21-41	.....	.....	CT 1.....	.....
50101-0116-22-41	.....	.....	CT 2.....	.....
50101-0117-04-41	.....	West Phoenix.....	#4.....	Phoenix, Arizona.
50101-0117-05-41	.....	.....	#5.....	.....
50101-0117-06-41	.....	.....	#6.....	.....
50101-0117-21-41	.....	.....	CT 1.....	.....
50101-0117-22-41	.....	.....	CT 2.....	.....
50101-0118-01-41	.....	Saguaro.....	#1.....	Red Rock, Arizona.
50101-0118-02-41	.....	.....	#2.....	.....
50101-0118-21-41	.....	.....	CT 1.....	.....
50101-0118-22-41	.....	.....	CT 2.....	.....
50101-0120-01-41	.....	Yuma	#1.....	Yuma, Arizona
50101-0120-21-41	.....	.....	CT 1.....	.....
50101-0120-22-41	.....	.....	Ct 2.....	.....
50101-0120-23-41	.....	.....	Ct 3.....	.....
52786-2097-04-41	St. Joseph Light and Power	Edmond Street	#4.....	St. Joseph, Missouri
52786-2097-05-41	Company	.....	#5.....	.....
52786-2097-07-41	.....	.....	#7.....	.....
52786-2098-01-41	.....	Lake Road.....	#1.....	St. Joseph, Missouri.
52786-2098-02-41	.....	.....	#2.....	.....
52786-2098-03-41	.....	.....	#3.....	.....
52786-2098-55-41	.....	.....	CC 5	.....
53146-3806-21-41	Virginia Electric Power	Surry	CT 1.....	Surry, Virginia.
53146-3806-22-41	Company	.....	CT 2.....	.....
53146-3803-22-41	.....	Portsmouth.....	CT 2.....	Chesapeake, Virginia.
53146-3803-24-41	.....	.....	CT 4.....	.....
53146-3803-26-41	.....	.....	CT 6.....	.....
53146-3803-27-41	.....	.....	CT 7.....	.....
53146-3803-28-41	.....	.....	CT 8.....	.....
53146-3803-29-41	.....	.....	CT 9.....	.....
53146-3803-30-41	.....	.....	CT 10.....	.....

I. The above listed powerplants are prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source, or are prohibited by Section 301(a)(3) from using natural gas as a primary energy source in greater quantity than their average base year.

II. Eligibility

The existing powerplants listed above have submitted petitions to ERA for a Special Temporary Public Interest Exemption and have shown that:

(a) The existing powerplant is

(1) Prohibited on May 8, 1979 from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or

(2) Prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA.

(b) The proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a) (2) or (3) of FUA:

(1) Will displace consumption of middle distillate or residual fuel oil; and

(2) Will not displace the use of coal or any other alternate fuel in any facility of the owner/operator utility system, including the powerplant for which the exemption was submitted.

III. Rationale

To the extent that the near term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The expanded use of natural gas in these powerplants will be a significant step towards reducing our short term oil consumption. This increased use of natural gas will help the United States meet its commitment to reduce its demand for imported petroleum products, protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have had a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that this increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency. This is in keeping with purposes of FUA and is in the public interest.

Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria established in Section 508.2 of the Special Rule (April 9, 1979, 44 FR 21230), ERA proposes to grant the exemptions.

IV. Duration

ERA proposes to grant these temporary public interest exemptions generally for a period of two years and may extend them from one to three additional years. Certain petitioners have requested that they be granted exemptions for a period of greater than two years but less than five years, the maximum period allowed under FUA, and to the extent that these requests are in the public interest ERA will consider them.

These proposed exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

V. Terms and Conditions

As a term and condition of this proposed order under the provisions of Section 214 of FUA and 10 CFR 508.6, ERA will require the order recipient upon issuance of a final order to report the amount of the powerplant's base period use of natual gas as defined in Section 301(a)(3) of FUA and the total amount of natural gas consumption by such powerplant every six months thereafter.

Issued in Washington, D.C., on May 23, 1979.

Doris Dewton,

Acting Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 17056 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

Notices

Federal Register
Vol. 44, No. 107
Friday, June 1, 1979

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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Boll Weevil; Availability of the Addendum to the USDA Trial; Boll Weevil Eradication Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of the addendum to the USDA Trial Boll Weevil Eradication Environmental Impact Statement.

SUMMARY: This gives notice that the Department has prepared an addendum to the Trial Boll Weevil Eradication Environmental Impact Statement (EIS). The addendum to the EIS (USDA–APHIS–ADM–75–1) was sent to the Environmental Protection Agency (EPA) on May 24, 1979, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, by the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

ADDRESS: Requests for a copy of the addendum to the EIS should be addressed to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, Regulatory Support Staff, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782.

Copies of the addendum and the final EIS are available for public inspection at the following locations.

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302–E, Administration Building, 14th Street and Independence Avenue SW., Washington, DC 20250.

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 620, Federal Building, New Bern Avenue, Raleigh, NC 27601.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, 301–436–8247.

SUPPLEMENTARY INFORMATION: A notice of the availability of the Department's final EIS for the trial boll weevil eradication program was published in the Federal Register on June 29, 1976 (41 FR 26730). The EIS listed pesticides which may be used in the trial boll weevil eradication program in North Carolina and South Carolina. The purpose of the addendum is to add diflubenzuron (Dimilin) to the list of pesticides that may be used in this program.

The United States Environmental Protection Agency (EPA) accepted the Dimilin label for use on cotton on April 9, 1979. In the trial boll weevil eradication program it will be used in a series of four weekly treatments applied at the rate of 1 ounce active ingredient per acre to selected areas where boll weevils were detected by traps in 1978 and 1979. It will also be used on spot infestations found during the growing season. No treatments will be applied after cotton begins to open. Dimilin is conditionally registered for 4 years for this use so the data necessary to resolve any uncertainties can be generated.

The benefit analysis conducted by the EPA in its registration of this substance showed that Dimilin would serve as an alternative to other pesticides used to control boll weevils, such as azinphosmethyl and chlorodimeform. The application rate of Dimilin is less than that of the alternate pesticides and, therefore, its use will reduce the amount of pesticide applied to the environment.

Mr. James O. Lee, Jr., Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, has determined that in order to fully encompass the first year's data needs, it is necessary to begin the Dimilin treatments during the week of June 4, 1979. Therefore, the addendum becomes final upon publication of this notice in the Federal Register. Copies have been sent to the agencies and parties who received copies of the final EIS.

This notice has been reviewed under the USDA criteria establisted to implement E.O. 12044, "Improving Government Regulations." A determination has been made that this notice should not be classified "significant" under these criteria. The EIS and addendum referred to in this notice meets the requirements of E.O. 12044 and Secretary's Memorandum 1955 for impact analysis statement.

Done at Washington, D.C., this 24th day of May, 1979.

James O. Lee, Jr.,

Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79–17019 Filed 5–31–79; 8:45 am]

BILLING CODE 3410–34–M

Forest Service

AMAX, Inc., Proposed Molybdenum Mining and Milling Operation; Gunnison National Forest, Gunnison County; Intent to Prepare an Environmental Impact Statement

The Department of Agriculture—Forest Service will prepare an environmental impact statment for the AMAX Inc., Mt. Emmons Project mining and milling proposal pursuant to Section 102(2) of the National Environmental Policy Act of 1969 and in accordance with regulations 43 FR 55978 (November 29, 1978).

A proposed operating plan was submitted by AMAX Inc. in response to 36 CFR 252, to the Forest Service on May 18, 1979. The Principal aspects of the proposed plan include: 1) location of a mine site at Mt. Emmons; 2) mill and tailings site at Alkali Gulch; 3) or haulage route from mine to mill by rail or conveyor proceeding by tunnel through Mt. Axtell and by surface along the west slopes of Mt. Whetstone, and Red Mountain; 4) major road access to mill site and mine site via the Ohio Creek Valley; 5) electric power supply lines in loop to mine and mill proceeding from Gunnison to Paonia, Colorado. Both private and Federal lands are involved.

Company studies estimate current molybdenum ore reserves at the proposed mine site of approximately 165 million tons above a 0.2 percent cutoff grade. Mill capacities would be designed to process 20,000 tons per day. Life of project is expeed to be 25 years. Molybdenum concentrate will be

shipped by truck to railhead facilities either in Montrose or Salida, Colorado:

The environmental impact statement will:

A. Address and analyze public issues and managment concerns found to be significant as they relate to the project proposal.
B. Address a reasonable range of alternatives which will include at least:
1. A "No Action" alternative which represents the current situation projected into the future, assuming the mining and milling proposal is not developed.
2. The proponent's proposal as represented in the operating plan.
3. Other reasonable alternatives to the proponent's proposal which become apparent through the agency's environmental review and analysis. These could include alternate mill and tailing sites and electric power corridors.
C. Identify, describe, and evaluate the significant environmental consequences of the alternatives considered.
D. Identify a Forest Service preferred alternative for the proposed mining and milling operation.
E. Identify monitoring and evaluation requirements.

As an early step in the assessment process, Federal, State and local agencies, organizations, and individuals who may be interested in, or be affected by the proposal are invited to participate in:

A. Identification of the issues to be addressed.
B. Identification of the issues to be analyzed in depth, and
C. Elimination from detailed study those issues which are not significant or have been covered by prior environmental review.
D. Identification of cooperating agencies to assist in preparing the environmental impact statement.

To accomplish this, intensive public participation activities have been developed which include: 1) the distribution of information packets containing a description of the project, preliminary issues and a response form; 2) personal contact with numerous groups and organizations; 3) solicitation of response from affected Federal, State and local agencies. These activities will begin June 18, 1979. There are no scheduled meetings at this time.

Information packets noted above may be obtained by contacting Dennis Hovel, 216 N. Colorado, Gunnison, Colorado 81230, (303) 641–0471.

A previous notice of intent for this proposed project was published in the **Federal Register** on December 4, 1978 (43 FR 56669). Now that specific information is available, this notice has been published.

Since December 4, 1978, the Forest Service began the assessment process identified above. A coordinated review process, known as the Colorado Review Process (CRP), has been developed for this proposed project. The CRP is being used by representatives of the Gunnison National Forest, State of Colorado and Gunnison County to coordinate the interjurisdictional review of the potential environmental effects of this major develoment proposal. Meetings of these representatives (the CRP Group) so far have identified many issues and concerns related to the project. These issues and concerns may change or be modified as the evaluation proceeds.

Initial public issues and management concerns identified include: land subsidence, air and water quality, tailings and waste rock disposal, transportation, wildlife and fisheries, reclamation, recreation, population growth, community services impacts, county land use changes, and community changes.

The estimated date for filing the draft environmental impact statement is September, 1980; for filing the final environmental impact statement is February, 1981.

For further information about the planning process, the environmental impact statement, or the public involvement activities, contact: Mt. Emmons Project Leader, 216 N. Colorado, Gunnison, Colorado, 81230, (303) 641–0471.

Written comments and suggestions concerning this study are encouraged. They should be sent to: Jimmy R. Wilkins, Forest Supervisor, Grand Mesa, Uncompahgre, and Gunnison National Forest, 11th and Main, Delta, Colorado, 81416. Mr. Wilkins is the reponsible official for the study.

Jimmy R. Wilkins,

Forest Supervisor.

May 22, 1979.

[FR Doc. 79–17061 Filed 5–31–79; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Lower Clear Boggy Creek Watershed, Okla.; Intent Not To Supplement or Revise an Evironmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that the environmental impact statement for Lower Clear Boggy Creek Watershed project, Atoka, Bryan, Johnston, and Coal Counties, Oklahoma, will not be supplemented or revised for proposed changes in the planned project.

The environmental assessment for this federally-assisted action indicates that the changes will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of a supplemental or revised environmental impact statement is not needed for the changes made in this project plan.

The planned action addressed by this ntoice of intent includes the addition of critical area treatment, the relocation of one planned floodwater retarding structure, the deletion of two planned floodwater retarding structures, and the addition of five others. The notice of intent not to prepare a supplement or revision for the environmental impact statement filed with the Council on Environmental Quality May 23, 1974, has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, State Office, Farm Road and Brumley Street, Stillwater, Oklahoma 74074; 405–624–4360. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the changes proposed for this project will be taken until July 2, 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: May 11, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79–17062 Filed 5–31–79; 8:45 am]

BILLING CODE 3410–16–M

Wilson Creek Watershed, S.C.; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Wilson 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 Federal funding of the Wilson Creek Watershed, Greenwood County, South Carolina.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George E. Huey, 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 land treatment for watershed protection, dams and channel work for flood prevention and water storage and facilities for recreation.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency.

The basic data developed during the environmental assessment is on file and may be reviewed by interested parties by contacting Mr. George E. Huey, State Conservationist, One Greystone West, 240 Stoneridge Drive, Columbia, South Carolina 29210, 803–765–5681.

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 60 days after the date of this publication in the **Federal Register**.

(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: May 11, 1979.

Joseph W. Haas,

Assistant Administration for Water Resources, Soil Conservation Service.

[FR Doc. 79-17063 Filed 5-31-79; 8:45 am]

BILLING CODE 3410-16-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: July 4, 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 3990

Pallet, Hardwood
48" L x 40" W x 36" Bottom
(Requirements for Social Security Administration, Baltimore, Maryland only).

C. W. Fletcher,

Executive Director.

[FR Doc. 79-17011 Filed 5-31-79; 8:45 am]

BILLING CODE 6820-33-M

CIVIL RIGHTS COMMISSION

Delaware Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) of the Commission, (FR Doc. 79–16172) on page 29940, due to an error the date should be changed to June 5, 1979 (not June 15, 1979 as printed).

The meeting time and place will remain the same.

Dated at Washington, D.C., May 30, 1979.

John L. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-17185 Filed 5-31-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

[Order No. 47–1, Amdt. 2; Transmittal No. 254]

Bureau of International Economic Policy and Research; Organization and Function

Effective: May 3, 1979.

ITA Organization and Function Order 47–1 of December 4, 1977, as amended (43 FR 12056 and 43 FR 29344) is hereby further amended as follows to reflect the transfer of transportation policy responsibilities from the Office of the Director, Office of International Finance and Investment to the International Services Division.

Section 6. Office of International Finance and Investment.

1. Section 6.01 is revised to read:

.01 The *Office of the Director* includes the *Director* who shall develop and implement policies relating to international investment, finance and monetary affairs; U.S. and foreign taxation of international business operations; the economic impact of international technology transfer; international business practices; international trade aspects of antitrust; standardization, patent and copyright protection, and related matters arising from the international commercial and investment operations of U.S. firms; analyze and act on problems affecting the international competitive position of the U.S. service industries, and carry out other appropriate activities. The Office shall consist of the following organizational components:

2. Section 6.05 is revised to read:

.05 The *International Services Division* shall provide policy guidance and program recommendations to foster the international business operations of the U.S. service industries [such as insurance, accounting, engineering and construction, advertising, computer services, leasing, franchising, air and shipping]; identify and evaluate the obstacles to a free flow of such services internationally and the actions which could be taken to reduce or eliminate these obstacles on a case-by-case or multilateral basis; maintain liaison with trade and industry groups and individual firms to ascertain the nature of foreign government restrictions affecting the service sector abroad; develop approaches to counteract foreign policies or actions which discriminate against the U.S. firms or which unnecessarily hinder their operation, and facilitate the sale

abroad of U.S. services; analyze U.S. policies, rules and regulations affecting the service industries to determine the impact of their international competitive position; organize and administer a program of Government/industry consultation on service industry problems in international trade; provide staff support and leadership within the Government to coordinate the various agencies which could contribute to the solution of the problems U.S. service industries face in foreign markets; study and report periodically on the U.S. market share of the service industries throughout the world; represent the Department at interagency and international meetings on matters related to the service industries, and prepare legislative analyses, positions and testimony for secretarial officers and other Department officials. The Division shall be responsible for activities concerned with the development and formulation of U.S. policies in the transportation area, including international conventions and agreements, intermodal transportation, rules applicable to limits of cargo liability, and documentation; and shall prepare position papers for, and represent the Department at, meetings of the International Maritime Consultative Organization, UNCTAD, UNCITRAL and other international organizations.

Frank A. Weil,

Assistant Secretary for Industry and Trade.

Abraham Katz,

Deputy Assistant Secretary for International Economic Policy and Research.

[FR Doc. 79-17064 Filed 5-31-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Harbor at Bethel, Alaska

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

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action calls for the establishment of a small boat harbor at Bethel, Alaska. The harbor capacity will be for approximately 600 permanent and up to 400 transient flat bottom river boats from 20 to 40 feet in length. The proposal calls for a harbor either on the Kuskokwim River or in one of the several lakes connected to the river by a dredged channel. The harbor is needed to protect boats that are used for subsistence and commercial fishing and as a major means of transporation in the region.

Federal funding will apply to dredging and establishing an entrance channel or providing a breakwater. Local funding responsibility will be deepen the lake if one of the lakes are used and provided inner harbor facilities.

2. Seven alternatives for the proposed action are being evaluated. Four of the alternatives (A, B, C, and D,) use two unnamed lakes for mooring areas with four different entrance channel proposals. Alternative E calls for improvement of the slough upstream of Brown's Slough. Plans F calls for an entrance channel to be established between the Kuskokwim and Hanger Lake, a large lake northeast of Bethel. Plan G calls for a harbor on the Kuskokwim River.

3. The draft reconnaissance report dated December 1979 was reviewed by the U.S. Fish and Wildlife Service and the State Clearinghouse which included: The City of Bethel; the State Office of Coastal Managements; and the State Department of Fish and Game. Coordination has also taken place with Bethel Native Corporation. On 28 June 1978, Corps of Engineers' representatives attended a public hearing at the Bethel City Council meeting. The purpose was to provide information and to hear citizen's concerns for possible development of a small boat harbor. An intitial public meeting will be held in Bethel in approximately June or July 1979 to gather public input. A mid-point public workshop is scheduled in October 1979. The Corps will continue to coordinate with the State Clearinghouse and the U.S. Fish and Wildlife Service.

a. Seven categories of environmental concern were identified in the reconnaissance report, they are: Probable changes in the habitat of the slough; a probable change in the species composition of the lake due to tidal fluctuations; drainage into the lakes from surrounding wetlands due to a lowering of the water table in the lake from tidal fluctuation; disposal of dredged material; water quality in the harbor; possible location of antiquities; and socio-economic considerations. These issues will be addressed in the DEIS.

b. The U.S. Fish and Wildlife Service has expressed an interest in the Bethel Small Boat Harbor project and in working with the Corps should the study proceed.

c. Review and consulatation is required with the State Historic Preservation Office and the Alaska Department of Environmental Conservation.

4. After the initial public meeting the Corps of Engineers will meet with officals from Bethel and AE contractors to discuss plan formulation alternatives and environmental considerations.

5. The draft detailed project report and DEIS will be made available to the public in July 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 15, 1979.

George R. Robertson,

Colonel, Corps of Engineers, Distict Engineer.

[FR Doc. 79-17040 Filed 5-31-79; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Harbor Expansion at Cordova, Alaska

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

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action would create an additional 20 acres of moorage area for commerical and recreational boats at Cordova, Alaska. The present small boat harbor would be expanded by the extension of the southren breakwater and the construction of a new western breakwater. The core and armor rock material would be obtained from the existing Goodfellow quarry. Construction is expected to take approximately five months.

Federal funding will apply to all general navigation features including: Construction of new breakwaters; dredging entrance and maneuvering channels; and the removal of those portions of the old breakwater being replaced as part of the expansion activity. Local funding responsibilities include dredging berthing areas and providing inner harbor facilities.

2. Alternatives to the proposed action have been identified and will be evaluated during the planning process. These include: No improvements; realinement of existing facilities; expansion of the harbor westerly in a triangular configuation; development of a harbor in Odiak Slough; development at the Townsite North Site; and development at the Whiteshed Road Site.

3. An intial public meeting was held in Cordova on 11 October 1977 to gather public input concerning the need for additional harbor facilities. Coordination and on site investigations with U.S. Fish and Wildlife Service,

National Marine Fisheries Service, and Alaska Department of Fish and Game personnel has been conducted. A report in compliance with the requirements of the Fish and Wildlife Coordination Act of 1956 will identify these studies. Consultation and review is also required with the State Historic Preservation Officer and the Alaska Department of Environmental Conservation.

4. A final public meeting was held in Cordova on 27 February 1979.

5. The Draft Environmental Imapct Statement is expected to be available for public review in June 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, P.O. Box 7002, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 15, 1979.

George R. Robertson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-17036 Filed 5-31-79; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Harbor Expansion at Homer, Alaska

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

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action calls for expansion of the existing small boat harbor by extending the current project depth limits 1,040 feet to the northwest and 350 feet to the northeast. This will result in a 50-acre mooring basin with inner harbor dimensions of 830 feet by 750 feet. The harbor would be protected by a rubblemound breakwater with a crest width of 150 feet. A 16-acre triangular shaped storage area is also proposed. Armor rock will be obtained from the existing quarry site at Sadie Cove. Breakwater core material will be furnished from sands and gravels removed during the dredging of the enlarged basin. Construction is expected to take approximately 12 months. Federal funding will apply to all general navigation features of the project which include: Construction of new breakwaters; dredging entrance and manuever channels; and removing those portions of the old breakwater surrounding the original Federal harbor. Local funding responsibilities involve: Dredging berthing areas; removing breakwaters surrounding the local extension to the original Federal harbor, providing inner harbor facilities; and relocation of facilities on the existing breakwaters. In addition, those portions of the 150-foot breakwaters and the 16-acre storage area which are in excess of the quantities and costs of the minimum width breakwaters are also a local funding responsibility.

2. Alternatives to the proposed action which were evaluated during the planning process incude: No improvements; creating a new land inclosed basin at either the existing small boat harbor site, Coal Bay, Beluga Lake, Beluga Slough or the south side of the Homer Spit; and expansion of the existing harbor to the northwest, northeast or a combination of both. After detailed evaluations of the alternatives, it was determined that expansion of the existing harbor site best met the water resource planning objectives and various engineering, economic, environmental and social criteria. Primary alternatives evaluated include two combination expansion plans. Plan A involved an expansion identical to the proposed action (Plan B) except that the breakwaters would have a crest width of 30 feet rather than 150 feet as proposed.

3. An initial public meeting was held in Homer on 19 January 1978 to gather public input concerning the need for additional harbor facilities. At this time coordination was initiated with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Alaska Department of Fish and Game and the local government. Other agencies were given a chance to comment through the State A-95 Clearinghouse.

a. During the early coordination meetings and at the public meeting, various issues surfaced which were considered significant enough to be analyzed in depth in the Environmental Impact Statement. Environmental issues which were identified included: Minimizing the adverse effects of dredged material disposal; minimizing the adverse effects on the extremely productive marine environment of the Kachemak Bay; minimizing effects on wetlands; minimizing degradation of water quality by improving water circulation; and minimizing land use conflicts.

b. No Federal or State agency or local interest expressed a desire to participate in the small boat harbor expansion studies under NEPA. The U.S. Fish and Wildlife Service did participate under the Fish and Wildlife Coordination Act of 1956. Fish and Wildlife Service project biologists conducted field investigations at the alternate expansion and quarry sites. The product of these investigations will be a report which will comply with the requirements of the Fish and Wildlife Coordination Act of 1956.

4. Coordination meetings were held early in the planning process as discussed. Further scoping meetings will not be held.

5. The draft feasibility report and Environmental Impact Statement are expected to be available for public review in mid-June 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 15, 1979.

George R. Robertson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 17034 Filed 5-31-79; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Harbor at Juneau, Alaska

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

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. Two sites are being considered for a small boat harbor in the Juneau, Alaska area. These are Auke Nu Cove and an expansion of the existing Aurora Basin.

a. Development of the Auke Nu Cove site would require installation of approximately 770 lineal feet of floating breakwater and excavation of an 11-acre berthing basin to a depth of 15 feet MLLW. Excavated material would be used to fill an adjacent 6-acre parking and support area. Floats and slips to accommodate approximately 500 small boats would be installed in the berthing area.

b. Expansion of Aurora Basin would require removal of the existing 1,500-foot long composite breakwater and installation of approximately 1,750 lineal feet of floating breakwater, 300 feet channelward. Rock and gravel comprising the base of the existing breakwater would be used for jetty extension and to create additional parking north of the existing jetty. Floats and slips to accommodate 500 additional boats would be installed in the berthing area.

2. Other alternatives considered include sites at Fish Creek, Douglas Harbor, Auke Bay, Lena Cove, and North and South Tee Harbor. Each of these sites was excluded from further consideration because they were not physically and economically practicable.

3. A public meeting and a public workshop have been held in Juneau with affected Federal, State and local agencies, and other interested private organizations and parties invited to participate. Detailed input to the DEIS is being solicited.

Significant issues to be analyzed in depth in the DEIS are the impacts to the marine flora and fauna and to the socio-economic factors associated with harbor siting and development.

4. A scoping meeting is not expected to be held; however, coordination meetings with Federal, State and local agencies have been held.

5. Interested persons, agencies and organizations desiring to submit comments or suggestions for consideration in connection with the preparation of the DEIS are invited to do so. Upon completion of the DEIS, estimated to be September 1979, it will be available for public comment and review.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 15, 1979.

George R. Robertson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-17037 Filed 5-31-79; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Harbor at Kake, Alaska

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

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action calls for the construction of a small boat harbor in Keku Strait at the community of Kake, Alaska. The exact breakwater configuration has not been determined at present pending foundation analysis in the proposed harbor site. Four alternative designs are being reviewed for efficiency and environment acceptability.

a. Plan A would construct approximately 4,000 lineal feet of rubblemound breakwater encompassing 40 acres of harbor area. Approximately 220,000 cubic yards of dredged material would be extracted from the harbor area. Dredging will occur to a minus 15 feet Mean Lower Low Water (MLLW) level. Spoil material would be disposed of in upland and intertidal areas in front of the community of Kake.

b. Plan B would utilize the same area with an alteration of the entrance channel configuration incorporating a floating breakwater scheme. The area encompassed would remain at 40 acres.

c. Plan C would alter the breakwater alignment encompassing 26 ares of harbor area. Approximately 3,500 lineal feet of rubblemound breakwater would be constructed in front of Kake with 220,000 cubic yards of dredged material to be removed.

b. Plan D would construct approximately 3,100 lineal feet of rubblemound breakwater with an 800-food long floating breakwater located at the entrance channel. Approximately 33 acres of harbour area would be created. Dredged material amounting to 220,000 cubic yards would be disposed of in intertidal and upland disposal locations.

2. A public meeting was held in Kake in May of 1963 and March 1975 during which the Corps of Engineers informed the public of alternatives and received local input on the proposed harbor. Coordination was initiated with concerned State and Federal agenices under the Fish and Wildlife Coordination Act of 1956. During the progressive study effort other agencies and concerned individuals may provide input to the project. A review of the study efforts and conclusions will be scheduled.

3. A scoping meeting is not expected to be held; however, coordination meetings with Federal, State and local agencies have been held and additional meetings are anticipated.

4. The draft feasibility report and Environmental Impact Statement are expected to be available for public review in November 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 15, 1979.

George R. Robertson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-17039 Filed 5-31-79; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Hydropower Project at Allison Lake Near Valdez, Alaska

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

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action is to determine the engineering, environmental and economic feasibility of a lake tap at Allison Lake. The study would consist of survey, hydrological, foundations and materials, environmental and cultural resource studies, the results of which would be used to design the project and prepare mitigation measures.

The tentative plan would tap Allison Lake 100 feet below its existing surface. An increase in the lake size will not be necessary; however, the lake will be drawn down approximately 60 feet during winter months. Water would be transported to a powerhouse by means of a tunnel and an above ground penstock totaling approximately 8,000 feet. Power generated by the project would utilize transmission lines which follow an existing road for about 10.5 miles to Valdez. An access road to the powerhouse would be approximately 0.5 miles and no access road to the lake would be required.

2. Alternatives which are being studied include a lake tap at Allison Lake which would transport water to Solomon Lake via tunnel. Solomon Lake is a site for another hydropower project which will be constructed in the near future. The extra water from Allison Lake would increase the power output at the Solomon project. Other alternatives are mainly with the location of the powerhouse.

3. An initial public meeting was held in Valdez on 26 April 1977 where the Corps of Engineers informed the public of its potential plans and gathered public input. Coordination was initiated with concerned State and Federal agencies under the Fish and Wildlife Coordination Act of 1956. The Alaska Department of Fish and Game (ADFG) has demonstrated interest in the proposed project as a possible fish

hatchery site. Coordination between the Corps of Engineers and ADFG will continue to determine the feasibility of the proposed hatchery project.

Significant issues to be analyzed in the DEIS are the impacts on the fish and wildlife resources and the socio-economic factors associated with the development of additional hydroelectric power in the Valdez area.

4. A second public meeting was held on 24 July 1978; further coordination meetings with Federal, State and local agencies will be held as needed.

5. The draft of the feasibility report and Environmental Impact Statement are expected to be available for public review in November 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 15, 1979.

George R. Robertson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-17041 Filed 5-31-79; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Harbor Expansion at Seward, Alaska

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

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action calls for shallow draft improvements associated with a new harbor or expansion of the existing small boat basin at Seward, Alaska. Federal funding will concentrate on providing navigation improvements and harbor protection for shallow draft vessels. Local responsibility will be for shore facilities, docks and moorage. This proposed project is in response to local needs for additional small boat harbor protection and small boat moorage for commercial fishing and recreational boats.

2. Several types of breakwaters were evaluated in the planning process: Floating concrete breakwater, pneumatic bubbler breakwater, and rock breakwaters. The rock breakwater was chosen because it was the only one that could withstand the type of wave action expected at Seward. Seven alternative harbor sites were evaluated: Townsite location; Alaska Railroad east; existing harbor extension south; existing harbor extension east; Lowell Point; Fourth of July Creek; and Nash Road. The alternatives were narrowed down to two; Nash Road and harbor extension south, after a detailed evaluation of the alternatives which included engineering, economic, environmental and social criteria.

3. The study has been formally and informally coordinated with the public and all interested Federal, State and local agencies. A public meeting was held in Seward on 27 March 1977. Public concerns have been identified by interagency coordination, public contacts by correspondence, an initial public meeting, and through the news media.

a. The following are important environmental items that will be analyzed in the DEIS: Temporary water quality degradation during construction; water quality and circulation problems; potential for interference with salmon spawning and adverse impacts on the salmon resources; potential conflicts with migratory water fowl; possible adverse impacts on the fish and wildlife resources; cultural resources as related to historical sites and antiquities; social impacts with and without the project; and solid waste and problems resulting from expanding harbor areas.

b. The U.S. Fish and Wildlife Service is participating in environmental studies and field investigations. The product of these investigations will be a report which will comply with the requirements of the Fish and Wildlife Coordination Act of 1956.

c. Consultation and review is required with the State Historic Preservation Office and the Alaska Department of Environmental Conservation.

4. During the stage three studies, a meeting will be held with the city, private industry and Fish and Wildlife representatives to propose a compromise for harbor expansion to the east.

5. The draft detailed project report and DEIS will be made available to the public in August 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 15, 1979.

George R. Robertson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-17035 Filed 5-31-79; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Harbor at St. Paul, Alaska

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

ACTION: Notice of Intent to Prepare a Draft environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action calls for the construction of a small boat harbor at Village Cove, St. Paul, Alaska. The exact design of the proposed harbor has not been determined, however, there are three alternate designs.

2. Alternative A is the construction of a rubblemound breakwater with a height of 19.5 feet and 1,100 feet long and approximately 250,000 cubic yards of core rock and armor rock. Dredging would not be necessary because adequate natural depth is available.

Alternative B is essentially the same as alternative A with the exception of the use of a concrete armor breakwater.

Alternative C would utilize an existing saltwater lagoon located at Village Cove. This alternative would require dredging of the near shore area plus the natural entrance into the salt lagoon.

3. A public meeting was held in St. Paul on 15 August 1972, in which the Corps of Engineers informed the public of its potential plans and gathered public input. Coordination was initiated with concerned State and Federal agencies under the Fish and Wildlife Coordination Act of 1956. No other agencies or citizens demonstrated interest in participating in the preparation of the Environmental Impact Statement.

a. Significant issues which will be analyzed in the DEIS include project impacts on the fish and wildlife resources and the effects of the socio-economic structure of St. Paul.

b. During the actual studies, other agencies may express an interest in providing input. Federal, State and local governments and private individuals will be asked to review the study results.

4. A scoping meeting is not expected to be held; however, coordination meeting with Federal, State and local agencies have been held and future meetings are expected.

5. The draft feasibility report and Environmental Impact Statement are expected to be available for public review in January 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental

Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 15, 1979.

George R. Robertson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-17038 Filed 5-31-79; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Hydropower Project at Mahoney Lakes Near Ketchikan, Alaska.

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

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action is to determine the engineering, environmental and economic feasibility of a dam and lake tap at Mahoney Lakes. The study would consist of survey, hydrological, foundations and materials, environmental and cultural resources studies, the results of which would be used to design the project and prepare mitigation measures.

The tentative plan would tap Upper Mahoney Lake 225 feet below its existing surface. Water would be transported to a powerhouse by means of a penstock tunnel and above ground penstock. The power generated by the project would be delivered to an enlarged Beaver Falls substation via a 4.9-mile transmission line. Access to the project area would be gained by floatplane or boat. No road access is planned. Other facilities which would be constructed include a camp, a dock, and a road from the dock to the camp and powerhouse. A 25-foot high dam would be contructed at a later date.

2. Numerous other alternatives were examined. Primary alternatives which were evaluated include hydropower projects at Swan and Grace Lakes, and development of additional diesel power generation facilities.

3. An initial public meeting was held in Ketchikan on 27 March 1975 in which the Corps of Engineers informed the public of its potential plans and gathered public input. Coordination was initated with concerned State and Fedral agencies under the Fish and Wildlife Coordination Act of 1956. No other agencies or Citizens participated in preparation of the Environmental Impact Statement.

a. Significant issues which will be analyzed in the DEIS include project impacts on fish and wildlife resources.

b. During the actual Phase I studies, other agencies may express an interest in providing input. Federal, State and local governments and private individuals will be asked to review the study results.

4. Further meetings will be held to determine the scope and extent of environmental studies after authorization to proceed with Phase I studies is received.

5. The draft feasibility report and Environmental Impact Statement are expected to be available for public review in June 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 15, 1979.

George R. Robertson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-17042 Filed 5-31-79; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement on the Permit Application by the Metropolitan Dade County Seaport Department for Expanding Existing Port Facilities on Dodge Island, Biscayne Bay, Dade County, Fla.

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

ACTION: Notice of Intent to prepare a draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The port expansion is to provide additional deep water marine facilities to service cruise passenger vessels and oceanborne general cargo commerce. This project will require: dredging to create and expand main channels, and turning basins; filling a portion of Dodge Island, all of Lummus and Sams Islands, portions of Biscayne Bay and the Dodge Island Channel; depositing spoil material on Virginia Key; installing a temporary connecting structure between Dodge Island and Lummus Island; constructing marginal wharves, loading platforms, and breasting and mooring dolphins; maintenance dredging of channels, slip and turning basins.

2. Alternatives to permit issuance include permit denial and permit issuance with conditions.

3. A preliminary list of significant issues to be addressed in the DEIS is as follows:

a. The effect of the proposed activity on fish and wildlife and associated habitat.

b. The effect of the proposed activity on water quality in Biscayne Bay.

c. Necessity of port expansion in Biscayne Bay and alternatives to the proposed port configuration.

d. Economic impact of the project on South Florida with particular emphasis on Dade County.

4. A scoping meeting with participation by affected Federal, State, and local agencies, and other interested private organizations has been scheduled for 28 June 1979, 10:00 a.m., in the Federal Building, 400 West Bay Street, Jacksonville, Florida.

5. Consultation and environmental review will be coordinated in accordance with the endangered Species Act, Section 404b of the Federal Water Pollution Control Act, and the National Historic Preservation Act.

6. The DEIS is expected to be available for review in the fourth quarter of FY 1979.

ADDRESS: Questions about the proposed action and DEIS can be referred to Mr. Moray Harrell, Chief of the Environmental Quality Section, U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32201, telephone (904) 791-3615.

Dated: May 25, 1979.

James W. R. Adams,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-17065 Filed 5-31-79; 8:45 am]

BILLING CODE 3710-AJ-M

DEPARTMENT OF ENERGY

Advanced Sales Corp., et al.; Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals from April 2 through April 6, 1979

Notice is hereby given that during the period April 2 through April 6, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being

implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this Proposed Decision and Order are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Thomas L. Wieker,

Acting Director, Office of Hearings and Appeals.

May 23, 1979.

Proposed Decisions and Orders

Advanced Sales Corp., St. Petersburg, Fla.,EE–1778, motor gasoline

Advanced Sales Corporation filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would result in the termination of Advanced Sales' base period supplier/purchaser relationship with Triangle Refineries Inc. and the reassignment of a new, lower-priced supplier of motor gasoline. On April 3, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Chevron U.S.A. Inc., San Francisco, Calif., DXE–2167, crude oil.

Chevron U.S.A. Inc. (Chevron) filed an Application for Extension from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Chevron and would permit the firm to continue to sell a portion of the crude oil produced from the N–1–C Ranger Fault Block VI in the Wilmington Field at upper tier ceiling prices. *Chevron U.S.A. Inc.*, 3 DOE Par. ——— (March 2, 1979). On April 5, 1979, the DOE issued a Proposed Decision and Order in which it determined that the exception request be granted.

Husky Oil Co., Denver, Colo., DEE–1434, DEE–1443, crude oil.

The Husky Oil Company filed an Application for Exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit the firm to sell the crude oil produced from the Bonetti and Standard Nicholson Leases located in Santa Barbara County, California, at market prices. On April 2, 1979, the DOE issued a Proposed Decision and Order in which it determined that the exception request for both Leases be granted in part.

Publix Oil Co., Morristown, Tenn., DEE–2254, motor gasoline.

Publix Oil Company filed an Application for Exception from the provisions of Standby Activation Order No. 1. The exception request, if granted, would result in the termination of Publix' base period supplier/purchaser relationship with its Gulf Coast suppliers and the reassignment of one or more new, lower-priced suppliers in Tennessee. On April 4, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of April 2 Through April 6, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline for the months of March, April and May 1979. The DOE issued Proposed Decisions and Order which determined that the exception requests be granted.

Company name	Case No.	Locations
Allied Oil Company	DEE–2420	Kalamazoo, Michigan
Allinder's Services, Inc	DEE–2419	Independence, Missouri
Barielle Oil Company	DEE–2736	Baton Rouge, Louisiana
Bearsch's Penn Jersey Auto Store and Car Care Center	DEE–2477	Abingden, Maryland
Big Gulf Service Station	DEE–2661	Jackson, Georgia
Jack Bradshaw	DEE–2389	Gastonia, North Carolina
Cal Bliss Enterprises	DEE–2388	Carroll, Iowa
Clark's Exxon	DEE–2382	Mauldin, South Carolina
Coleman's Service	DEE–2728	Two Harbors, Minnesota
Don Cramer	DEE–2509	Lewiston, Montana
Crossroads Gulf Service Station	DEE–2646	Amherst, Virginia
Dale Auto Sales, Inc	DEE–2648	Farmingdale, New York
Ellis Burns Exxon	DEE–2852	Florence, Alabama
Elm City Filling Stations, Inc	DEE–2423	New Haven, Connecticut
Embrey's Mobil Service	DEE–2672	Gaithersburg, Maryland
Exxon of Olney	DEE–2454	Olney, Maryland
Frank Moody's Mobil Station	DEE–2635	Rochester, Minnesota
Furtado's Garage	DEE–2783	Swanson, Massachusetts
G&C Grocery and Standard Oil Company	DEE–2841	Gernfash, Michigan
Glover Oil Co., Inc	DEE–2563	Melbourne, Florida
Grand River Shell of Howell	DEE–2596	Howell, Michigan
H&H Manhattan Shell, Inc	DEE–3150	New York, New York
Hilltop Grand	DEE–2944	Reno, Nevada
Howard's Exxon	DEE–2691	Jacksonville, Florida
Irv's Service Center	DEE–2624	Bossier City, Louisiana
Jim's Central City Service	DEE–2512	St. Louis, Missouri
Johnson Oil Company	DEE–2972	Gaylord, Michigan
JSR Auto Center	DEE–2379	Miami, Florida
William Law	DEE–2682	Jacksonville, Florida
Northgate Texaco	DEE–2554	Chattanooga, Tennessee
Northlake Chevron	DEE–2812	Tucker, Georgia
Northland Oil Company	DEE–2744	Ely, Minnesota
Pate's Wholesale Exxon	DEE–2507	Helena, Montana
Rosemont Exxon	DEE–2698	Rosemont, Pennsylvania
Saginaw Valley Oil	DEE–2440	Saginaw, Michigan
Sam Ammari Arco	DEE–3012	Inglewood, California
Stinson Grocery	DEE–2492	Bluefield, Virginia
Vestal Grocery	DEE–3021	Yadkinville, North Carolina
Webco Southern Oil, Inc	DEE–2354	Smyrna, Georgia
Webster's Self Service Gulf Station	DEE–2575	Coffeeville, Mississippi
West Taft Street Exxon Service	DEE–2587	Hollywood, Florida
Gary Wheeler	DEE–2717	Edmonds, Washington
Lyle W. Whitman	DEE–3115	Sanford, Michigan
Wilson Shell Service	DEE–2786	Bakersfield, California

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of April 2 Through April 6, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline for the months of March, April and May 1979. The DOE issued Proposed Decisions and Order which determined that the exception requests be denied.

Company name	Case No.	Location
C. M. Routh Oil Company	DEE-2355	Winston-Salem, North Carolina
Day-Nite Food Store	DEE-2422	Villa Rica, Georgia
Spruill Oil Company, Inc	DEE-2394	Carrollton, Georgia
Taxi Service, Inc	DEE-2319	Huntington, West Virginia

[FR Doc. 79-16836 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

Altex Oil Corp., et al.; Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals From April 16 Through April 20, 1979

Notice is hereby given that during the period April 16 through April 20, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.d.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

May 22, 1979.

Proposed Decisions and Orders

Altex Oil Corp., Denver, Colo., DEE-2158, crude oil.

Altex Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Anschutz Ranch Well located in Carbon County, Wyoming, at upper tier ceiling prices. On April 19, 1979, the DOE issued a Proposed Decision and Order and tentatively determined the exception relief should be granted, in part, with respect to Altex's Anschutz Ranch Well.

Amoco Oil Co., Chicago, Ill., DEE-2257, motor gasoline.

Amoco Oil Company filed an Application for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception request, if granted, would permit Amoco to supply approximately 500 of its branded retail outlets with volumes of motor gasoline in excess of their base period allocations. On April 16, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Class Exception, Washington, D.C., DEE-3726, motor gasoline.

On April 19, 1979, the DOE issued a Proposed Decision and Order in which it determined that a class exception should be granted for the month of April to certain retail sales outlets and wholesale purchaser-consumers of motor gasoline. The class exception applied to each motor gasoline retail sales outlet and wholesale purchaser-consumer which purchased motor gasoline during the period October 1978 through February 1979 in an amount that exceeded by more than 35 percent the firm's actual purchases of that product in April 1978.

Continental Oil Co., Houston, Tex., DXE-2081, DXE-2082, crude oil.

Continental Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted and would permit the firm to sell a portion of the crude oil produced for the benefit of the working interest owners from the McCroskey and NcNee leases, located in Santa Barbara County, California, at upper tier ceiling prices. On April 17, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part with respect to both the McCroskey and McNee leases.

Energy Reserves Group, Inc., Wichita, Kans., DEE-2107, crude oil.

Energy Reserves Group, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the working interest owners to sell the crude oil produced for their benefit from the Angelina Lumber Company property, located in Concordia Parish, Louisiana, at market price levels. On April 17, 1979, the DOE issued a Proposed Decision and Order which tentatively determined that the exception request be granted.

Getty Oil Co., Oklahoma City, Okla., DXE-2916, Crude oil.

Getty Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell 55.70 percent of the crude oil which it produces from the Ed Dillon No. 2 well at upper tier ceiling prices. On April 19, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to Getty's Ed Dillion No. 2 Well.

Gulf Oil Corp., Houston, Tex., DXE-2815, crude oil.

The Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted and would permit Gulf to sell the crude oil produced for the benefit of the working interest owners at the Mattie White, *et al.* "C" Lease at upper tier ceiling prices. On April 18, 1979 the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

M. J. Mitchell, Dallas, Tex., DXE-2229, crude oil.

M. J. Mitchell filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell 72.12 percent of the crude oil which it produces from the Pickrel Ranch Minnelusa Sand Unit at upper tier ceiling prices. On April 19, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to Mitchell's Pickrel Ranch Minnelusa Sand Unit.

Premier Resources, Ltd., Denver, Colo., DEE-2153, DEE-2154 & DEE-2155, crude oil.

Premier Resources, Ltd. filed three Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Jablonsky #1, Joblonsky #2, and Tuhy Wells located in Stark County, North Dakota, at upper tier ceiling prices. On April 19, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that the exception request for the Tuhy Well should be denied and that exception relief should be granted, in part, with respect to Premier's Jablonsky #1 and Jablonsky #2 Wells.

Texaco, Inc., Denver, Colo., DXE-2205, crude oil.

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell 36.34 percent of the crude oil which it produces from the Maudlin Gulch Unit at upper tier ceiling prices. On April 19, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to Texaco's Maudlin Gulch Unit.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of April 16 Through April 20, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company name	Case No.	Location
Airport Exxon	DEE-2939	Birmingham, Ala.
Alamo Expressways Service Station	DEE-2750	San Antonio, Tex.
Bauserman Oil Co	DEE-2915	Winchester, Va.
Caldwell's Service	DEE-3291	Garden Grove, Calif.
Class Exception	DEE-3726	
Corondolet Corp	DEE-2943	Memphis, Tenn.
Degrood Bulk Oil	DEE-2827	Faribault, Minn.
Gibson's Exxon	DEE-2966	St. Petersburg, Fla.
Kenwood Citgo	DEE-2582	Baltimore, Md.
Sea Shell Car Wash	DEE-2823	Jupiter, Fla.
Crest International Petroleum Corporation	DEE-2450	Vienna, Va.
Dauphin & Sage Shell	DEE-2453	Mobile, Ala.
Food, Inc	DEE-3094	Crowley, La.
Hampden Park Exxon	DEE-2732	Camden, S.C.
Pensacola Petroleum Co	DEE-3030	Pensacola, Fla.
Skip's Mobil Service	DEE-2510	Jennings, Mo.
Tucson Fuel Co., Inc	DEE-2557	San Francisco, Calif.
Gallian Tire Co	DEE-2430	Holly Hill, Fla.
West Broward Phillips "66" Service	DEE-2991	Ft. Lauderdale, Fla.
B-C Enterprises	DEE-3228	Fullerton, Calif.
Circle S Service	DEE-2531	Eureka, Mo.
Homestead Gulf	DEE-3085	Homestead, Fla.
Hunter's Lodge Exxon	DEE-3713	Anderson, Tex.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of April 16 Through April 20, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company name	Case No.	Location
Rex Oil Co	DEE-2418	Denver, Colo.
Sure Enterprises	DEE-3173	East Islip, N.Y.

[FR Doc. 79-16837 Filed 5-31-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreements for Cooperation Between the Government of the United States of America and the Governments of Australia and Canada, and the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) for Cooperation in Peaceful Application.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following sales:

Contract No.	United States to	Description of material
S-CA-276	Canada	7.7g normal uranium as pitch blend ore, and 5.4g thorium as monazite sand, to be used for research and development of analytical methods in rock analysis by the Ontario Geological Survey.
S-AU-92	Australia	4.2g thorium as monazite sand, to be used for comparative assays within the chemical laboratory by Jennings Industries (WA) Limited.
S-EU-581	Belgium	151.7g normal uranium as UF4, 410.5g normal uranium as UO_2, and 87.8g uranium as UO_2 containing 2.1g U-235, to be used as standards for LABO measurements of uranium enrichment by the Franco-Belge de Fabrication de Combustibles, SA.
S-EU-582	France	175.5g uranium as UO_2, containing 4.2g U-235, to be used as an analysis proof sample by the Franco-Belge de Fabrication de Combustibles.
S-EU-579	Netherlands	32.8g normal uranium as uranium ores, and 4.2g thorium as ores, to be used as standards for X-ray fluorescence spectrometry by DSM, Inkoop/Materiallbedriff, Centraal Laboratorium.
S-CA-274	Canada	148.4g normal uranium as U308, to be used for impurity analysis by Eldorado Nuclear Limited.
S-EU-587	West Germany	4.5g throrium as monazite sand, to be used as testing material for alpha spectroscopy by Giologisches Landesami.
S-CA-275	Canada	5.8g normal uranium as ores, and 5.9g thorium as ores, to be used as calibration standards for gamma-ray laboratory by the Geological Survey
S-IA-100	Cameroon	3.2g normal uranium as pitch-blende and carnotite ore, and 5.2g thorium as monazite sand, to be used in the IAEA program of technical assistance in the United Republic of Cameroon. The material will be used for quantitative determination of uranium and thorium ores.
S-EU-584	Belgium	110 mg uranium, enriched to 99.998% as irradiated oxide wire encapsulated into 10 vanadium dosimeters, to be used for measuring flux in the pressure metal capsules being irradiated under an Nuclear Regulatory Commission light water reactor pressure vessel surveillance program.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: May 25, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-17021 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreements for Cooperation Between the Government of the United States of America and the Governments of Sweden and Switzerland.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval for the following transfers of U.S. origin material from the European Community to Sweden and Switzerland:

U.S. Export license No.	Countries involved	End use	Material
XSNM 1112 (Amendment No. 1), issued December 26, 1978.	Germany to Sweden	Oskarshamn 1 power reactor	79,783 1 kgs of U, containing 2,088 1 kgs of U-235.
XSNM 1344, issued February 16, 1979.	Germany to Switzerland	Beznau 2 power reactor	11,584.75 kgs of U, containing 411 2555 kgs of U-235.
XSNM 953 (Amendment No. 3), issued April 9, 1979	Belgium to Switzerland	Beznau 1 power reactor	69,922 kgs of U, containing 2,378 kgs of U-235.
XSNM 1247, issued April 11, 1979	France to Sweden	R-2 research reactor	22.055 kgs of U, containing 20.577 kgs of U-235.
XSNM 1248, issued April 11, 1979	France to Sweden	R-2 research reactor	17.043 kgs of U, containing 15.901 kgs of U-235.

In accordance with section 131 of the Atomic Energy Act of 1954 as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: May 25, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-17022 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954 as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale of 8 grams of normal uramium as carnotite and pitch blende ores to the Institute fuer Geologie, Freie Universitat Berlin, West Germany, to be used for standards and reference materials for geological research. Contract No. S-EU-591 has been assigned to this transaction.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: May 25, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-17023 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

Coal Technologies; Request for Comments

In his 1977 Environmental Message, President Carter directed the Secretary of Energy, the Secretary of Health, Education and Welfare and the Administrator of the Environmental Protection agency to establish a joint program to identify the health and environmental problems associated with energy technologies and to review the adequacy of present research programs.

An interagency committee implementing the President's directive is sponsoring a series of workshops, establishing working groups and developing other approaches to deal with the health and environmental consequences of specifically identified conventional and advanced energy technologies. To date, reports have been developed on the health and environmental effects of oil shale and coal gasification and liquefaction technologies.

Goals of the committee are to review and identify specific health and environmental issues and potential problems associated with the development and commercialization of conventional and advanced energy technologies, to identify the research information required to resolve the uncertainties of assessing relevant impacts, and to specify potential future research projects to provide such information.

The committee is now addressing coal-based technologies (other than synthetic fuels from coal) and their impact on health, ecology, air and water quality for each stage of the energy cycle. The scope of interest includes extraction, reclamation and waste management, beneficiation, transportation, and utilization aspects of the conventional coal fuel cycle together with those technologies for physical and chemical coal cleaning, fluidized-bed combustion, magnetohydrodynamics, co-combustion of coal with municipal solid waste, and coal-oil mixtures.

To this end, the committee intends to build upon the results of prior studies and activities dealing with health and environmental impacts associated with such technologies as well as the expertise of knowledgeable individuals.

This **Federal Register** notice services to solicit written comments on concerns and potential health and environmental problems associated with the aforementioned specific issues and techologies. In particular, comments are hereby requested on any potential problems considered as not having been emphasized or analyzed sufficiently, including comments on specific scientific and technical information not currently available but deemed necessary to adequately address the identified issue areas. Written comments will be utilized in augmenting background material and information for working groups that will recommend research project priorities.

DATE: Comments must be received on or before June 25, 1979.

ADDRESS: Send written comments to: Dr. Murray Schulman, Department of Energy, Office of Environment, E-201, Washington, D.C. 20545.

All comments in response to this notice will be available for public inspectionat the Freedom of Information Public Reading Room, GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between hours of 8 A.M. and 4:30 P.M., Monday-Friday, except Federal holidays.

Issued in Washington, D.C., May 1979.

Ruth C. Clusen,

Assistant Secretary for Environment, Department of Energy.

[FR Doc. 79-17066 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

[DOE/EIS-0046-D]

Management of Commercially Generated Radioactive Wastes; Supplemental Notice of Public Hearing on Draft Generic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Supplemental Notice of public hearing on draft generic environmental impact statement (GEIS).

SUMMARY: The Department of Energy (DOE) announces the date, place, and procedures for a public hearing on its draft GEIS. The hearing will be held June 26-27, 1979, in Washington, D.C. The purpose of this hearing is to provide an opprtunity for interested persons to provide their comments orally on the draft GEIS which analyzes strategies for the permanent isolation of commercially-generated high-level and transuranic wastes. A notice of the availability of the GEIS and general information on the public hearing was published (44 FR 23569).

DATES: The hearing will be held June 26, 1979, from 9:00 a.m.—10:00 p.m. with recesses from 11:30 a.m. to 1:00 p.m. and 5:00—7:00 p.m. and on June 27, 1979, from 9:00 a.m. to 5:00 p.m. with a recess from 11:30 a.m. to 1:00 p.m.

ADDRESSES: Send written comments and requests to speak to Department of Energy, Attention: Division of Waste isolation, MS B-107, Washington, D.C. 20545.

HEARING LOCATIONS: The hearing will be held in the Department of Commerce auditorium located at 14th Street, NW. and Constition Avenue.

FOR FURTHER INFORMATION CONTACT:

Dr. Colin A. Heath, Director, Division of Waste Isolation, Office of Nuclear Waste Management, Department of Energy, MS B-107, Washington, D.C. 20545, 301-353-4068.

Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Department of Energy, MS E-201, Washington, D.C. 20545, 202-376-5998.

Mr. Stephen H. Greenleigh, Acting Assistant General Counsel for Environment, Forrestal Building, MS 6A-152, Department of Energy, Washington, D.C. 20585, 202-252-6947.

Mr. Ben E. McCarty, Public Affairs Officer, Forrestal Building, MS 8G-031, Department of Energy, Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION:

I. 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 will be limited, based on the number of persons requesting to be heard.

Questions may be asked only by those conducting the hearing. Cross examination of persons presenting statements will not be permitted. 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 questin is relevant 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 Office, 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., Monday through Friday. Additional copies of the complete transcript will also be available at the public document centers noted below. Any person may purchase a copy of the transcript from the reporter.

After all hearings have been conducted, the hearing board will prepare a report identifying significant issues raised during the hearings which should be addressed in the final statement. This report will be used by DOE in the preparation of the final EIS.

II. Full Participation

Any individual who desires may make a written or oral request to DOE for an opportunity to be scheduled to make a oral presentation at the hearing. Requests to participate in the Washington, D.C., hearings should be received by the Division of Waste Isolation, Department of Energy, MS B–107, Washington, D.C. 20545 before June 13, 1979. Requestors are encouraged, to the extent practical, to furnish DOE a summary of the proposed oral presentation with the written request to participate in order for DOE to arrange grouping of participants speaking on similar topics. Requestors should provide a phone number where they can be reached. Each person selected will be notified by DOE by phone no later than June 19, 1979, of the time schedules for the presentation and the amount of time available.

III. Limited Participation

Individuals who did not make an advance request to speak or who were not selected to speak may register to speak at the hearing all scheduled speakers, an opportunity will be provided to these individuals to speak. Time for each participant will be limited depending on time available and number of requests.

IV. Future Hearings

Future public hearings will be scheduled in other cities in the U.S. Meeting locations and dates will be published in the **Federal Register** when available.

V. Written Comments:

The **Federal Register** notice of April 20, 1979 (44 FR 23569) invited interested parties to submit comments to the DOE address above by July 6, 1979, unless DOE grants an extension on the comment period.

VI. Purpose of the Draft GEIS

DOE has the responsibility for developing the technology required for managing commercial redioactive wastes in an environmentally-acceptable manner. This draft GEIS is intended to provide environmental input for the selection of an appropriate program strategy for the permanent isolation of commercially-generated high-level and transuranic wastes. The scope of such a strategy includes research and development into alternative treatment processes and emplacement media, site investigations into candidate media, and the examination of advanced waste management technologies. The draft GEIS addresses the following issues applicable to each strategy; the adequacy of the available data base for a wide range of disposal options; the technical and institutional feasibility as well as projected availability of each disposal option; and the research and development required to resolve uncertainties for each option.

VII. Availability of Draft GEIS

Copies of the draft GEIS have been distributed to Federal, State and local agencies, organizations, and individuals known to be interested in radioactive waste isolation. Additional copies may be obtained at the following location:

Division of Waste Isolation, Department of Energy, MS B–107, Washington, D.C. 20545, 301–353–4068.

Copies of the GEIS are also available for public inspection at:

Public Reading Room, FOI, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, New Mexico.

Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.

Nevada Operations Office, Federal Building, Oak Ridge, Tennessee.

Richland Operations Office, Federal Building, Richland, Washington.

Energy Information Center, 215 Fremont Street, San Francisco, California.

Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Regional Energy/Environment Information Center, Denver Public Library, 1358 Broadway, Denver, Colorado.

Issued in Washington, D.C., May 30, 1979.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 79–17280 Filed 5–31–79; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 79–CERT–018]

Florida Power & Light Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on May 15, 1979, the Florida Power & Light Company (FPL), P.O. Box 013100, Miami, Florida, 33101, filed an application pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979) for certification of an eligible use of natural gas to displace fuel oil, all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Room 6317–B, 2000 M Street, N.W., Washington, D.C., 20461, between 8 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, FPL states the volume of natural gas subject to certification is 70,000 Mcf per day, through June 11, 1979, and the eligible seller is Lo-Vaca Gathering Company (Lo-Vaca) 5 Greenway Plaza East, Houston, Texas 77046. This natural gas will be used to displace between 48–170 barrels per day of No. 2 fuel oil and between 2,981–10,436 barrels per day of No. 6 fuel oil. The natural gas will be transported by the Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790.

The Administrator, Economic Regulatory Administration (Administrator), has carefully reviewed the FPL application in accordance with 10 CFR Part 595 and the policy

considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that the FPL application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has certified FPL's use of the natural gas as an eligible use and transmitted that certification to the Federal Energy Regulatory Commission. The transmittal letter and the actual certification are appended to this notice.

FPL's existing transportation contract with FGT under which this gas will be transported expires on June 11, 1979. It may be necessary for FGT to obtain an amendment from FERC to the existing Section 7 transportation certificate for the gas covered by the transportation contract in order to obtain a new delivery point for delivery of the Lo-Vaca gas into FGT's system for FPL's account. Therefore, this certification is being issued prior to public notice of this application to permit immediate action by FERC on the Section 7 transportation certificate in order to maximize the amount of gas delivered under the contract to displace fuel oil. This certification is effective beyond the June 11, 1979, expiration date of the transportation contract until one year from the date of issuance of the certification for the same supply of gas from the same seller, Lo-Vaca.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, and in view of the ability of the Administrator to terminate a certification (See 10 CFR § 595.06), we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6318, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before June 11, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is required, further notice will be given to FPL and any persons filing comments, and filed in the **Federal Register.**

Issued in Washington, D.C. May 24, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Department of Energy
Washington, D.C. 20461

May 24, 1979.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Re: ERA Certification of Eligible Use, ERA Docket No. 79-CERT-018, Florida Power & Light Company.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting the enclosed certification of an eligible use of natural gas to displace fuel oil to the FERC. This certification may be used by the FERC in its proceedings pursuant to FERC Order No. 30, Docket No. RM79-34, May 17, 1979, including applications under section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of this certified natural gas in interstate commerce. As noted in the certificate, it is effective for one year from the date of issuance for the same supply of natural gas from the same eligible seller listed in the application, ERA Docket No. 79-CERT-018. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the FERC have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, telephone (202) 254-9730. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-018.

Sincerely,

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Florida Power and Light Co.

[ERA Docket No. 79-Cert.-018]

Application for Certification

Pursuant to 10 CFR 595.05, an application for certification of an eligible use of 70,000 MCF of natural gas per day at six electrical generation facilities in the state of Florida was filed by the Florida Power & Light Company (FPL) with the Administrator of the Economic Regulatory Administration (ERA) on May 15, 1979. Attached to the application was an affidavit stating, among other things, that the natural gas would displace between 48-170 barrels per day of No. 2 fuel oil and between 2,981-10,436 barrels per day of No. 6 fuel oil. The application states the gas will be purchased from the Lo-Vaca Gathering Company (Lo-Vaca) and transported to FPL by the Florida Gas Transmission Company (FGT) pursuant to an existing transportation contract (T-2) which expires June 11, 1979. FGT may file an application with the Federal Energy Regulatory Commission for an amendment of the transportation certificate for the T-2 contract to obtain a new delivery point for delivery of the Lo-Vaca gas into FGT's system for FPL's account. In addition, the applicant states neither gas nor the displaced oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information submitted pursuant to the applicant's request, as well as other information available to ERA, the Administrator certifies, pursuant to 10 CFR 595 that the use of natural gas purchased by FPL from FGT is an eligible use of gas within the meaning of 10 CFR 595.02.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date. It is effective beyond the June 11, 1979, expiration date of the transportation contract for the same supply of gas from the same seller in this application.

Issued in Washington, D.C. on May 24, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-17057 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

Fuel Oil Marketing Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Fuel Oil Marketing Advisory Committee will meet Tuesday, June 19, 1979, from 1:00 p.m. to 6:00 p.m., and Wednesday, June 20, 1979, from 8:00 a.m. to 4:00 p.m., at the Radisson Hotel, 45 South Seventh Street, Mart 301 Room, Minneapolis, Minnesota.

The Committee was established to provide the Secretary of Energy with expert and technical advice concerning the marketing of fuel oil as it relates to the development and implementation of policies and programs by the Department of Energy.

The tentative agenda is as follows:

June 19, 1979

Old Business
SBA Loan Program Changes
Membership Review
Reports of the Subcommittees
Low Income Energy Assistance Report
Natural Gas Policy
Supply Situation
Summerfill
Stock buildup
Public Comment (10 minute rule)

June 20, 1979

Renters' Conservation Program
Report on June 12 Middle Distillate Prehearing Conference
New Business
Public Comment (10 minute rule)

The meetings are open to the public. The Chairman of the Committee is empowered to conduct the meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to the agenda should inform Georgia Hildreth, Director, Advisory Committee Management Office, (202) 252–5187, at least 5 days prior to the meetings and reasonable provision will be made to include their presentation on the agenda.

Mintues of the meetings will be available for public review and copying at the Freedom of Information Public Reading Room, Room GA–152, 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, except Federal holidays. An Executive Summary of the meetings may be obtained by calling the Advisory Committee Management Office at the number above.

Issued at Washington, D.C. on May 29, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-17058 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No 2146 H. Neely Henry Development]

Alabama Power Co; Application for Change In Land Rights

May 23, 1979

Take notice that on February 28, 1979, an application was filed with the Federal Energy Regulatory Commission by the Alabama Power Company (correspondence to: R. P. McDonald, Vice President, Alabama Power Company, P. O. Box 2641, Brimingham, Alabama 35291) for authorization to grant an easement to the State of Alabama Highway Department for the construction, operation, and maintenance of an Interstate Highway bridge (I–759) to be located at river mile 173.4 on the Coosa River, the reservoir of H. Neely Henry Development of the Coosa River Project No. 2146, in Section 15, T. 125., R. 6 E., Etowah County, Alabama, in and near the City of Gadsden.

The bridge would be comprised of twin, three-lane, concrete and steel structures 51 feet wide and approximately 1,324 feet long. The parallel structures would have an overall width of 141.0 feet, a horizontal clearence of 39 feet between spans, a verticle clearance of 49.2 feet over high water elevation 514.0, and a maximum clearance of 220 feet between bridge piers.

The required right-of-way over project lands and waters would be 400 feet wide and approximately 800 feet long, extending from the 511-foot contours on either side of the reservoir.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before July 6, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-17043 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79–12]

El Paso Natural Gas Co.; Settlement Conference

May 25, 1979.

Take notice that, pursuant to 18 CFR § 1.18, a settlement conference will be held in the above-captioned proceeding on Wednesday, May 30, 1979, at 10:00 a.m. The conference will be held in a meeting room at the Commission's offices, 825 North Capitol Street, N.E., Washington, D.C. 20426. All parties should be prepared to discuss all matters, both substantive and procedural.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-17044 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP76–148 (PGA79–2)]

Gas Gathering Corp.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

May 25, 1979.

Take notice that Gas Gathering Corporation (GGC), on May 21, 1979, tendered for filing proposed changes in its F.E.R.C. Gas Tariff providing for increased charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under G.G.C.'s PGA clause. The proposed changes would increase the rate charged Transco by 68.58724¢ per Mcf over those rates presently in effect. The proposed rates are proposed to be made effective on July 1, 1979. GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to permit it to recover the balances of its Unrecovered Purchased Gas Cost Account as of March 31, 1979, through a six-month surcharge.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-17045 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79–1]

Mobil Oil Corp.; Petition for Declaratory Order

May 24, 1979

Take notice that on April 10, 1979, Mobil Oil Corporation (Petitioner) filed a Petition for Declaratory Order, pursuant to § 1.7(c) of the Federal

Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, on whether prices for certain first sales of natural gas are less than, equal to, or exceed the maximum lawful price prescribed by Section 105(b)(1) of the Natural Gas Policy Act of 1978 (NGPA).

Petitioner states that the sales in question are made from its interests in the East Canadian field in Hemphill County, Texas, pursuant to an existing contract with Pioneer Natural Gas Company (Pioneer), an intrastate pipeline within the meaning of Section 2(16) of the NGPA. Applicant further states that the price in effect on November 9, 1978, was less than $2.06 per million Btu at 14.73 psi, but that a clause in the subject contract allows for the redetermination of both "price and terms." Since § 271.502(a) of the Commission's Interim Regulation's under the NGPA keys prices to the "terms" of the existing contract on November 9, 1979, Petitioner requests an order declaring that Petitioner may lawfully utilize the redetermination provision of the subject contract to collect the ceiling price prescribed by Section 102 of the NGPA.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-17046 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-62]

Panhandle Eastern Pipe Line Co.; Informal Settlement Conference

May 25, 1979

Take notice that on June 12, 1979 at 10:00 a.m. there will be an informal conference of all interested persons for the purpose of continued settlement discussions in this proceeding. The meeting place for the conference will be posted at the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, on the second floor.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in this proceeding and to make commitments with respect to such issues and any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-17047 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2030]

Portland General Electric Co.; Order Providing for Hearing

Issued May 23, 1979.

The Confederated Tribes of the Warm Springs Reservation of Oregon (Tribes) have filed a petition requesting readjustment of annual charges paid to the Tribes by the Portland General Electric Company (PGE), Licensee for the Pelton development of the Pelton and Round Butte Project No. 2030. The annual charges are paid pursuant to Section 10(e) of the Federal Power Act, 16 U.S.C. 803(e),[1] and Article 25 of the license.

In 1951, the Commission issued a license to PGE for the Pelton development.[2] In 1960, the Commission amended the license[3] for Project No. 2030 to include the Round Butte development.[4] Both projects are located in part on lands of the Tribes.

By orders dated March 23, 1956,[5] and July 24, 1961,[6] the Commission amended the license for Project No. 2030 to incorporate provisions in Article 25 of the project license[7] requiring PGE to compensate the Tribes for the use of Tribal lands by Project No. 2030 in accordance with the provisions of an agreement dated December 22, 1955, as amended by further agreement of February 16, 1961, between the Tribes and PGE. Here, the Tribes have requested readjustment of the annual charges governed by subparagraph (iii) of Article 25, those for the Pelton development.

In their petition, the Tribes state that December 20, 1977, marks the expiration of twenty years since the Pelton development of Project No. 2030 came into operation. The Tribes allege that "due to many changes which have occurred in costs and other economic conditions, as well as other factors, the current annual charge is no longer reasonable and should be increased." In its reply PGE denies these quoted allegations set forth in paragraph 7 of the Tribes' pleading. PGE requests that the Tribes' petition be denied.

We find it appropriate to provide for a hearing to determine whether the annual charges for tribal lands occupied by the Pelton development[8] should be readjusted and, if so, to what extent.[9]

The Commission orders.—(A) Pursuant to the provisions of the Federal Power Act, particularly Sections 10(a), 10(e), 308 and 309, the license for Project

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[1] Section 10(e) provides in relevant part:

* * * That when licenses are issued involving the use of * * * tribal land embraced within Indian reservations the Commission shall * * * in the case of such tribal lands subject to the approval of the Indian tribe having jurisdiction of such lands as provided in section 16 of the Act of June 18, 1934 (48 Stat. 984), fix a reasonable annual charge for the use thereof, and such charges may with like approval be readjusted by the Commission at the end of twenty years after the project is available for service and at periods of not less than ten years thereafter upon notice and opportunity for hearing * * *

[2] Opinion No. 222, In the Matter of Portland General Electric, 10 FPC 445 (December 18, 1951). The Pelton development has an installed capacity of 108,000 kW and is located on the Deschutes River, in Jefferson County, Oregon.

[3] Order Modifying and Adopting Initial Decision of Presiding Examiner, Consolidating Proceedings and Issuing License for Project No. 2259 as Amendment of Outstanding License for Project No. 2030, Portland General Electric Company, 24 FPC 408 (September 12, 1960).

[4] The Round Butte Development has an installed capacity of 247,050 kW and is located upstream from the Pelton development on the Deschutes River.

[5] Order Amending License (Major), Portland General Electric Corporation, Project No. 2030, 15 FPC 1246 (March 23, 1956).

[6] Order Further Amending License (Major), Portland General Electric Corporation, Project No. 2030, 26 FPC 192 (July 24, 1961).

[7] Subparagraphs (iii) and (iv) of Article 25.

[8] The annual charges for tribal lands occupied by the Round Butte development were recently readjusted by arbitration, as provided in subparagraph (iv) of Article 25, which governs annual charges for the Round Butte development. In that case, a three member arbitration panel increased the annual charges for the Round Butte development from four to fifteen cents per kilowatt of installed capacity and from one-tenth of one mill per kilowatt-hour to one half of one mill per kilowatt hour.

[9] The Tribes served a copy of their petition on the Secretary of the Interior, and the Secretary was also requested to file an answer. The Secretary has not filed any pleadings on this matter yet, however. Because the Secretary has in the past represented interests of other Indian tribes in similar cases, a copy of this order will be served on the Secretary of the Interior. Ordering paragraph (E) of the order will provide the Secretary and any other interested entity the opportunity to file a protest or petition to intervene in this proceeding.

No. 2030, and the Commission's rules of practice and procedure, a hearing shall be held in this proceeding concerning all matters with respect to the petition of the Confederated Tribes of the Warm Spring Indian Reservation of Oregon for readjustment of annual charges for the use of tribal lands occupied by the Pelton development of Project No. 2030.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to § 3.5 of the Commission's regulations, 18 CFR 3.5 (1978), shall preside at the hearing in this proceeding, with all authority delegated in § 1.27 of the regulations, 18 CFR 1.27. The Presiding Judge shall convene a prehearing conference in this proceeding at 9:30 a.m. on July 10, 1979, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(C) The Secretary shall cause prompt publication of this order in the **Federal Register.**

(D) Anyone desiring to be heard or to make any protest in this proceeding may file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before June 21, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-17048 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP61-5, *et al.*]

South Georgia Natural Gas Company, et al.; Filing of Pipeline Refund Reports and Refund Plans

May 25, 1979

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before June 14, 1979. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
May 3, 1979	South Georgia	RP61-5	Report
May 7, 1979	Florida Gas	RP74-19, *et al*	Report
May 16, 1979	Michigan Wisconsin	RP77-60	Report
May 18, 1979	Algonquin	RP79-51	Report
May 19, 1979	Transwestern	RP67-8	Report
May 19, 1979	Texas Eastern	RP65-59	Report

[FR Doc. 79-17049 Filed 5-31-79; 8:45 am]

FILING CODE 6450-01

[Docket No. RP73-64]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

May 25, 1979.

Take notice that Southern Natural Gas Company (Southern, on May 21, 1979, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1 to become effective July 1, 1979. Such filing is made pursuant to Sections 9.6, 17 and 21 of the General Terms and Conditions of Southern's Tariff to reflect changes in Purchased Gas Cost, Demand Charge Credit adjustments and Louisiana First Use Tax.

Southern states that it has filed alternative tariff sheets which reflect the filing of two sets of rates proposed to be effective July 1, 1979 by its pipeline suppliers, United Gas Pipe Line Company (United) and Sea Robin Pipeline Company (Sea Robin), and requests that the tariff sheet reflecting the United and Sea Robin rates accepted by the Commission be made effective on July 1, 1979.

Southern states that the tendered tariff sheets reflect a $.002 per Mcf reduction in demand rates and an increase in commodity rates of 15.255¢ per Mcf or 11.656¢ per Mcf depending upon the United and Sea Robin rates accepted by the Commission. the increase in rates results from the following:

(1) A Current Adjustment, factored to reflect recovery over all resale volumes, pursuant to Section 17.3 of the General Terms and Conditions of Southern's FPC Gas Tariff, for increases in cost of purchased gas to jurisdictional customers of $131,968,033 or $110,570,633 which is approximately 22.144¢ per Mcf or 18.545¢ per Mcf.

(2) A Surcharge Adjustment, pursuant to Section 17.4 of the General Terms and Conditions of Southern's FPC Gas Tariff, for Unrecovered Purchased Gas Costs of (.043)¢ per Mcf which is a reduction of 7.352¢ below the present Surcharge Adjustment. The total of Unrecovered Purchased Gas Costs to be recovered is $(122,695) and will be collected over the estimated sales for the six-month period commencing July 1, 1979.

(3) A Surcharge Adjustment for estimated Demand Charge Credits pursuant to Section 9.6(3) of the General Terms and Conditions of Southern's FPC Gas Tariff of (1.003)¢ per Mcf which is an increase of 1.020¢ above the present Surcharge Adjustment.

(4) A Use Tax Adjustment Rate for the recovery of Louisiana First Use Tax pursuant to Section 21 of the General Terms and Conditions of Southern's FPC Gas Tariff of 1.663¢ per Mcf which is a reduction of .566¢ below the present Use Tax Adjustment Rate.

Copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-17050 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP77-108]

Transcontinental Gas Pipe Line Corp.; Informal Settlement Conference

May 25, 1979.

Take notice that an informal settlement conference in the above docket will be convened at 10:00 a.m. on May 31, 1979 at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in a room to be designated by notice on the second floor notice board of the Commission.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-17051 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 24, 1979.

On May 15, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

United States Geological Survey

FERC Control Number: JD79-4830
API Well Number: 25-041-21564
Section of NGPA: 108
Operator: J. Burns Brown
Well Name: Donovan 1-19
Field:
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 12.775.

FERC Control Number: JD79-4831
API Well Number: 25-105-21154
Section of NGPA: 102
Operator: Joseph J. C. Paine and Associates
Well Name: Strommen No. 1-0907
Field:
County: Valley
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 2.5 MMcf.

FERC Control Number: JD79-4832
API Well Number: 25-041-21845
Section of NGPA: 108
Operator: J. Burns Brown
Well Name: Havre 10-1
Field: Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 2.0 MMcf.

FERC Control Number: JD79-4833
API Well Number: 25-041-21768
Section of NGPA: 108
Operator: J. Burns Brown
Well Name: Smith 28-2
Field: Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 3.6 MMcf.

FERC Control Number: JD79-4834
API Well Number: 25-025-21128
Section of NGPA: 103
Operator: Shell Oil Company
Well Name: Pennel Unit No. 24X-8BR
Field: Pennel
County: Fallon
Purchaser: Montana Dakota Utilities Company
Volume: 8.0 MMcf.

FERC Control Number: JD79-4835
API Well Number:
Section of NGPA: 102
Operator: Tenneco Oil Company
Well Name: Jensen 1-5
Field: Missouri Ridge
County: Williams
Purchaser: Montana Dakota Utilities
Volume: 182 MMcf.

FERC Control Number: JD79-4836
API Well Number:
Section of NGPA: 102
Operator: Tenneco Oil Company
Well Name: Booke 1-8
Field: Missouri Ridge
County: Williams
Purchaser: Montana Dakota Utilities
Volume: 182 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-17052 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 24, 1979.

On May 16, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Geological Survey

FERC Control Number: JD79-5724
API Well Number: 49-037-21099
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: Delaney Rim Unit Well No. 16
Field: Delaney Rim Unit
County: Sweetwater
Purchaser: Champlin Petroleum Company
Volume: 32 MMcf.

FERC Control Number: JD79-5725
API Well Number: 49-037-20935
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: Delaney Rim Unit Well No. 6
Field: Delaney Rim Unit
County: Sweetwater
Purchaser: Champlin Petroleum Company
Volume: 25 MMcf.

FERC Control Number: JD79-5726
API Well Number: 4900921287
Section of NGPA: 103
Operator: Champlin Petroleum Company
Well Name: Federal No. 1A (11-15)
Field: Manning
County: Converse
Purchaser: McCulloch Int. Gas Corp.
Volume: 135 MMcf.

FERC Control Number: JD79-5727
API Well Number: 4903720832
Section of NGPA: 103
Operator: Champlin Petroleum Company
Well Name: No. 6 Higgins 22-14
Field: Higgins
County: Sweetwater
Purchaser: Colo. Int. Gas Co.
Volume: 365 MMcf.

FERC Control Number: JD79-5728
API Well Number: 4900921264
Section of NGPA: 103
Operator: Camplin Petroleum Company
Well Name: Federal No. 3 (24-3)
Field: Manning
County: Converse
Purchaser: McCulloch Int. Gas Corp.
Volume: 10 MMcf.

FERC Control Number: JD79-5729
API Well Number: 4900921363
Section of NGPA: 103
Operator: Champlin Petroleum Company
Well Name: Federal No. 1 (44-10)

Field: Manning
County: Converse
Purchaser: McCulloch Int. Gas Corp.
Volume: 49 MMcf.

FERC Control Number: JD79–5730
API Well Number: 4900921237
Section of NGPA: 103
Operator: Champlin Petroleum Company
Well Name: Federal No. 3 (24–9)
Field: Manning
County: Converse
Purchaser: McCulloch Int. Gas Corp.
Volume: 18 MMcf.

FERC Control Number: JD79–5731
API Well Number: 4900921240
Section of NGPA: 103
Operator: Champlin Petroleum Company
Well Name: Federal No. 2 (24–10)
Field: Manning
County: Converse
Purchaser: McCulloch Int. Gas Corp.
Volume: 186 MMcf.

FERC Control Number: JD79–5732
API Well Number: 4900921172
Section of NGPA: 103
Operator: Champlin Petroleum Company
Well Name: Federal No. 2 (44–9)
Field: Manning
County: Converse
Purchaser: McCulloch Int. Gas Corp.
Volume: 569 MMcf.

FERC Control Number: JD79–5733
API Well Number: 4900921239
Section of NGPA: 103
Operator: Champlin Petroleum Company
Well Name: Federal No. 1 (42–9)
Field: Manning
County: Converse
Purchaser: McCulloch Int. Gas Corp.
Volume: 15 MMcf.

FERC Control Number: JD79–5734
API Well Number: 4900921268
Section of NGPA: 103
Operator: Champlin Petroleum Company
Well Name: Federal No. 1 (23–21)
Field: Manning
County: Converse
Purchaser: McCulloch Int. Gas Corp.
Volume: 15 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–17053 Filed 5–31–79; 8:45 am]

BILLING CODE 6450–01–M

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 24, 1979.

On May 15, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

United States Department of the Interior Geological Survey

FERC Control Number: JD79–4951
API Well Number: 17712401340OS1
Section of NGPA: 102
Operator: CNG Producing Company
Well Name: A–17S1
Field: NA
County: NA
Purchaser: Consolidated Gas Supply Corp.
Volume: 1,643 & 493 MMcf.

FERC Control Number: JD79–4952
API Well Number: 177124009600D2
Section of NGPA: 102
Operator: CNG Producing Company
Well Name: A–8D2
Field: NA
County: NA
Purchaser: Consolidated Gas Supply Corp.
Volume: 365 & 110 MMcf.

FERC Control Number: JD79–4953
API Well Number: 177124009600D1
Section of NGPA: 102
Operator: CNG Producing Company
Well Name: A–8D1
Field: NA
County: NA
Purchaser: Consolidated Gas Supply Corp.
Volume: 365 & 110 MMcf.

FERC Control Number: JD79–4954
API Well Number: 177054025400 S1
Section of NGPA: 102
Operator: Union Oil Company of California
Well Name: OCS 0205 No. F–2
Field: NA
County: NA
Purchaser: Tennessee Gas Pipe Line Company
Volume: 4,300 MMcf.

FERC Control Number: JD79–4955
API Well Number: 1770540301 S1
Section of NGPA: 102
Operator: Union Oil Company of California
Well Name: OCS 0297 No. 29
Field: NA
County: NA
Purchaser: Trunkline Gas Company
Volume: 6,205 MMcf.

FERC Control Number: JD79–4956
API Well Number: 1770040329 S1
Section of NGPA: 102
Operator: Union Oil Company of California
Well Name: OCS–G 3382 No. B–1
Field: NA
County: NA
Purchaser: Texas Eastern Transmission Corp
Volume: 1,120 MMcf.

FERC Control Number: JD79–4957
API Well Number: 1770540247
Section of NGPA: 102
Operator: Union Oil Company of California
Well Name: OCS–G 3124 A–3
Field: NA
County: NA
Purchaser: United Gas Pipe Line Co.
Volume: 2,190 MMcf.

FERC Control Number: JD79–4958
API Well Number: 1770540255 S1
Section of NGPA: 102
Operator: Union Oil Company of California
Well Name: OCS 0206 No. 5
Field: NA
County: NA
Purchaser: Tennessee Gas Pipe Line Co.
Volume: 7,000 MMcf.

FERC Control Number: JD79–4959
API Well Number: 177124012600S1
Section of NGPA: 102
Operator: CNG Producing Company
Well Name: Stray Sand Seg. 1
Field: NA
County: NA
Purchaser: Consolidated Gas Supply Corp
Volume: 752 & 293 MMcf.

FERC Control Number: JD79–4960
API Well Number: 177124013500D1
Section of NGPA: 102
Operator: CNG Producing Company
Well Name: P–3S and Seg I
Field: NA
County: NA
Purchaser: Consolidated Gas Supply Corp.
Volume: MMcf.

FERC Control Number: JD79–4961
API Well Number: 177124007400D1
Section of NGPA: 102
Operator: CNG Producing Company
Well Name: A–2D1
Field: NA
County: NA
Purchaser: Consolidated Gas Supply Corp.
Volume: 1,000 & 300 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D. C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 18, 1979. Please reference the FERC Control Number in any

correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-17054 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1238-4]

Science Advisory Board, Technology Assessment and Pollution Control Committee; Open Meeting

As required by Pub. L. 92-463, this is to give notice that a meeting of the Technology Assessment and Pollution Control Committee will be held beginning at 9:00 a.m., June 20, 21 and 22, 1979, Room 2409 M at the EPA Headquarters, 401 "M" Street, SW., Washington, D.C. This meeting is open to the public. Any member of the public wishing to attend or to have further information on the meeting should contact Lloyd Taylor (703) 557-7720.

The Committee is studying concerns about the adequacy of technology for environmental control of toxic chemicals and hazardous wastes. The Committee will discuss the technological implications of national laws and programs that are intended to control pollution from hazardous and toxic wastes, and the research needed to develop capabilities to control toxic wastes. The Committee will also discuss incentives for the utilization and development of pollution control technology.

Burton Levy,

Acting Staff Director, Science Advisory Board.

May 29, 1979.

[FR Doc. 79-17102 Filed 5-31-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 79-123, et al.]

Henderson Radio, Inc., et al.; Applications for Construction Permit; Memoranadum Opinion and Order for Consolidated Hearing

In the matter of Henderson Radio, Inc., Henderson, Nevada, Req: 100.5 MHz, Channel No. 263 100 kW (H & V), minus 119 feet (H & V) (BC Docket No. 79-123, BPH-10379); Pittman Broadcasting Co., Henderson, Nevada, Req: 100.5 MHz, Channel No. 263, 100 kW (H & V), 62 feet (H & V) (BC Docket No. 79-124, BPH-10650); Pargo Broadcasting Corporation, Henderson, Nevada, Req: 100.5 MHz, Channel No. 263 100 kW (H & V), 1159 feet (H & V) (BC Docket No. 79-125, BPH-10658); SAS, Inc., Henderson, Nevada, Req: 100.5 MHz, Channel No. 263 100 kW (H), 88.2 (V), 1210 feet (H & V), (BC Docket No. 79-126, BPH -10659).

Adopted: May 17, 1979.

Released: May 25, 1979.

By the Chief, Broadcast Bureau:

1. The Commission has before it for consideration the above captioned mutually exclusive applications for a new FM broadcast station at Henderson, Nevada. In addition we have before us petitions to specify issues and pleadings responsive thereto, as well as numerous petitions for leave to amend, some unopposed and others contested. For purposes of convenience, we will consider the questions raised on an applicant-by-applicant basis.

Henderson Radio, Inc.

2. *Financial Issues.* To meet its construction and operating expenses, Henderson relies primarily upon a loan of $150,000 from the Indiana National Bank. SAS and Pittman both challenge the availability of this loan, arguing that Henderson has not fulfilled all of the bank's requirements. A new bank letter submitted by Henderson in response to this challenge resolves petitioners' concerns, however. Thus, it is now clear that Henderson has supplied all necessary endorsements and paid the required commitment fee. Moreover, with respect to the collateral requirement of a security interest in the company's broadcast equipment, the bank has acknowledged the applicant's agreement with its equipment vendor and is apparently satisfied that the two obligations do not conflict. We find therefore no basis for further inquiry into this matter.[1]

3. *Ascertainment Issues.* Nor do we believe that an ascertainment issue is warranted. Contrary to Pargo's allegations, Henderson has included in its demographic showing information concerning the racial and ethnic composition of its proposed community of license and has identified the bases of the city's economy as manufacturing, retailing and tourism. Furthermore, we do not share Pargo's difficulty in locating Henderson's valid community leader interviews, it being clear from a consideration of the application as amended that sixty-six leaders were contacted between January 1 and May 2, 1977,[2] (the interviews were reported to the Commission by amendment of May 31, 1977), and twenty-seven additional consultations conducted during the period of March 7 through April 5, 1978 (reported by amendment of April 6, 1978). In listing allegedly unrepresented groups, Pargo appears to have overlooked the first survey effort and counted only the second. Considering both, we find no significant omissions.

4. As a final matter, Pargo is correct in asserting that Henderson has not indicated how its community leader interviews were conducted, i.e. in person or by telephone. We have held in the past that an extremely high percentage of telephone contacts raises a question as to the meaningfulness of the dialogue between the interviewees and the proposed station's personnel. See e.g. *Julie P. Miner (KDXU)*, 52 FCC 2d 684, 33 RR 2d 705 (Rev. Bd. 1975). We cannot now determine whether Henderson's survey falls within this category. An issue seeking the necessary information and providing for its evaluation will therefore be specified.

5. *Other Matters.* By amendment of November 22, 1977, Henderson reported its formation as a new corporation to prosecute the application originally filed by KVOV, Inc. The articles of incorporation and bylaws submitted with the amendment indicate that Henderson is an Illinois corporation and the applicant has provided no evidence of an authorization to do business in the State of Nevada. A legal qualifications issue is therefore necessary. See *Rose Broadcasting Company*, 68 FCC 2d 1242, 43 RR 2d 1317 (1978).

6. *Amendments.* Henderson has amended its application twice as a matter of right (on April 6, 1978 and May 1, 1978) and has shown good cause for a December 13, 1978 amendment. See Section 1.522(a)(2) of our Rules. One of the changes reported in the December amendment—the resignation of Henderson director Richard F. Newman as general manager of Radio Station KVOV, Henderson, Nevada, to become owner-operator of an advertising company is of particular concern to SAS. Arguing first that Henderson may seek to improve its comparative position through Newman's resignation, SAS requests that the applicant's comparative position be fixed as the time when amendments as of right could no longer be filed. This is our general policy and we affirm it here. See e.g. *Rose Broadcasting Company, supra.* As for SAS's second contention, that cross-

[1] We need not consider SAS's question as to the availability of existing capital of $1,000, as this sum is not essential to Henderson's financial qualifications.

[2] The Henderson application was filed on January 3, 1977.

ownership of radio stations and advertising agencies can have an anticompetitive effect, we will explore such possibilities where a request is adequately supported. *Peoples Broadcasting Corporation*, FCC 78-551, 43 RR 2d 1265 (1978). We have at this time no information whatsoever concerning Newman's advertising company, making specification of an issue premature. SAS is free to pursue this matter further, however, and may present any information it develops to the presiding Administrative Law Judge for evaluation.

Pittman Broadcasting Co.

7. *Financial Issues.* Both Henderson and Pargo challenge Pittman's financial qualifications. We find, however, that two sources of funds, each one sufficient to finance the Pittman proposal are available to the applicant.[3] Turning first to the $100,000 loan commitment of the Valley Bank of Nevada, it is true that the note will be due one year from the date of the first advance.[4] In view of our recent adoption of a three month financial qualification standard, *Financial Qualifications Standards for Aural Broadcast Applicants*, 69 FCC 2d 407, 43 RR 2d 1101 (1978), this provision does not prevent reliance on the commitment, as repayment will not begin until after the qualification period. Moreover, we are satisfied from the Pittman application as amended that Alvin L. Korngold, Pittman's president and majority stockholder, has agreed to supply $150,000 of his own funds to the applicant and has available net liquid assets sufficient to meet this obligation. A financial issue is clearly unwarranted under these circumstances.

8. *Ascertainment Issues.* Addressing briefly those matters which do not warrant a full discussion, Pittman has attributed the difference between the number of community leaders interviewed and the number of persons listed by category in its community leader checklist to the fact that some individuals represented more than one significant group. This explanation, we believe, satisfies Pargo's question in this area. Similarly, with regard to Pargo's criticism of the lack of a methodology statement for the community leader survey, Pittman has now supplied this information. As a final matter, we are not concerned that some of Pittman's community leader interviews were included also in the application of KLAV(AM), Las Vegas, Nevada, for renewal of its license.[5] According to the affidavit of Pittman's president, some interviews were conducted with both applications in mind. So long as these contacts satisfied both sets of ascertainment requirements, and we have no reason to suspect that they did not, this practice seems to us entirely justified.[6] Needless duplication of effort is not necessary or desirable.

9. *Section 1.65 Issue.*[7] Our review of the Pittman application as amended convinces us that Section 1.65 of our Rules has not been violated. Thus, the applicant has kept us apprised of the status of its principals' other broadcast interests. And, with respect to its failure to disclose the involvement of Alvin L. Korngold in the assignment of license of Station KOBY, Reno, Nevada, we agree with Pittman that a report was not mandatory. It appears from Pittman's opposition pleading that at the time petitions to specify issues were filed, Mr. Korngold's relationship to KOBY consisted of the filing of a petition to deny an application to assign the station to a third party and the initiation of a civil suit seeking specific performance of a contract to sell the station to Mr. Korngold.[8] While disclosure of these actions would certainly not have been inappropriate, we cannot say that they constituted cognizable interests of a sort that could assume decisional significance here.[9] Hence a Section 1.65 issue is not warranted. See Rose Broadcasting Company, supra.

10. *Trafficking Issue.* Pointing to the fact that Alvin L. Korngold recently transferred a construction permit which he had held for only three years, Henderson and Pargo seek a trafficking issue.[10] Trafficking has been defined as the acquisition and/or operation of a station for the primary purpose of selling or otherwise disposing of it for profit rather than for the primary purpose of serving the public interest. *Prairieland Broadcasters*, 49 FCC 2d 1377, 32 RR 2d 78 (Rev. Bd. 1974). Mr. Korngold's sale of the permit for an unbuilt FM station, KFMG in Albuquerque, New Mexico, does not, in our view, fall with this definition. It is true in this regard that Mr. Korngold owned the construction permit for a relatively brief period of time. He did not profit from the FM sale itself,[11] however, and petitioners' suggestion that an indirect benefit was achieved—i.e. that the FM construction permit enhanced the value of Mr. Korngold's existing Albuquerque AM station which he sold to the same buyer—is entirely without factual support. Mr. Korngold maintains in an affidavit submitted with Pittman's opposition pleading that his difficulties in putting KFMG on the air, particularly after he left the Albuquerque area, convinced him to sell the station. Further, he claims, his prior broadcast record reflects only these two transfers during the twelve years that he has built or acquired five broadcast properties. We find this argument convincing, especially when Mr. Korngold's previous experience is taken into consideration.[12] Accordingly, we will not inquire further into this matter.

11. *Character Issue.* By supplement to its petition to specify issues, Henderson seeks a character issue premised on Alvin L. Korngold's attempt to obtain specific performance of a contract to purchase KOBY Radio (see paragraph 9, *supra*). More particularly, Henderson cites pleadings submitted on behalf of the defendent in this suit as establishing improper bargaining techniques on Mr. Korngold's part. As an untimely motion to specify issues, Henderson's pleadings can be considered on the merits only if good cause is shown for the delay or if initial examination demonstrates that a question of probable decisional significance and substantial public interest importance is raised. Section 1.229 of our Rules. With respect to the first aspect of this test, the pleadings upon which Henderson relies in seeking an issue are dated February 22, 1978, a date which precedes by approximately

[3] Pittman will require $40,255 to construct and operate for a three month period.

[4] We are crediting Pittman with an updated version of this letter. The expiration of a bank loan commitment in our view constitutes good cause for the submission of a new letter. See Section 1.522(a)(2) of our Rules.

[5] KLAV(AM) and Pittman have majority shareholders in common and will share some facilities.

[6] Question and Answer 2 of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 682, 21 RR 2d 1507, 1541-42, concerns the incorporation of entire ascertainment showings from one application into another. The Pittman application does not adopt this technique, but instead includes an independent ascertainment of Henderson. Hence, the requirements set forth in Question and Answer 2, such as common applicants and coverage areas, are not applicable here.

[7] Section 1.65 of the Commission's Rules makes applicants responsible for the continuing accuracy and completeness of information contained in a pending application.

[8] Korngold was subsequently substituted as the proposed assignee of KOBY, which event was reported by amendment to the Pittman application.

[9] Mr. Korngold can finance both the Pittman proposal and the KOBY acquisition.

[10] The provisions of Section 1.597 of our Rules which restricts transfers of stations operated for less than three years do not apply to transfers involving unbuilt stations.

[11] Where construction permits for unbuilt stations are transferred, we limit compensation to the seller's legitimate and prudent expenses in prosecuting its application and placing the station in operation. Section 1.597(e)(2) of our Rules.

[12] In comparison, to Mr. Korngold's experience the applicant in *Praireland Broadcasters, supra*, had, over a twelve year period, acquired four stations, sold two and was proposing to sell the remaining two.

five months the deadline for petitions to specify issues here. The material thus could have been included in a timely request and Henderson's failure to indicate why it was not included precludes a finding of good cause.

12. As for the second aspect of the test, Henderson's supporting affidavits are inherently unreliable documents. Thus all we have before us is a self-serving claim of intoxication made by a man seeking to avoid a contract with Mr. Korngold. That the man lacked the capacity to enter into an agreement and, more importantly, that if this were the case, Mr. Korngold was aware of the situation, are matters which are not addressed in the pleadings. Given this significant gap in our information, we cannot conclude that a question of probable decisional significance and substantial public interest is raised. Upon a more complete showing, the presiding Administrative Law Judge may, of course, determine that an inquiry is warranted.

13. *Amendments.* Pittman has amended its application three times as a matter of right–on April 6, 1978, on June 2, 1978 and on June 19, 1978. The status of this third amendment is challenged by Pargo and we think it necessary under these circumstances to explain fully why we are placing the submission in this category.[13] Section 1.522(a)(2) of our Rules permits amendment as a matter of right within 30 days of the cut-off date specified for the last-filed application. ordinarily this date is not in question, as our usual cut-off notice sets out the cut-off date in bold type near the top of the page. The text of the notice then states that the listed applications will be ready and available for processing on the day following the cut-off date. The cut-off notice for the later-filed applications in this proceeding did not follow our typical format, in that no specific cut-off date was set forth. Instead, the text of the notice simply established May 18, 1978, as the ready and available for processing date. Pittman argues that it was entitled to rely upon this, the only stated date, in determining the deadline for amendment as of right.[14] Even though Pittman is the only applicant to make this claim, the other three participants having assumed May 17, 1978, to be the cut-off date, we cannot say that our departure from standard practices created no ambiguities. Hence, out of an abundance of caution we will accept the June 19, 1978, amendment as submitted.

14. Turning to Pittman's other amendments—dated June 21, 1978; August 25, 1978; August 30, 1978; October 16, 1978; November 8, 1978; January 5, 1979 and February 23, 1979—good case has been shown for their filing and all will be accepted. The August 25 and October 16 amendments report, respectively, Commission approval for and consummation of the assignment of Alvin L. Korngold's Albuquerque broadcast interests. (See paragraph 10, *supra*) Henderson maintains that Pittman may not enhance its comparative qualifications with this sale, a position with which we agree. At the time that comparative positions were fixed in this preceding, i.e. thirty days after the cut-off date of the last-filed applications, [15] Mr. Korngold's assignment applications were still pending before the Commission. It is our long-standing policy not to recognize pending transfer applications in comparative hearings because of the uncertainty of their approval. See e.g. *Hi-Point Broadcasting Co.*, 14 FCC 2d 365, 13 RR 2d 1230 (Rev. Bd. 1968).

15. In *Alexander S. Klein, Jr.*, 69 FCC 2d 2134, 44 RR 2d 127 (1978), relied upon by Pittman in opposing Henderson's position, the Review Board took into account a prehearing commitment to sell a minority non-controlling interest in a broadcast facility, where the sale would not require Commission approval and was essential to the applicant's financial qualifications. Pittman's situation, in contrast, involves a transfer requiring Commission consent and bearing no relationship to the instant application, two distinctions which in our view place it outside of the *Alexander S. Klein, Jr.*, holding and squarely within our usual practice. That this practice is arbitrary and that it requires cases to be tried on a fictitious basis [16] are both correct contentions on Pittman's part. However, it is in the nature of deadlines to be arbitrary and, if cases are sometimes tried on a partially fictitious record, we have found this a necessary cost of extablishing stable situations and discouraging endless jockeying for comparative advantage. Accordingly, we will charge Pittman with Mr. Korngold's Albuquerque broadcast interests in resolving the standard comparative issue.

Pargo Broadcasting Corp.

16. *Financial Issues.* We find that Pargo may rely upon a loan commitment from the Madison National Bank, Washington, D.C., to finance its construction and operations. Thus, in response to Pittman's challenge, Pargo's stockholders have specifically agreed to provide any endorsements or stock pledges required by the bank as security. Morever, we cannot attach any significance to the bank's statement that it is "personally acquainted with the majority of Pargo Broadcasting Corporation stockholders and knows of their financial strength and business reputation." At the time this letter was written, it is true, Pargo had only two stockholders, [17] making a majority impossible from a technical standpoint. In view of the fact that 97% of the stock was then held by one person, Basil C. Gogos, though, it seems to us only logical that the acquaintance referred to by the bank is with Mr. Gogos. To argue, as Pittman does, that the bank's language calls into question its familiarity with the applicant and thus its entire basis for entering into the commitment is to make far too much of very little.[18]

17. *Other matters.*[19] Deficiency letters were mailed to applicants in this proceeding on March 7, 1978, with each afforded thirty days to reply. On April 7, 1978, Pargo submitted an amendment to its application which, for the most part,[20] reflected an intent to respond to the deficiency letter rather than a response per se. Subsequent amendments, submitted on April 20, 1978 and April 27, 1978, provided the necessary information. As noted earlier (see paragraph 13 *supra*), under the provisions of Section 1.522(a)(2) of our Rules, amendments could be submitted as a matter of right in this proceeding until June 16, 1978. We are faced then with a situation in which amendments responding to a deficiency letter were untimely with respect to the schedule established by the letter but timely within the context of Section 1.522(a)(2).[21]

18. That two different deadlines should exist in this manner is an

[13] By considering the June 19 filing an amendment of right, we are permitting Pittman to enhance its comparative qualifications with the material it contains.

[14] Pittman's amendment was filed thirty days after May 18, 1978.

[15] Pittman's attempt to establish the date of designation as the relevant time and its reliance upon cases citing this date ignore the changes adopted in our *Report and Order on Adjudicatory Reregulation proposals*, 58 FCC 2d 865, 36 RR 2d 1203 (1976).

[16] The fiction consists of attributing to an applicant broadcast interests which it no longer owns.

[17] Pargo subsequently added a new 20% stockholder.

[18] As Pargo need not rely upon existing capital to establish its financial qualifications, SAS's question concerning this figure requires no detailed analysis.

[19] Pargo has extended its option to lease its proposed antenna site, making a site availablility issue unnecessary.

[20] This amendment did correct one cited deficiency, the lack of dates for Pargo's community leader and general public surveys.

[21] We now avoid this problem by using the same date for both purposes.

unfortunate—and probably unintended—aspect of our 1976 adjudicatory re-regulation rules. The soundest approach to the dilemma, it seems to us, is to allow the later date, i.e. the date established by Section 1.522(a)(2), to govern. As amendments are permitted generally until this time, no disruption of our processes should occur. Furthermore, to the extent that adopting the more generous standard will eliminate argument as to whether a particular filing responds to a deficiency letter or is instead an "other perfecting amendment", our choice should further the ultimate goal of expediting processing procedures. We will therefore accept Pargo's April 20 and April 27 submissions.

19. *Amendments.* Pargo's amendments of April 7, 1978; April 20, 1978, April 27, 1978 and June 16, 1978 are accepted as amendments of right. With respect to its amendments of June 28, 1978, August 29, 1978; September 20, 1978 and November 21, 1978, the applicant has shown good cause for their filing and they are accepted as well.

20. *Financial Issues.* To meet construction and operating expenses,[22] SAS relies upon stock subscriptions and a loan from the Erie Ambulance Service, Inc. As the applicant concedes, however, neither its stockholders nor the Erie Ambulance Service have shown sufficient net liquid assets to meet their commitments. Hence, a funds availablity issue will be specified.[23]

21. *Ascertainment Issues.* In response to our deficiency letter, SAS amended its ascertainment showing to include new demographic information, additional community leader interviews and a new survey of the general public. While Pargo and Henderson fault SAS for not revising its programming proposal in light of this new information, we are persuaded by the applicant that its original proposal is flexible enough to meet all ascertained needs.[24] Pargos charges that SAS failed to interview agricultural and mining leaders, we find also to be without merit. Under the *Primer, supra,* Question and Answer 10, 27 FCC 2d at 683, 21 RR 2d at 1543, allegations of this nature must be supported by a showing that the omitted group is significant, a showing that Pargo has not made. Moreover, any doubt that might otherwise exist on this score is dispelled by a letter to SAS from the executive director of the Henderson Chamber of Commerce stating in definite terms that there is no mining and no agriculture in the city proper. Finally, with respect to the applicant's initial failure to specify the methodology of its community leader interviews, it has now supplied this information.

22. Henderson seeks a misrepresentation issue against SAS, alleging that three persons listed as community leader interviewees were not in fact contacted by the applicant. Section 1.584 of our Rules provides that petitions to specify issues must be supported by affidavit of a person or persons with personal knowledge of the facts alleged. Henderson's initial request is accompanied by signed but not notarized statements while the statements in its supplemental pleading [25] contain the signature of a notary but no jurat. Furthermore, it appears that one of the three persons concerned has declined to make a sworn statement, pleading an inability to remember, while a second has claimed "no recollection" of an interview, a phrase which suggests that memory rather than knowledge is being relied upon. In any event, even if all three persons cited by Henderson had submitted proper affidavits, we generally decline to specify misrepresentation issues where only a small percentage of interviews (here three out of a total of 129) are in doubt. See e.g., *J. Sherwood, Inc.,* 63 FCC 2d 151, 39 RR 2d 597 (Rev. Bd. 1976).

23. *Site Availibility and Section 1.65 Issues.* SAS has established the renewal of its option to lease its proposed antenna site, eliminating any question as to its availability. As for the applicant's failure to report the renewal, we cannot accept completely its assertion that the information is of no decisional significance. Nonetheless, given the fact that SAS could reasonably have considered the renewal a continuation of existing circumstances rather than a change, given also the fact that the applicant had no motive to conceal the information, and given finally the fact that SAS has shown no pattern of deception or even of carelessness in prosecuting its application, we do not consider a Section 1.65 issue warranted. All four applicants should note, though, that renewals of lease options, bank commitments or other agreements with specific termination dates should be reported in a timely fashion.

24. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas which would receive service from the proposals. Consequently, for the purpose of comparison, the areas which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue to determine whether a comparative preference should accrue to any of the applicants.

25. Except as indicated above, the applicants are qualified to construct and operate as proposed. In view of the foregoing, however, and in light of the fact that the proposals are mutually exclusive, the applications must be designated for hearing.

26. Accordingly, *it is ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Henderson Radio, Inc. conducted its community leader interviews in person or by telephone and, in light of this information, whether its ascertainment efforts complied with Commission requirements.

2. To determine whether Henderson Radio, Inc. is legally qualified to engage in broadcasting in the State of Nevada.

3. To determine with respect to SAS, Inc. (a) the source and availability of funds to construct and operate the proposed facility for a three-month period and (b) whether, in light thereof, the applicant is financially qualified.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine in light of the evidence adduced pursuant to the above issues which of the applications should be granted.

27. *It is further ordered,* That the petitions to specify issues filed in this proceeding are granted to the extent indicated herein and are denied in all other respects.

28. *It is further ordered,* That the supplement to petition to specify issues against Pittman Broadcasting Co. filed by Henderson Radio, Inc., is dismissed; that the supplement to petition to specify issues against Pargo Broadcasting Corporation filed by Pittman Broadcasting Co., is accepted;

[22] These expenses total $95,864, itemized as follows: equipment, $43,789; land, $8,000; miscellaneous, $27,000; three months' operation, $17,075.

[23] In the absence of a definite financial proposal, we cannot determine whether a second year financial issue is warranted. The presiding Administrative Law Judge may wish to consider this question at such time as SAS has identified satisfactory sources of funding.

[24] SAS's proposal includes a call-in discussion program and a program built around answering listener requests for information.

[25] We will allow Henderson to respond to matters raised in SAS's opposition pleading.

that the supplement to petition to specify issues against SAS, Inc. filed by Henderson Radio, Inc., is accepted; and that the supplement to petition to specify issues against SAS, Inc., filed by Pargo Broadcasting Corporation, is accepted.

29. *It is further ordered,* That the petitions for leave to amend filed in this proceeding are granted and the related amendments are accepted on the terms specified herein.

30. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney shall within twenty (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 fixed for the hearing and present evidence on the issues specified in this Order.

31. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the Rules, jointly, within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-16998 Filed 5-31-79; 8:45 am]

BILLING CODE 6712-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Commencement of Program To Consider Additional Claims Against People's Republic of China

AGENCY: Foreign Claims Settlement Commission of the United States.

ACTION: Notice.

SUMMARY: Notice of the commencement of a program to consider additional claims against the People's Republic of China, deadline for filing claims and completion date of program to implement the claims settlement agreement between the Governments of the United States and the People's Republic of China concluded on May 11, 1979.

EFFECTIVE DATE: June 1, 1979.

FOR FUTHER INFORMATION CONTACT: Wayland D. McClellan, General Counsel, Foreign Claims Settlement Commission, 1111—20th Street NW., Washington, D.C. 20579; Telephone No. (202) 653-6166.

Notice of Time for Filing

Notice is hereby given that pursuant to the authority of Section 4, Title I of the International Claims Settlement Act of 1949, as amended, and in implementation of the Claims Settlement Agreement between Governments of the United States and the People's Republic of China concluded on May 11, 1979, the Foreign Claims Settlement Commission of the United States will receive, at its principal office located at 1111—20th Street NW., Washington, D.C. 20579, during the period beginning June 1, 1979, and ending August 31, 1979, claims of nationals of the United States against the People's Republic of China arising between November 6, 1966, and May 11, 1979, for losses resulting from the nationalization, intervention, or other taking of, or special measures directed against, property including any rights or interests therein owned, wholly or partially, directly or indirectly, at the time by nationals of the United States. Such claims must be filed on the official form of the Commission numbered FCSC Form 780-2.

The Foreign Claims Settlement Commission will determine, in accordance with applicable substantive law, including international law and the provisions of the above-mentioned claims settlement agreement, the validity and the amounts of timely filed claims, and will issue final decisions on all such claims expeditiously.

The receipt and consideration of timely filed claims during this second China Claims Program, with the exception of the filing period, will be governed by the regulations of the Commission that are presently in force (Chapter V of Title 45 of the Code of Federal Regulations, sections 500 through 531).

Details concerning the filing and claim applications may be obtained by contacting the Office of the General Counsel, Foreign Claims Settlement Commission, 1111—20th Street NW., Washington, D.C. 20579; Telephone No. (202) 653-6166.

Dated at Washington, D.C. on May 29, 1979.

Wayland D. McClellan,

General Counsel.

[FR Doc. 79-17032 Filed 5-31-79; 8:45 am]

BILLING CODE 6770-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 13, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-3806

Filing party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T-3806 is a lease agreement between the Port of Seattle and Matson Terminals for container terminal facilities at Terminal 18.

By Order of the Federal Maritime Commission.

Dated: May 29, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-17096 Filed 5-31-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-55]

Matson Navigation Co.—Proposed Bunker Surcharge in the Hawaii Trade; Order of Investigation

Matson Navigation Company, Inc. (Matson) has filed with this Commission on April 30, 1979 amendments to its Tariffs FMC F. Nos. 164, 165, 166, and

167.[1] These revisions, effective May 30, 1979, will result in the imposition of a 4.43 percent bunker surcharge on all cargo, except sugar and molasses, carried by Matson in the Hawaii Trade. Matson's current 3.54 percent bunker surcharge, which became effective May 7, 1979, will be cancelled by the subject amendments. The proposed 4.43 percent bunker surcharge will expire 120 days after its effective date.

A joint protest to Matson's proposed bunker surcharge was filed on behalf of Oscar Mayer & Co., Inc. and George A. Hormel & Co. on May 9, 1979. Both Protestants regularly ship meat and other food products to Hawaii on Matson vessels. The protest alleges that the proposed 4.43 percent bunker surcharge is unjustified and unreasonable, highly inflationary and in violation of the wage and price guidelines and concludes that it should be suspended and ordered cancelled or, at least, suspended and investigated.

No reply to the protest of Oscar Mayer and Co., Inc. and George A. Hormel & Co., has been received from Matson.

Matson has filed the requisite financial data in support of its proposed 4.43 percent bunker surcharge. This material raises a significant methodological issue. In its calculation of the increased fuel costs to be recovered by the bunker surcharge, Matson has deducted the revenues received under the escalation clauses incorporated into its sugar and molasses tariffs from the total increase in fuel costs. The Commission's staff has suggested an alternative method of determining Matson's additional revenue requirements. It is the opinion of the Commission's staff that increased fuel costs should be allocated to the tariffs affected by the surcharge on a measurement ton basis. This latter methodology is consistent with the requirements of the Commission's General Order 11 [46 CFR 512].

Accordingly, we believe that a hearing is necessary in order to resolve the issues specified in the second ordering paragraph below in order to determine whether the general rate increase is unjust, unreasonable or otherwise unlawful under section 18(a) of the Shipping Act, 1916 and sections 3 and 4 of the Intercoastal Shipping Act, 1933.

Now, therefore, it is ordered, That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916 and sections 3 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. sections 821, 845, 845(a)), an expedited investigation is hereby instituted into the lawfulness of the tariff matter listed in Appendix A for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, That this proceeding be limited to an investigation of the following areas:

1. The proper method of allocating Matson's increased fuel costs to the tariffs affected by the proposed bunker surcharge.

2. Whether the proposed bunker surcharge is unjust, unreasonable or otherwise unlawful in that it will provide Matson with an amount in excess of its increased fuel costs.

It is further ordered, That Matson Navigation Company, Inc. be named Respondent in this proceeding;

It is further ordered That Oscar Mayer & Co. Inc. and George A. Hormel & Co. be named Protestants in this proceeding;

It is further ordered, That in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge;

It is further ordered, That parties opposing Respondent's rate changes will serve testimony and exhibits constitutiong their direct case, together with underlying workpapers, on all parties and lodge copies of testimony and exhibits with the Administrative Law Judge no later than twenty (20) days after the effective date shown on the tariff matter under investigation;

It is further ordered, That subsequent to the exchange of testimony, exhibits, underlying data and prehearing statements by all parties, the Administrative Law Judge shall, at his discretion, direct all parties to attend a prehearing conference to consider:

1. Simplification of issues;

2. Identification of issues which can be resolved readily on the basis of documents, admissions of fact, or stipulations;

3. Identification of any issues which require evidentiary hearing;

4. Limitation of witnesses and areas of cross-examination should an evidentiary hearing be necessary;

5. Requests for subpoenas; and

6. Other matters which may aid in the disposition of the hearing.

It is further ordered, That after considering the procedural recommendations of the parties, the Administrative Law Judge shall limit the issues to the extent possible and establish a procedure for their resolution;

It is further ordered, That any hearing in this proceeding shall be completed within sixty (60) days of the effective date shown on the tariff matter under investigation;

It is further ordered, That the initial decision of the Presiding Administrative Law Judge shall be submitted in writing to the Commission within one hundred and twenty (120) days of the effective date shown on the tariff matter under investigation

It is further ordered, That during the pendency of this investigation, Respondent will serve the Administrative Law Judge and all parties of record with notice of any tariff changes affecting the material under investigation at the same time such changes are filed with the Commission;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record;

It is further ordered, That any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That except as provided in Rules 159 and 201(a) of the Commission's Rules of Practice and Procedure, (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

Appendix A.—Supplement No. 10 to FMC–F No. 164 (Cancels Supplement No. 9) (Supplement Nos. 7 and 10 Contain all Changes) Effective Date: May 30, 1979

Bunker Surcharge Supplement

Matson Navigation Company, a vessel operating common carrier, Freight tariff No. 1–T, naming local commodity rates on non-containerizable cargoes in conventional or roll-on/roll-off service between Pacific coast

[1] See Appendix A attached herein.

and Hawaii ports (as designated on page 3). Governing tariffs: See page 6.

Bunker Surcharge

With the effective date of this supplement, all rates and certain charges including minimum charges in this tariff are subject to a Bunker Surcharge of 4.43%. For specific application of this surcharge, see Rule 9 herein.

Unless sooner cancelled, this Supplement will expire on September 27, 1979.

Issued by Matson Navigation Company, C. A. Kane, Manager-Pricing, P.O. Box 3933, San Francisco, California 94119.

Appendix A.—Supplement No. 7 to FMC–F No. 165 (Cancels Supplement No. 6) (Supplement No. 7 Contains all Changes) Effective Date: May 30, 1979

Bunker Surcharge Supplement

Matson Navigation Company, a vessel operating common carrier, Freight tariff No. 30–A, naming local and proportional rates for transportation of forest products and related articles in containers from Portland, Oregon and Seattle, Washington to Hawaii ports (as designated on page 3).

Bunker Surcharge

With the effective date of this supplement, all rates and certain charges including minimum charges in this tariff are subject to a Bunker Surcharge of 4.43%. For specific application of this surcharge, see Rule 9 herein.

Unless sooner cancelled, this Supplement will expire on September 27, 1979.

Issued by Matson Navigation Company, C. A. Kane, Manager-Pricing, P.O. Box 3933, San Francisco, California 94119.

Appendix A.—Supplement No. 7 to FMC–F No. 166 (Cancels Supplement No. 6) (Supplement Nos. 5 and 7 Contain all Changes) Effective Date: May 30, 1979

Bunker Surcharge Supplement

Matson Navigation Company, a vessel operating common carrier, Eastbound container freight tariff No. 15–C, naming local and proportional rates for transportation in containers or trailers from Hawaii ports to Pacific coast ports (as designated on page 4).

Bunker Surcharge

With the effective date of this supplement, all rates and certain charges including minimum charges in this tariff are subject to a Bunker Surcharge of 4.43%. For specific application of this surcharge, see Rule 9 herein.

Unless sooner cancelled, this Supplement will expire on September 27, 1979.

Issued by Matson Navigation Company, C. A. Kane, Manager-Pricing, P.O. Box 3933, San Francisco, California 94119.

Appendix A. To FMC–F No. 167 (Cancels Supplement No. 6) (Supplement Nos. 7 and 8 Contain all Changes) Effective Date: May 30, 1979

Bunker Surcharge Supplement

Matson Navigation Company, a vessel operating common carrier, Westbound container freight tariff No. 14–F, naming local commodity rates for transportation in containers or trailers from Pacific coast ports and port areas to Hawaii ports (see pages 4, 5 and 6 herein).

Bunker Surcharge

With the effective date of this supplement, all rates and certain charges including minimum charges in this tariff are subject to a Bunker Surcharge of 4.43%. For specific application of this surcharge, see Rule 9 herein.

Unless sooner cancelled, this Supplement will expire on September 27, 1979.

Issued by Matson Navigation Company, C. A. Kane, Manager-Pricing, P.O. Box 3933, San Francisco, California 94119.

[FR Doc. 79-17092 Filed 5-31-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79–56]

McGiffen & Co., Inc., Petitioner v. Eller & Co., Inc., Respondent; Filing of Petition for Declaratory Order

Notice is given that a petition for declaratory order has been filed by McGiffin & Company, Inc. asking the Commission to terminate a controversy between it and Eller & Company, Inc. The petition alleges that in May, 1976 Eller had on file with this Commission a tariff setting forth rates and charges for wharfage, handling, storage and other port terminal services in connection with common carriage by water, available at Commodores Point Terminal, Jacksonville, Florida. The dispute involves a question regarding the applicability of Eller's terminal tariff to certain handling services said to have been performed by Eller in May, 1976 for the vessels FRUBEL OCEANIC and/or SATSU MARU, and the obligation of McGiffin to pay for such services.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 11101 or may inspect the petition at the Commission's Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Participation in this proceeding by persons not named in the petition will be permitted only upon grant of intervention pursuant to Rule 72 of the Commission's Rules of Practice (46 CFR 502.72).

Petitions to intervene shall be accompanied by intervenors complete reply in the matter. Such petitions and any replies to the petition for declaratory order shall be filed with the Secretary on or before June 19, 1979. An original and fifteen copies shall be submitted and a copy served on all parties. Replies shall contain the complete factual an legal presentation of the replying party as to the desired resolution of the petition for declaratory order.

Francis C. Hurney,

Secretary.

[FR Doc. 79-17093 Filed 5-31-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1916R]

Amazonas Shipping, Pedro Quiros, d.b.a.; Order of Revocation

On May 21, 1979, Amazonas Shipping, Pedro Quiros, d/b/a, 5501 N.W. 182nd Street, Miami, Florida 33055, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1916R, effective May 17, 1979.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1916R issued to Amazonas Shipping, Pedro Quiros, d/b/a, be and is hereby revoked effective May 17, 1979, without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1916R issued to Amazonas Shipping, Pedro Quiros, 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 Amazonas Shipping, Pedro Quiros, d/b/a.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-17094 Filed 5-31-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79–57]

Ruffin, Inc. v. Costa Armatoria S.p.A. and Italia Di Navigazione; Filing of Complaint

Notice is given that a complaint filed by Ruffin, Inc. against Costa Armatoria S.p.A. and Italia Di Navigazione was served May 24, 1979. Complainant alleges that respondents have subjected it to payment of rates for transportation which were incorrectly assessed and which were higher than the legally applicable tariff rates in violation of section 18(b) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before November 24, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are geniune issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-17095 Filed 5-31-79; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

[Docket No. P-421/GR-79-388; Intervention Notice 89]

Proposed Intervention in Rate Increase Proceeding; Minnesota Public Service Commission; Northwestern Bell Telephone Co.

The Acting Administrator of General Services seeks to intervene in a proceeding before the Minnesota Public Service Commission involving an application of Northwestern Bell Telephone Company for an increase in its annual telephone rates. The Acting 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 Adminstration, 18th & F Streets, NW., Washington, DC 20405, telephone (202) 566-0726, on or before July 2, 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: May 21, 1979

Paul E. Goulding,

Acting Administrator of General Services.

[FR Doc. 79-16985 Filed 5-31-79; 8:45 am]

BILLING CODE 6820-38-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Meeting Changes

Alcohol Abuse Prevention Review Committee

In FR Doc. 79-15177 appearing on page 28726 in the issue of Wednesday, May 16, 1979, the June 4-5 meeting of the Alcohol Abuse Prevention Review Committee was announced. This meeting has been postponed and will be rescheduled at a later date.

Basic Behavioral Processes Research Review Committee

In FR Doc. 79-14648 appearing on page 27745 in the issue of Friday, May 11, 1979, the dates for the meeting of this Committee have been changed from June 6-9 to June 7-8. As a result, the meeting will be open to the public from 9:00 to 9:30 a.m., June 7, instead of June 6 as previously announced. All other arrangements for the meeting remain as announced May 11, 1979.

Alcohol Training Review Committee

In FR Doc. 79-15177 appearing on page 28727 in the issue of Wednesday, May 16, 1979, the June 14-15 meeting of this Committee will be open from 9:00 to 11:00 a.m., June 14 instead of 9:00 to 11:00 a.m., June 15, as previously announced. All other arrangements for the meeting remain as announced May 16, 1979.

Dated: May 25, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-16992 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

[Docket No. 79P-0112]

Abbott Laboratories; Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is publishing for public comment the recommendation of the Hematology section of the Clinical Chemistry and Hematology Devices Panel that the Radio-immunoassay for Platelet Factor 4, PF4-RIA Diagnostic Kit be reclassified from class III (premarket approval) into Class II (performance standards). This recommendation was made after review of a reclassification petition filed by Abbott Laboratories, North Chicago, IL 60064. After reviewing the Panel recommendation and any public comments received, the agency will approve or deny the reclassification by order in the form of a letter to the petitioner. The agency's decision on this reclassification petition will be announced in the **Federal Register.**

DATE: Comments by July 2, 1979.

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

FOR FURTHER INFORMATION CONTACT: Kaiser Aziz, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: On July 31, 1978, Abbott Laboratories, North Chicago, IL 60064, submitted to the Food and Drug Administration (FDA) a petition for reclassification under section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)) for the device that it intended to market for the quantitation of platelet factor 4, a device the manufacturer calls "PF4-RIA, Platelet Factor 4 Radio-immunoassay Diagnostic Kit." The reclassification petition stated that the device is not substantially equivalent to a device that was in commercial distribution before May 28, 1976, nor is the device substanitally equivalent to a device that has been placed in commerical distribution since that date and subsequently reclassified. Therefore, the device is classified automatically into class III under section 513(f)(1) of the act.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III under section 513(f)(1) of the act may be marketed, it is required either to be reclassified under section 513(f)(2) of the act or to have an approval of an application for premarket approval under section 515 of the act, unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)).

On August 31, 1978, FDA determined that the petition is not deficient. On November 21 and 22, 1978, the Hematology Section of the Clinical Chemistry and Hematology Device Classification Panel (Panel) reviewed the petition and requested additional

data and information. On December 8, 1978, the petitioner withdrew the petition. On January 29, 1979, the petitioner resubmitted the petition with additional data and information. On February 16, 1979, the Panel reviewed the resubmitted petition and recommended that the device be reclassified into class II.

In determining the proper classification of the device, the Panel considered the criteria in section 513(a)(1) of the act. For the purpose of classification, the Panel assigned to this generic type of device the name "platelet factor 4 radioimmunoassay" and described this type of device as a radioimmunoassay procedure used to quantitate the level of platelet factor 4 in human plasma. This device is used to detect platelet activation. Platelet activation may indicate a coagulation disorder such as myocardial infarction (heart attack) or coronary artery disease.

Summary of the Reasons for the Recommendation

The Panel made the following determinations in support of its recommendation:

The device is not an implant, is neither life sustaining nor life supporting, and does not present a potential unreasonable risk of illness or injury. The device is of substantial importance in preventing impairment of human health. General controls are not sufficient to provide reasonable assurance of the safety and effectiveness of the device. However, scientific and medical data exist to establish a performance standard to provide such assurance.

Summary of Data on Which the Recommendation Is Based

A determination of the safety and effectiveness of the device was made on the basis of its performance characteristics.

The accuracy of the device was evaluated by recovery studies using three plasma samples, each with a different concentration of platelet factor 4 (PF4). The samples were spiked with 20 nanograms/milliliter (ng/ml), 40 ng/ml, and 80 ng/ml purified PF4. The spiked samples were assayed and the percentages of PH4 recovered were calculated. Recovery ranged from 78 to 112 percent with a mean recovery of 102 percent. A second recovery study used spikes of 3.3 ng/ml, 1 ng/ml, 16.6 ng/ml, and 33.3 ng/ml. Recovery values ranged from 75 to 113 percent with a mean of 100 percent.

Abbott Laboratories established the precision of the methodology through studies of within-assay reproducibility, assay-to-assay reproducibility, overall reproducibility, and lot-to-lot reproducibility Four plasma samples were assayed in replicates of 10 on 5 consecutive days using two lots of kit material. Within-assay coefficients of variation ranged from 2.07 to 10.92 percent. Lot-to-lot reproducibility was determined by assaying 4 plasma samples in replicates of 10 on 5 consecutive days using lots of kit material. Coefficients of variation ranged from 2.32 to 7.94 percent.

A study of interlaboratory precision was carried out in three laboratories. Sixteen plasma samples were assayed in duplicate on 3 separate days. There were no statistically significant differences between the mean PF4 levels measured by the clinical laboratories and the values established by Abbott Laboratories.

Abbott Laboratories assayed the plasma of 135 individuals to establish a normal PH4 range for the age group 20 to 60 years. The mean PF4 level was 3.7+2.0 ng/ml. There were no statistically significant differences between the various age groups and between males and females. Three clinical laboratories established normal ranges of 5.4+5.86 ng/ml, 6.9+1.97 ng/ml, and 7.8+4.53 ng/ml on populations of 12, 10, and 16 individuals, respectively.

The stability of the assay kit was evaluated by exposing two lots of material to temperatures of −70° C, −20° C, room temperature, and 45° C for 3 days, followed by storage at 2° to 8° C for the remainder of the test period. The assay kits were shown to be unstable under storage at −70° C and −20° C.

Studies were conducted to determine the effect of potential interference factors on the assay. Twenty compounds used in the treatment of hypercoagulable individuals were added in concentrations equalling or exceeding maximum physiological concentrations to two plasma sampels with different PH4 levels. A similar study was conducted using plasma spiked with beta thromboglobulin. Neither the 20 compounds nor the beta thrombeglobulin had any effect on the PH4 assay.

Plasma samples from 281 patients in 7 clinical categories were also assayed. These categories consisted of patients who had been diagnosed as suffering from angina pectoris, coronary artery disease with angina pectoris or diabetes mellitus; patients who had coronary artery bypass graft surgery, valve surgery, or myocardial infarction; and patients in whom myocardial infarction had been ruled out. The mean PF4 levels in all the categories except patients suffering from diabetes mellitus or in whom myocardial infarction had been ruled out were significantly elevated over the mean for the control population.

Risks to Health

The Panel noted that the device is of substantial importance in preventing impairment of human health.

There is a risk that inaccurate results obtained from the use of the device may result in the failure to detect platelet activation indicative of a potential coagulation disorder such as myocardial infarction or coronary artery disease.

Additional Findings

The Panel recommended that the device be classified into class II and that the development of a standard be a medium priority. Priority was established in accordance with the medical significance of this device in relation to other devices.

The Panel noted that the use of the device should be restricted to appropriately trained personnel.

The petition and transcript of the Panel meeting are on file in the office of the Hearing Clerk, address below.

Reference

The following material is on public file in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, where it may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

Handin, R. I., M. McDonough, and M. Lesch, "Evaluation of Platelet Factor 4 in Acute Myocardial Infarction: Measurement by Radioimmunoassay," *Journal of Laboratory and Clinical Medicine*, 91(2):340–349, 1978.

Interested persons may, on or before July 2, 1979, submit written comments on this recommendation to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. Comments should be in four copies (except that individuals may submit single copies of comments), identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 22, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-16991 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 75F-0355]

Aspartame; Ruling on Objections and Notice of Hearing Before a Public Board of Inquiry

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a hearing before a Public Board of Inquiry will be held on the issues raised by objections to the food additive regulation approving the use of aspartame.

DATES: The date, time, and location of the hearing will be announced later; written notices of participation must be received by July 2, 1979.

ADDRESS: Written notices of participation should be submitted to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ted Herman, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: FDA is granting a hearing before a Public Board of Inquiry on issues raised by objections to the regulation approving the use of aspartame. The date and place of the hearing will be announced later.

In the **Federal Register** of March 5, 1973 (38 FR 5921), FDA announced that a petition (FAP 3A2885) had been filed by G. D. Searle & Co., Box 5110, Chicago, IL 60680, proposing the issuance of a food additive regulation to provide for the safe use of aspartame (L-aspartyl-L-phenylalanine methyl ester) in foods as a nutritive substance with intense sweetness and with flavor-enhancing properties. In the **Federal Register** of July 26, 1974 (39 FR 27317), the agency issued a food additive regulation authorizing the use of aspartame, § 172.804 (21 CFR 172.804, formerly § 121.1258 (21 CFR 121.1258) before recodification published in the **Federal Register** of March 15, 1977 (42 FR 14302)). A correction in the preamble to the regulation was published in the **Federal Register** of September 26, 1974 (39 FR 34520).

The regulation approved the use of aspartame in food in accordance with good manufacturing practice as a sweetening agent or for an authorized technological purpose in foods for which standards of identity established under section 401 of the act (21 U.S.C. 341) do not preclude such use. Aspartame was specifically approved for use as a sweetener in the following foods:

(a) Dry, free-flowing sugar substitutes for table use (not to include use in cooking) in package units not to exceed the sweetening equivalent of 2 teaspoonfuls of sugar.

(b) Sugar substitute tablets for sweetening hot beverages, including coffee and tea. L-leucine may be used as a lubricant in the manufacture of such tablets at a level not to exceed 3.5 percent of the weight of the tablet.

(c) Cold breakfast cereals.

(d) Chewing gum.

(e) Dry bases for:

(i) Beverages;

(ii) Instant coffee and tea;

(iii) Gelatins, puddings, and fillings; and

(iv) Dairy product analog toppings.

Aspartame was also approved for use as a flavor enhancer in chewing gum.

The regulation required the label of any food containing aspartame to bear, either on the principal display or on the information panel, the following statement: "PHENYLKETONURICS: CONTAINS PHENYLALANINE." The regulation also required that when aspartame is used in a sugar substitute for table use, its label must bear instructions not to use aspartame in cooking or baking. Finally, if the food containing aspartame purports or is represented for special dietary uses, it must be labeled in compliance with special dietary foods regulations.

The Quaker Oats Co., Barrington, IL, objected to the requirement that the label of a cold breakfast cereal containing aspartame bear the statement: "PHENYLKETONURICS: CONTAINS PHENYLALANINE." The company contended that the statement is unnecessary and redundant when applied to a food such as breakfast cereal that contains proteins that are natural sources of phenylalanine. The company stated that the amount of phenylalanine provided by breakfast cereals would be more than three times as much as would be supplied by the added aspartame. Quaker Oats' was the only objection to this feature of the aspartame regulation, and the company did not request a hearing on its objection.

FDA agrees that the amount of phenylalanine that would be available in the body from the hydrolysis of aspartame used as a presweetener in a cold breakfast cereal would be, in the illustration given by the company, approximately one-third of the phenylalanine in the cereal protein itself. In addition, the agency recognizes that other foods in which the use of aspartame is authorized by § 172.804 may contain protein and are, therefore, sources of phenylalanine. Examples are some puddings and fillings. Nevertheless, FDA believes that persons suffering from phenylketonuria (PKU) should be made aware, by means of a labeling statement, of the presence in foods containing natural resources of phenylalanine, of additional sources of phenylalanine introduced in the food manufacturing process in the form of aspartame.

Phenylketonuria, a serious disease caused by an inborn error of metabolism, is characterized by a virtual absence of phenylalanine hydroxylase activity and an elevation of plasma phenylalanine. PKU results in mental retardation unless treatment is commenced at an early stage.

To plan a diet that meets nutritional requirements but does not contain excessive amounts of phenylalanine, phenylketonurics or their parents become familiar with the phenylalanine content of different foods. The phenylketonuric therefore clearly ought to be made aware when a food that is not a natural source of phenylalanine contains phenylalanine in the form of aspartame. The presence of phenylalanine in such foods may be contrary to the phenylketonuric's expectation. It is arguably less important for the phenylketonuric to know that a food which *is* a natural source of phenylalanine contains additional phenylalanine. However, because phenylketonurics must exercise strict control over the composition of their diets, FDA believes that any food that contains added phenylalanine from aspartame should be identified. The label statement to which Quaker Oats objects performs that function and thus helps to increase the amount of information available to PKU individuals for use in dietary planning.

Quaker Oats' objection would have merit if phenylketonurics were required to avoid all foods containing phenylalanine. However, as they grow older, young phenylketonurics may eat foods containing phenylalanine so long as they are careful to limit their total intake of the substance. It is, therefore, important that they be cautioned about the presence of any unanticipated sources of phenylalanine.

There is another reason why the PKU statement should be required in the labeling of all foods containing aspartame, without exception for foods that are natural sources of phenylalanine in varying quantities. FDA has neither the staff resources nor the expertise to evaluate and make fine distinctions among the multitude of individual products for which such an exemption could be invoked. Given that the PKU statement merely provides truthful information, FDA does not believe that there is any justification for using scarce administrative resources to determine the existence of circumstances in which that information might not be as valuable as it is in other circumstances.

Although FDA will not delete or modify the requirement for a PKU statement, the agency stands ready to review the necessity for that statement after sufficient time has passed for knowledge of aspartame's phenylalanine content to become widely known among physicians and phenylketonurics. A petition to delete the PKU statement would have to show, among other things, that such knowledge was available to all physicians through publication in the appropriate body of scientific literature.

James S. Turner, Esq. and LABEL, Inc. (hereinafter referred to as Turner), Swankin and Turner, Suite 923, 1625 Eye St. NW., Washington, D.C. 20006 and John W. Olney, M.D. (hereinafter referred to as Olney), Washington University Medical School, Dept. of Phychiatry, 4940 Audubon Ave., St. Louis, MO 63110, objected to the regulation, and requested a hearing on safety issues they identified concerning aspartame.

Mr. Turner and Dr. Olney subsequently waived their right to a formal evidentiary public hearing conditioned upon the establishment of a Public Board of Inquiry to consider the issues they raised. Steps toward convening the Board of Inquiry were undertaken. However, preliminary results of an audit of the records of certain animal studies conducted by or for G. D. Searle, including studies on aspartame, indicated the need for a comprehensive review of certain of the research data submitted by the petitioner. The Public Board of Inquiry was therefore postponed. Further, in the **Federal Register** of December 5, 1975 (40 FR 56907), FDA stayed the effectiveness of the regulation for aspartame.

The data in question were reviewed by FDA and by the Universities Associated for Research and Education in Pathology (UAREP). UAREP, which entered into a contract with G. D. Searle with FDA concurrence, was to review the data from certain studies to determine whether the raw data of the firm reflected the studies submitted to FDA in support of the 1974 regulation for aspartame, i.e., to determine the authenticity of the data. FDA independently reviewed data from three other studies.

FDA received the UAREP report on December 13, 1978 and has reviewed and evaluated it. The agency agrees with UAREP that the data submitted by G. D. Searle are authentic. The two parties who requested a hearing were informed of the results of the review of the data and that UAREP and FDA had concluded that the data are authentic.

The objecting parties, who expressed a continued interest in having the issues resolved by a Public Board of Inquiry, confirmed their waiver of the right to an evidentiary hearing in favor of a Board. FDA hereby concludes that the issues presented with respect to the safety of aspartame can be properly considered by a Board established under Part 13 (21 CFR Part 13).

The parties to the hearing are as follows: the Bureau of Foods of the Food and Drug Administration; Mr. James S. Turner and LABEL, Inc.; and John W. Olney, M.D.

The following issues will be considered at the Public Board of Inquiry:

(1) The question has been raised whether the ingestion of aspartame, either alone or together with glutamate, poses a risk of contributing to mental retardation, brain damage, or undesirable effects on neuroendocrine regulatory systems. From available evidence, what can be concluded in relation to this question? The objecting parties believe that the ingestion of aspartame, either alone or together with glutamate, does pose a risk of contributing to these effects. The Bureau of Foods believes that the ingestion of aspartame, either alone or together with glutamate, does not pose a risk of contributing to these effects.

(2) The question has been raised whether the ingestion of aspartame may induce brain neoplasms in the rat. From available evidence, what can be concluded in relation to this question? The objecting parties believe that available evidence suggests, without adequately ruling out, a possible association between aspartame ingestion and an increased incidence of brain neoplasms in the rat. The Bureau of Foods believes that available evidence does not show that ingestion of aspartame results in an increased incidence of brain neoplasms in the rat.

(3) Based on answers to the above questions,

(a) Should aspartame be allowed for use in foods, or; instead should approval of aspartame be withdrawn?

(b) If aspartame is allowed for use in foods, i.e., if its approval is not withdrawn, what conditions of use and labeling and label statements should be required, if any?

By July 2, 1979, the parties named above and G. D. Searle and Co. may submit nominees for the Public Board of Inquiry under § 13.10 (21 CFR 13.10) to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857

Any interested person who wishes to participate in the public hearing before the Board must file with the Hearing Clerk a written notice of participation by July 2, 1979. The notice, identified with the Hearing Clerk docket number found in brackets in the heading of this document, is to be filed in the form set forth in § 12.45 (21 CFR 12.45) of the regulations. To facilitate identification, the envelope containing the notice of participation should be clearly labeled "As partame Public Board of Inquiry."

The Bureau of Foods has filed with the Hearing Clerk all documents required by § 13.25 (21 CFR 13.25). These are: (1) Those portions of the administrative record of the proceeding relevant to the issues to be considered at the hearing; (2) all documents in the Bureau files containing factual data and information (whether favorable or unfavorable to its position) that relate to the issues involved in the hearing; (3) all other documentary data and information on which the Bureau relies; and (4) a statement signed by the Director of the Bureau that, to the best of his knowledge and belief, the submission complies with the requirements of § 13.25.

By July 31, 1979, each participant must submit to the Hearing Clerk all data and information specified in § 13.25, and any objections with respect to the completeness of the adminstrative record filed by the Bureau. The failure to comply with this requirement in the case of a participant constitutes a waiver of the right to participate further in the hearing and in the case of a party constitutes a waiver of a right to a hearing.

It is not necessary for any participant to file with the Hearing Clerk any data or information that has previously been filed by any party or participant.

The time, date, and place of the first session of the Board will be announced

in a subsequent notice published in the **Federal Register.**

The findings and conclusions of the Board, based on the public hearing, will have the legal status of, and be handled as, an initial decision issued in accordance with § 12.120 (21 CFR 12.120).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409, 72 Stat. 1785–1788 as amended (21 U.S.C. 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is ordered that a public hearing be held before a Public Board of Inquiry on the issues raised by the objections, as stated in this notice, with respect to food additive regulation, § 172.804 *Aspartame* (21 CFR 172.804), in accordance with Part 13 (21 CFR Part 13).

Dated: May 18, 1979.

Donald Kennedy,

Commissioner of Food and Drugs.

[FR Doc. 79-16851 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0087]

Ionizing Radiation: Biological Effects and Dosimetry; Change in Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The open meeting of June 6 through 8, 1979, to discuss the research efforts of the Bureau of Radiological Health, Food and Drug Administration, in the area of bilogical effects and dosimetry of ionizing radiation will convene at 8:30 a.m. rather than 1:00 p.m. as announced in the **Federal Register** of April 13, 1979 (44 FR 22179).

DATE: The meeting will be held June 6 through 8, 1979; all sessions will convene at 8:30 a.m.

ADDRESS: The meeting will be held at the Bureau of Radiological Health, Rm. 416, 12720 Twinbrook Parkway, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: DeWitt G. Hazzard, Bureau of Radiological Health (HFX-14), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4190.

Dated: May 24, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-16850 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

Report on Bioassay of 2-(Chloromethyl)Pyridine Hydrochloride for Possible Carcinogenicity; Availability

2-(Chloromethyl)pyridine hydrochloride (CAS 6959–47–3) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of 2-(chloromethyl)pyridine hydrochloride was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include proposed use as an intermediate in the manufacture of agricultural, pharmaceutical and veterinary chemicals. 2-(Chloromethyl)pyridine hydrochloride was administered by gavage, at either of two dosages, to groups of 50 male and 50 female animals of each species, with the exception of 49 male rats in the high dose group.

Under the conditions of this bioassay, administration of 2-(chloromethyl)pyridine hydrochloride was not carcinogenic to Fischer 344 rats or B6C3F1 mice.

Single copies of the report, Bioassay of 2-(Chloromethyl)pyridine Hydrochloride for Possible Carcinogenicity (T.R. 178), are available from the Office of Cancer Communications, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: May 17, 1979.

Donald S. Frederickson,

Director, National Institutes of Health.

[FR Doc. 79-16875 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-08-M

Report on Bioassay of 4-Chloro-O-Toluidine Hydrochloride for Possible Carcinogenicity; Availability

4-Chloro-o-toluidine hydrochloride (CAS 3165–93–3) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 4-chloro-o-toluidine hydrochloride for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use in the manufacture of dyes.

It is concluded that under the conditions of this bioassay, 4-chloror-o-toluidine hydrochloride was not carcinogenic for F344 rats but was carcinogenic for B6C3F1 mice, inducing hemangiosarcomas and hemangiomas in both males and females.

Single copies of the report, Bioassay of 4-Chloro-o-Toluidine Hydrochloride for Possible Carcinogencity (T.R. 165), are available from the Office of Cancer Communications, National Cancer Institute, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: May 17, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-16876 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-08-M

Report on Bioassay of Nitrofen for Possible Carcinogenicity; Availability

Nitrofen (CAS 1836–75–5) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of nitrofen was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an agricultural herbicide. Nitrofen was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, dietary administration of nitrofen was carcinogenic to B6C3F1 mice, causing hepatocellular carcinomas in both sexes. There was no evidence for carcinogenicity in Fischer 344 rats.

Single copies of the report, Bioassay of Nitrofen for Possible Carcinogenicity (T.R. 184), are available from the Office of Cancer Communications, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: May 17, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-16877 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-08-M

Public Health Service

Health Maintenance Organizations; Central Essex Health Plan, Inc.

AGENCY: Public Health Service, HEW.

ACTION: Notice: Continued regulation of health maintenance organizations: Determination of noncompliance.

SUMMARY: On March 9, 1979, the Director of the Office of Health Maintenance Organizations determined that Central Essex Health Plan, Inc., (CEHP) 280 Henry Street, Orange, New Jersey 07051, a federally qualified health maintenance organization (HMO), was not in compliance with the assurance it had provided to the Secretary that it would maintain a fiscally sound operation.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: Under Section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e–11(b)(1)) (the Act), if the Secretary makes a determiantion under section 1312(a) that a qualified HMO which provided assurances to the Secretary under section 1310(d)(1) is not organized or operated in the manner prescribed by section 1301(c), then he shall (1) notify the HMO in writing of the determination, (2) direct the HMO to initiate such action as may be necessary to bring it into compliance with the assurances, and (3) publish the determination in the **Federal Register.**

The Director, OHMO, determined that CEHP was not in compliance with the assurance it provided the Secretary that it would maintain a fiscally sound operation as required by section 1301(c)(1). The determination of noncompliance does not itself affect the status of CEHP as a federally qualified HMO. Rather, CEHP had been given the opportunity to initiate corrective action to bring it into compliance with the assurances it gave the Secretary. It is only in the event that CEHP either (1) fails to initiate corrective action within the period prescribed by the notice or (2) fails to comply with the assurances within the period prescribed by the Secretary that it shall not be a qualified HMO for purposes of section 1310 of the Act.

Dated: May 23, 1979.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 79–17067 Filed 5–31–79; 8:45 am]

BILLING CODE 4110–85–M

Health Maintenance Organizations; Penn Group Health Plan, Inc.

AGENCY: Public Health Service, HEW.

ACTION: Notice, Continued Regulation of Health Maintenance Organizations: Determination of Noncompliance.

SUMMARY: On December 21, 1978, the Director of the Office of Health Maintenance Organizations determined that Penn Group Health Plan, Inc., (PGHP) 5 Gateway Center, Pittsburgh, Pennsylvania 15222, a federally qualified health maintenance organization (HMO), was not in compliance with the assurance it had provided to the Secretary that it would maintain a fiscally sound operation. The determination of noncompliance does not itself affect the status of PGHP as a federally qualified HMO. Rather, PGHP has been given the opportunity to and has, in fact, initiated corrective action to bring itself into compliance with the assurances it gave the Secretary.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: Under Section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e–11(b)(1)) (the Act), if the Secretary makes a determination under section 1312(a) that a qualified HMO which provided assurances to the Secretary under section 1310(d)(1) is not organized or operated in the manner prescribed by section 1301(c), then he shall (1) notify the HMO in writing of the determination, (2) direct the HMO to initiate such action as may be necessary to bring it into compliance with the assurances, and (3) publish the determination in the **Federal Register.**

Dated: May 23, 1979.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 79–17068 Filed 5–31–79; 8:45 am]

BILLING CODE 4110–85–M

Health Maintenance Organizations; Sound Health Association

AGENCY: Public Health Service, HEW.

ACTION: Notice, Continued Regulation of Health Maintenance Organizations: Revocation of Federal Qualification.

SUMMARY: On March 21, 1979, the Director of the Office of Health Maintenance Organizations revoked Federal qualification of Sound Health Association (SHA), 622 Tacoma Avenue South, Tacoma, Washington 98402. Accordingly, SHA is no longer a qualified health maintenance organization (HMO).

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: On May 11, 1978, pursuant to Section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e–11(b)(1)) (the Act), the Secretary notified SHA, at that time a federally qualified HMO, that it was not in compliance with the assurance it had given to the Secretary under section 1310(d)(1) of the Act that it would have a fiscally sound operation, as required by section 1301(c)(1) of the Act. The notice directed SHA to initiate corrective action to bring it into compliance with this assurance. The basis for the revocation of Federal qualification for purposes of section 1310 of the Act is that SHA failed to carry out the corrective action required by the Secretary.

The effect of the revocation is as follows: (1) SHA may not seek inclusion in employees' health benefit plans under section 1310 of the Act; (2) with respect to employers including SHA in the health benefits plan offered their employees, SHA is no a qualified HMO for purposes of section 1310 of the Act. The inclusion of SHA in an employee's health benefits plan will be disregarded for purposes of determining whether, and to what extent, the employer is subject to section 1310 of the Act, and will not constitute compliance with the requirements of that section; and (3) SHA is not a qualified HMO for purposes of the financial assistance programs under 42 CFR Part 110, Subparts C, D, and E. SHA is no longer a provider of health care services, and has sold its assets to Group Health Cooperative of Puget Sound.

Section 1312(b)(1) of the Act requires that each determination concerning revocation of Federal qualification of an HMO be published in the **Federal Register.**

Dated: May 23, 1979.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 79-17069 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-79-930]

Privacy Act of 1974; Amendment of Existing System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed amendment of existing system of records.

SUMMARY: The proposed amendment is to the "routine uses" section of the records system entitled "The National Flood Insurance Application and Related Documents Files."

EFFECTIVE DATE: The amendment shall become effective without further notice on July 3, 1979, unless comments are received on or before July 3, 1979, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Rosenthal, Departmental Privacy Act Officer, Telephone number 202-755-5192. This is not a toll-free phone number.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administration, which maintains the National Flood Insurance Application and Related Documents Files, was transferred to the Federal Emergency Management Agency. However, during an interim period, HUD provides administrative support services to the Federal Insurance Administration (FIA), including the publication of FIA's Privacy Act systems of records. These were published along with HUD's systems of records at 43 FR 55102 (November 24, 1978). This notice recognizes the fact that FIA records are no longer HUD records and necessary access to those records by HUD requires this amendment. The purpose of the disclosure of FIA records to the Federal Disaster Assistance Administration of HUD is for verification of nonduplication of benefits.

The Department's New York Area Office has moved to 26 Federal Plaza, New York, N.Y. 10007. The Department's Fresno Service Office has moved to 1315 Van Ness Avenue, Suite 200, Fresno, Ca. 93721.

The amended routine uses section is to read as follows:

The National Flood Insurance Application and Related Documents Files:

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Routine Uses in prefatory statement. Other routine uses: For use of insurance agents, brokers and adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program; and to Federal Disaster Assistance Administration and Small Business Administration for verification of nonduplication of benefits.

* * * * *

Authority: 5 U.S.C. 552a, 88 Stat. 1896; Section 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., May 18, 1979.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 79-17157 Filed 5-31-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-22676]

Coal Lease Offering by Sealed Bid

U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Notice is hereby given that certain coal resources in the lands hereinafter described in Routt County, Colorado will be offered for lease by sealed bid of $25 per acre minimum to the qualified bidder of the highest cash amount per acre or fraction thereof in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). The sale will be held at 2:00 p.m., June 26, 1979, in Room 708, Colorado State Bank Building, Denver, Colorado.

Coal Offered: The coal resource to be offered is limited to all strippable reserves of the Wadge and any overlying coal beds in the following described lands located approximately 10 miles southwest of Steamboat Springs, Colorado:

T. 5 N., R. 86 W., 6th P. M.,
Sec. 2, lot 4, S½NW¼;
Sec. 3, lots 1, 2, SE¼NE¼.
T. 6 N., R. 86 W., 6th P. M.,
Sec. 34, N½Sw¼, SE¼SW¼, SW¼SE¼.
Containing 402.29 acres.

There are approximately 1.2 million tons of recoverable coal under less than 150 feet of overburden. The coal is non-coking and has an average heating value of approximately 10,900 Btu/lb. The Wadge coal bed averages about 9 feet in true thickness on the tract and dips from 12° (21%) to 20° (36%) to the south-southwest.

Rental and Royalty: A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty payable to the United States at the rate of 12.5 percent of the value of coal mined by surface methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Public Comments: The public is invited to submit written comments concerning fair market value of the offered coal reserves to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be reviewed and taken into consideration in the determination of fair market value for the offered lands. Comments should address specific factors related to fair market value including: the quantity and quality of the coal resource, the estimated market value of the coal, the estimated cost of producing the coal, the expected rate of industry return, the appropriate discount rate for use in calculating present value along with probable timing and rate of production, the value of the surface estate, and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions may also be submitted at this time.

Those comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3525.8(b). Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to the State Director, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202, and to the Regional Conservation Manager, U.S. Geological Survey, Box 25046, Denver Federal Center, Denver, CO 80225, to arrive no later than June 21, 1979.

Qualified Bidder: In addition to the qualification requirements in 43 CFR 3502, the bidder will have to meet the criteria of the Amended Order in *Natural Resources Defense Council, et al.* v. *Royston C. Hughes, et al.*, Civil Action No. 75–1749, in the United States District Court for the District of Columbia, dated June 14, 1978. If the bidder is other than the applicant, the documents purporting to meet the criteria must be enclosed with the sealed bid.

Warning To Bidders: No bids received after 2:00 p.m., June 26, 1979, will be considered. In the event of tying bids, those bidders will be allowed to submit additional oral bids to break the tie. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before 2:00 p.m., June 26, 1979, at Room 700, Colorado State Bank Building, Denver, Colorado. The Department of the Interior reserves the right to reject any and all bids and also the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the lease for any reason. If any bid is rejected, the deposit made on the day of the sale will be returned. The successful bidder is obligated to pay for the newspaper publications of this notice.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Terms and Conditions of Lease Offer and Lease. A copy of the Statement and the Proposed Coal Lease are available at the Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 701.

John R. Bernick,

Acting Leader, Craig Team Branch of Adjudication.

[FR Doc. 79–16987 Filed 5–31–79; 8:45 am]

BILLING CODE 4310–84–M

Idaho; Wilderness Inventory; Decision

Notice is hereby given that the Bureau of Land Management has completed Wilderness inventory on certain public lands in Idaho. The inventory, following guidelines established by the Bureau, was conducted in advance of the statewide inventory in order to obtain a decision on an area that may be impacted by a proposed mining operation in the BLM Shoshone District.

The proposed decision on this inventory was announced in the February 7, 1979 **Federal Register**. A 90-day comment period was conducted including a public meeting in Shoshone, Idaho. After analysis of public comments and the District Manager's recommendation, the State Director's final decision is as follows:

Unit 54–2 Black Butte

4,326—total acres
324—acres lacking characteristics
4,002—acres with characteristics

The inventory indicated that the unit has sufficient size to make practicable its preservation and use in an unimpaired condition. A significant number of letters were received concerning the possibility of including this area in the National Wilderness Preservation System.

Areas adjacent to a community pit, (outside of the wilderness study area western boundary) were re-evaluated based on public comment. Eighty-two acres to the south of the pit were deleted due to several substantial trails, and associated lava rock removal. Approximately 23 acres east of the pit were returned to the wilderness study area due to evidence the acreage has not been substantially affected by man's activities.

Comments related to outstanding solitude and primitive and unconfined types of recreation supported the findings that these factors are present within the wilderness study area.

Unit 54–2 Black Butte (4,002 acres) is therefore identified as a Wilderness Study Area. Other BLM lands included within this inventory are dropped from the inventory process, with management limitations imposed by Section 603 of the Federal Land Policy and Management Act of 1976 no longer applying.

This decision becomes final on July 2, 1979 unless formally and publically amended and published by the State Director, based on new information received as a result of final publications.

For further information contact: William L. Mathews, State Director, Idaho State Office—BLM, 550 W. Fort Street, Federal Building, Box 042, Boise, ID 83724.

Dated: May 22, 1979.

William L. Mathews,

Idaho State Director, Bureau of Land Management.

[FR Doc. 79–16986 Filed 5–31–79; 8:45 am]

BILLING CODE 4310–84

Qualified Joint Bidders; Outer Continental Shelf (OCS)

As a convenience to the public, and pursuant to his authority under 43 CFR 3330, the Director of the Bureau of Land Management hereby publishes a list of all persons who have timely filed a sworn statement of production in accordance with 43 CFR 3302.3–2(a). These statements have qualified the filers to bid jointly at OCS oil and gas lease sales during the bidding period of May 1, 1979, through October 31, 1979. This publication is not required by law or regulations. It includes the names of all possible bidders whose statements have been received in this office by the date this notice was prepared.

The following persons or companies have filed sworn statements of production as required by 43 CFR 3302.3–2(a) attesting to average daily production not in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products during the production period of July 1, 1978, through December 31, 1978.

A. G. Hill
AGT Exploration Corp.
Alaskco U.S.A., Ltd.
Al-Aquitaine Exploration, Ltd.
Allied Chemical Corporation
ALMINEX U.S.A., Inc.
Amerada Hess Corporation
American Independent Oil Company
American Natural Gas Production Company
American Petrofina Company of Texas
American Petrofina Exploration Company
Aminoil Development, Inc.
Aminoil USA, Inc.
Anadarko Production Company
Apache Corporation
Arrowhead Propane Corporation
Atlantic Distributors Exploration Co.
Atlantic Richfield Company
Bow Valley Petroleum Inc.
Brooklyn Union Gas Company
C & K Marine Production Company
C & K Offshore Company
C & K Petroleum, Inc.
Cabot Corporation
Cambridge Royalty Company
Canadian Occidental of California, Inc.
Canadian Superior Oil (U.S.) Ltd.
CanDel Oil (U.S.) Inc.
Caroline Hunt Schoellkopf
Caroline Hunt Trust Estate
Case-Pomeroy Oil Corporation
Central Hudson Gas & Electric Corporation
Challenger Minerals Inc.
Champlin Petroleum Company
Cities Service Company
CNG Producing Company
Columbia Gas Development Corporation
Columbia Gas of New York, Inc.
Consolidated Edison Company of New York, Inc.
Continental Group, Inc. (The)
Continental Oil Company
Corning Natural Gas Corporation
Cotton Petroleum Corporation

CRA Oil Exploration Company
Crown Central Petroleum Corporation
DEPCO, Inc.
Diamond Shamrock Corporation
Dow Chemical Company
Eason Oil Company
Ecee, Inc.
El Paso Natural Gas Company
Elizabethtown Gas Company
Energy Development Corporation
Energy Reserves Group, Inc.
Energy Resources Corporation
Energy Ventures, Inc.
Enserch Exploration, Inc.
Entex Petroleum, Inc.
Exchange Oil and Gas Corporation
Felmont Oil Corporation
Finadel, Incorporated
Florida Gas Exploration Company
Fluor Oil and Gas Corporation
Forest Oil Corporation
Four M Properties, Ltd.
Freeport Oil Company
Freeport Petroleum Company
Fuel Resources Inc.
Furth Oil Co.
Gas Producting Enterprises, Inc.
General American Oil Company of Texas
General Crude Oil Company
Getty Oil Company
Golden Eagle Refining Company, Inc.
Greenbrier Operating Co.
Hamilton Brothers Exploration Company
Hamilton Brothers Oil Company
Hamilton Brothers Oil and Gas Corporation
Haroldson L. Hunt, Jr. Trust Estate
Hassie Hunt, Incorporated
Hassie Hunt Exploration Company
Hassie Hunt Trust
H. C. Price Co.
Hematite Petroleum (U.S.A.), Inc.
Highland Resources, Inc.
Houston Oil & Minerals Corporation
Hudbay Exploration, Inc.
Hunt Energy Corporation
Hunt Industries
Hunt Investment Corporation
Hunt Oil Company
Hunt Petroleum Corporation
Husky Oil Company
H. W. Bass & Sons, Inc.
ICI Delaware Inc.
Idemitsu Alaska Oil Development Corporation
Inexco Oil Company
Isco, Inc.
Jenney Oil Company, Incorporated
Kerr-McGee Corporation
Knob Hill Oil & Gas Company, Inc.
Koch Industries, Inc.
Ladd Petroleum Corporation
Lamar Hunt
Lamar Hunt Trust Estate
Long Island Lighting Company
Louisiana Land and Exploration Company (The)
Louisiana Land Offshore Exploration Company, Inc.
Marathon Oil Company
Margaret Hunt Trust Estate
Maruzen Oil of Alaska, Inc.
McMoRan Offshore Exploration Co.
Merrimack Valley Exploration Corporation
Mesa Petroleum Co.
Michael G. Rutherford
Mono Power Company
Monsanto Company
Murphy Oil Corporation
N.B. Hunt
Narmco, Inc. (Del.)
National Exploration Company
National Fuel Gas Distribution Corporation
Natomas Offshore Exploration Inc.
NATRESCO INCORPORATED
Natural Gas Corporation of California
Nelson Bunker Hunt Trust Estate
Nepco Exploration Corporation
New England Energy Incorporated
Newmont Oil Company
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
NICOR Exploration Company
Norcen Petroleum Inc.
Norse Petroleum (U.S.) Incorporated
Northern Michigan Exploration Company
Northern Natural Gas Company
Northwestern Mutual Life Insurance Company
Ocean Oil & Gas Company
Ocean Production Company
Offshore Company (The)
Ogle Development Corporation
Ogle Petroleum Inc.
Orange & Rockland Utilities, Inc.
OXOCO
Oxy Petroleum, Inc.
P.R. Rutherford as Independent Executor of the Estate of Betty T. Rutherford
P.R. Rutherford, Jr.
Pacific Petroleums Ltd.
PanCanadian Petroleum Company
Pan Eastern Exploration Company
PAN ENERGY Resources, Inc.
Paragon Petroleum, Inc.
Pavilion Natural Gas Company
Pelto Oil Company
Pennzoil Company
Pennzoil Louisiana and Texas Offshore, Inc.
Pennzoil Oil & Gas, Inc.
Pennzoil Producing Company
Peyto Explorations Inc.
Phillips Petroleum Company
Pinto, Inc.
Pioneer Production Corporation
Placid Oil Company
Pogo Producing Company
Propel Energy Company
Prosper Energy Corporation
Pursue Energy Corporation
Pursue Offshore, Inc.
Quintana Offshore, Inc.
Reading & Bates Petroleum Co.
Reserve Oil, Inc.
Resource Production, Inc.
Rhode Island Development and Exploration Company
Rochester Gas and Electric Corporation
Rosewood Corporation, The
Rowan Petroleum, Inc.
Rutherford Oil Corporation
Rutherford Partnership (The)
Sabine Production Company
Samedan Oil Corporation
Santa Fe Energy Company
Santa Fe Minerals, Inc.
SONAT Exploration Company
South Coast Corporation (The)
Southern Natural Gas Company
Southland Royalty Company
St. Joe Petroleum (U.S.) Corporation
St. Lawrence Gas Company, Inc.
Sun Oil Company (Delaware)
Superior Oil Company (The)
Syracuse Suburban Gas Company, Inc.
Tenneco Exploration, Ltd.
Tenneco Exploration II, Ltd.
Tenneco OCS Company, Inc.
Tenneco OCS Limited Partnership
Tenneco Offshore Company
Tenneco Oil Company
Terra Resources, Inc.
Tesoro Petroleum Corporation
Texas Eastern Exploration Co.
Texas Gas Exploration Corporation
Texasgulf Inc.
Texas Pacific Oil Company, Inc.
Texas Production Company
Total Petroleum, Inc.
Transco Exploration Company
TransOcean Oil, Inc.
Union Oil Company
Vsea, Inc.
W.H. Hunt
Weeks Petroleum Corporation
William Herbert Hunt Trust Estate
Williams Exploration Company
W.R. Grace & Co.
Zapata Exploration Company

In addition, statements of production have been received from nine companies which produced a daily average of 1.6 million barrels or more of crude oil, natural gas and liquified petroleum products during the previously mentioned production period, and therefore are restricted from bidding jointly with each other during the bidding period of May 1, 1979 through October 31, 1979. This list appeared in the **Federal Register** of April 25, 1979 and is cited as 44 FR 24348.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

May 23, 1979.

[FR Doc. 79-16988 Filed 5-31-79; 8:45 am]

BILLING CODE 4310-84-M

[F-14906-A]

Alaska Native Claims Selection; Publication

The purpose of this Notice is to correct a typographical error in the decision dated April 2, 1979, (FR Vol. 44, No. 64) on page 19256, column 3, paragraph g.

The paragraph now reads:

g. [EIN 25 C5] An easement for a proposed access trail twenty-five (25) feet in width from the South Fork Kuskokwim River in Sec. 5 T. 29 N., R. 24., Kateel River Meridian, southerly to Sec. 7, T. 33 N., R. 26 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The paragraph is hereby corrected to read as follows:

g. [EIN 25 C5] An easement for a proposed access trail twenty-five (25) feet in width from the South Fork Kuskokwim River in Sec. 5, T. 29 *S.*, R. 24 *E.*, Kateel River Meridian, southerly to Sec. 7, T. 33 N., R. 26 W., Seward Meridian. The uses allowed are those listed above for twenty-five (25) foot wide trail easement.

This Notice corrects only the legal description described above. All other terms and conditions of the April 2, 1979 decision remain unchanged.

Dated: May 21, 1979.

Arnold E. Petty,

Acting Associate.

[FR Doc. 79-17001 Filed 5-31-79; 8:45 am]

BILLING CODE 4310-84-M

[OR 20169]

Oregon; Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 79-15400 appearing on page 28886, in the issue of Thursday, May 17, 1979, make the following correction:

On page 28887 in the first column the entry for Sec. 24 of T. 37 S., R.36 E., should have read: "Sec. 24, SW¼NW¼ and W½SW¼;".

BILLING CODE 1505-01-M

Desolation and Gray Canyons of the Green River; Notice of Criteria and Procedures for a River Allocation Pool

May 25, 1979.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Criteria and Procedures for a River Allocation Pool for the Desolation and Gray Canyons of the Green River.

SUMMARY: Implementation of a River Allocation Pool for the Desolation and Gray Canyons of the Green River will take place during the 1979 river season and thereafter. This procedure will enable commercial operators to donate passenger days from their allocation which they do not anticipate using during a given season, or to request additional use if available from the pool. The private sector also may contribute or request from the pool.

Notice is hereby given that pursuant to Section 102(a)(8) of the Federal Land Policy and Management Act of 1976 and the Land and Water Conservation Fund Act, as amended, the following sets forth criteria and procedures for a River Allocation Pool for the Desolation and Gray Canyons of the Green River. These procedures become effective on June 1, 1979, and will remain in effect unless modified by future publication in the **Federal Register:**

1. Contributions to or requests from the River Allocation Pool will not in any way affect participants commercial allocation the following year.

If a commercial permittee does not donate passenger days to the pool and does not use the total allotment, then such non-use will be evaluated under the "use it or lose it" stipulation in his permit. Considerations will be made for adverse river conditions and unforeseen business problem situations that might arise. This will be reviewed on a case by case basis.

2. The special recreation use permit fee specified in the commercial permits use files will be determined on the larger of two figures, either (a) the amount of the allocation which is retained after the May 25 "call" for the pool mailed to all commercial permittes, or (b) the actual use for the year.

3. Contributions to or requests from the River Allocation Pool will be based on a passenger day unit.

4. Requests from the pool can be made at anytime after the initial cut off date (first round) set at June 11. However, final donations, if any, to the River Allocation Pool must be donated by July 31.

5. Contributions to or requests from the River Allocation Pool for private participants will be determined on past statistical records, present requests for river use, and anticipated use for the 1979 river season.

DATE: Effective June 1, 1979.

ADDRESS: District Manager, Moab District, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

FOR FURTHER INFORMATION, CONTACT: District Manager, Moab District, (801) 2590-6111.

John W. Coleman,

Acting District Manager.

FR Doc. 79-17059 Filed 5-31-79; 8:45 am]

BILLING CODE 4310-84-M

Bakersfield and Riverside Districts, California; Acceptance of Applications for Annual Special Recreation Use permits

The Bakersfield and Riverside District Managers will be accepting Special Recreation Permit applications for competitive and commercial off-road vehicle events in designated areas of the California Desert Conservation Area until July 31, 1979, for the 1980 calendar year. Applications will not be accepted after July 31, 1979. Applications for non-competitive and non-commercial events must be filed 120 days before the event.

This notice is given under the authority of the Federal Land Policy and Management Act (P.L. 94-579), Executive Order 11644, as amended by Executive Order 11989, and Bureau of Land Management Code and Regulations 43 CFR 8372.

Send applications to District Manager, Riverside District Office, 1695 Spruce Street, Riverside, California 92507, or District Manager, Bakersfield District Office, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301.

Richard D. Freel,

Acting District Manager.

[FR Doc. 79-17070 Filed 5-31-79; 8:45 am]

BILLING CODE 4310-84-M

[C-27432 Delta County, Colo.]

Coal Lease Offering by Sealed Bid

U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, hereby gives notice that certain coal resources in the land hereinafter described will be offered for sealed bids of $25 per acre minimum to the qualified bidder of the highest cash amount per acre or fraction thereof in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended (30 U.S.C. 181 *et seq.*), and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). The sale will be held on July 3, 1979, at 2:00 P.M. in Room 708, Colorado State Bank Building, Denver, Colorado.

Coal Offered: Tract C-27432—The coal resource to be offered is limited to 5,600,000 tons to be mined underground from the "D" seam in the following lands located approximately 3 miles north of Paonia, Colorado:

T. 13 S., R. 92 W., 6th P.M.
Sec. 12: Lots 9, 15;
Sec. 13: Lots 1, 3, 4, 5, 6, 11, 12.
T. 13 S., R. 91 W., 6th P.M.
Sec. 7: Lots 3, 4, E½SW¼;
Sec. 18: Lots 1, 2, 3, 4, E½W½.
Containing 854.03 acres.

The "D" seam is the uppermost seam in the tract. This seam is from 8 to 26 feet thick and has cover from 200 to 1800 feet. From best information it should average 11,900 Btu per pound with 7.1% ash and .55% sulfur.

Rental and Royalty: Any lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a

royalty payable to the United States at the rate of 8 percent of the value of coal mined by underground methods. The value of the coal shall be determined in accordance with 30 CFR 211.63.

Public Comments: The public is invited to submit written comments concerning fair market value of the offered coal reserves to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be reviewed and taken into consideration in the determination of fair market value for the offered lands. Comments should address specific factors related to fair market value including: the quantity and quality of the coal resource, the estimated market value of the coal, the estimated cost of producing the coal, the expected rate of industry return, the appropriate discount rate for use in calculating present value along with probable timing and rate of production, the value of the surface estate, and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions may also be submitted at this time.

Those comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3525.8(b). Should any information submitted as comments be considered to be proprietary by the commentator, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to the State Director, Bureau of Land Management, Room 700, Colorado State Bank Bldg., 1600 Broadway, Denver, CO 80202, and to the Regional Conservation Manager, U.S. Geological Survey, Box 25046, Denver Federal Center, Denver, CO 80225, to arrive no later than June 29, 1979.

Qualified Bidder: In addition to the qualification requirements in 43 CFR 3502, the bidder will have to meet the criteria of the Amended Order in *Natural Resources Defense Council, et al.* v. *Royston C. Hughes, et al.*, Civil Action No. 75–1749, in the United States District Court for the District of Columbia, dated June 14, 1978. If the bidder is other than the applicant, the documents purporting to meet the criteria must be enclosed with the sealed bid.

Warning to Bidders: No bids received after 2:00 P.M., July 3, 1979, will be considered. In the event of tying bids, the tying bidders will be allowed to submit additional oral bids to break the tie. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before 2:00 P.M., July 3, 1979, at Room 700, Colorado State Bank Building, Denver, Colorado. The Department of the Interior reserves the right to reject any and all bids and also the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the lease for any reason. If any bid is rejected, the deposit made on the day of the sale will be returned. The successful bidder is obligated to pay for the newspaper publications of this notice.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Terms and Conditions of Lease Offer and Lease. A copy of the Statement and the Proposed Coal Lease are available at the Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 701.

Merrill G. Anderson,

Leader, Montrose Team, Branch of Adjudication.

[FR Doc. 79–17071 Filed 5–31–79; 8:45 am]

BILLING CODE 4310–84–M

Colorado; Temporary Closure of National Historic Landmark

Notice is hereby given that Lowry Pueblo Ruins, a National Historic Landmark in Montezuma County on public land administered by the Bureau of Land Management, is temporarily closed to visits by the public.

Excessive moisture from melting snow has collected in portions of the ruins, and has weakened or collapsed some of the walls. These unstable walls create a hazard to visitors to the site. Stabilization of the site is expected to begin during the summer of 1979 and the Landmark will be available for public visits as soon as the present hazardous conditions can be corrected.

The land on which the Landmark is located is described as:

New Mexico Principal Meridian

T. 38 N., R. 19 W.,
Sec. 2, Lots 6 and 7.

This temporary closure is under the provisions of Title 43 Code of Federal Regulations 6010.4(a).

Dated: May 17, 1979.

Dale R. Andrus,

State Director.

[FR Doc. 79–17072 Filed 5–31–79; 8:45 am]

BILLING CODE 4310–84–M

Moab District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Moab District Grazing Advisory Board Meeting.

Notice is hereby given in accordance with Publ L. 92–463 that a meeting of the Moab District Grazing Advisory Board will be held on July 26, 1979. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 900 North 700 East, Price, Utah. A field tour will be conducted in the afternoon.

The agenda for the meeting will include:

1. Election of officers.
2. Discussion of the advisory board election and recharting process.
3. Expenditures of range betterment and advisory board funds for range improvements.
4. Cooperative Agreements for maintenance of range improvements.
5. A field trip to demonstrate the soil Vegetation inventory Method and how the data gathered from this method will be used to allocate forage and develop allotment management plans.
6. Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 11:15 and 11:45 a.m. on July 26, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Box 970, Moab, Utah 84532 by July 20, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the district manager. Persons desiring to make the field trip should provide their own transportation.

Summary minutes of the board meeting will be maintained in the distict office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

S. Gene Day,

District Manager.

[FR Doc. 79–17075 Filed 5–31–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 35500]

New Mexico; Proposed Withdrawal and Reservation of Lands

May 25, 1979.

The Bureau of Land Management, Department of the Interior, on December 1, 1978, filed application Serial Number NM 35500, for the withdrawal of the following described lands from settlement, sale, location or entry under the public land laws, including the mining laws:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 15 W.,
Sec. 17, SE¼SW¼and S½SE¼;
Sec. 21, SW¼NW¼.
Containing a total of 160.00 acres.

The Bureau of Land Management desires that the land be withdrawn and reserved for the purpose of consummating an exchange with Public Service Company of New Mexico. The purpose of this exchange is to accomplish an acquisition of private lands needed for the Bureau of Land Management's wildlife habitat management program in exchange of lands needed by private industry for electric generating facilities in San Juan County, New Mexico. This temporary withdrawal is made in furtherance of an exchange under Section 204 of the Public Law 94–579 (90 Stat. 2751; 43 U.S.C. 1714) dated October 21, 1976, by which the offered lands will benefit a federal land program.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Mangement Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Managment, P.O. Box 1449, Santa Fe, New Mexico 87501. If a public hearing is scheduled, a notice will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary of the Secretary on the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of Section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

The above-described lands are temporarily segregated from settlement, sale, location or entry under the public land laws, including the mining laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of the application shall terminate upon: (1) rejection of the application by the Secretary; (2) withdrawal of the lands by the Secretary; or, (3) the expiration of two years from the date of publication of this notice.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Division of Technical Services, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–17073 Filed 5–31–79; 8:45 am]

BILLING CODE 4310–84–M

[OR 20933 (Wash.)]

Washington; Proposed Withdrawal and Reservation of Lands

The Corps of Engineers, U.S. Department of the Army, on May 7, 1979, filed application Serial No. OR 20933 (Wash.) for withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, subject to valid existing rights:

Willamette Meridian

T. 29 N., R. 26 E.,
Sec. 9, SW¼SW¼;
Sec. 30, lot 2.
T. 30 N., R. 26 E.,
Sec. 25, NW¼NE¼;
Sec. 35, SW¼SE¼.
T. 30 N., R. 27 E.,
Sec. 28, SE¼SE¼;
Sec. 29, NE¼NW¼;
Sec. 34, SW¼NW¼ and NE¼SW¼.
T. 30 N., R. 28 E.,
Sec. 9, SE¼SE¼;
Sec. 14, NE¼SW¼.

The areas described aggregate 400.27 acres in Douglas County, Washington.

The applicant proposes use of the lands for the Chief Joseph Additional Units project. The project consists of the installation of additional generating units and raising the reservoir pool level at the existing Chief Joseph Dam, on the Columbia River in central Washington.

On or before July 12, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Managment.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, on or before July 12, 1979. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such

investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of the application shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of the lands by the Secretary, or (c) two years from the date of publication of this notice.

All communications (except public hearing requests) in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: May 23, 1979.

Champ C. Vaugham, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-17074 Filed 5-31-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 68205]

Wyoming; Notice of Application

May 25, 1979

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. natural gas pipeline, a 4′ × 6′ meter house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 96 W.,
Sec. 34, E½SW¼ and SW¼SE¼.

The proposed pipeline will transport natural gas from Anderson Federal No. 2–34 Well located in the SW¼ of section 34, to a point of connection with an existing pipeline located in the SE¼ of section 34, all within T. 18 N., R. 96 W., Sweetwater County, Wyoming. The proposed 4′ × 6′ metering house and related metering and dehydration facilities are to be located entirely within the proposed 50 foot right-of-way in the E½SW¼ of section 34, T. 18 N., R. 96 W., Sweetwater County, Wyoming.

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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-17076 Filed 5-31-79; 8:45 am]

BILLING CODE 4310-84-M

[W-67903]

Wyoming; Application

May 22, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4½ inch O. D. buried pipeline and install anodes for the purpose of transporting natural gas across the following described public lands.

Sixth Principal Meridian, Wyoming

T. 21 N., R. 99 W.,
Sec. 22, W½NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼.

The proposed pipeline will transport natural gas from the Klabzuba 1–15 well located in the SW¼ of Section 15, to a point of connection with Cities Service Gas Company's existing gathering line located in the SW¼ of Section 23, all within T. 21 N., R. 99 W., Sweetwater County, Wyoming.

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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-17079 Filed 5-31-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 68221]

Wyoming; Application

May 25, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. natural gas pipeline, a 4′ × 6′ meter house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 14 N., R. 92 W.,
Sec. 3, lot 6.
T. 15 N., R. 92 W.,
Sec. 34, S½SE¼.

The proposed pipeline will transport natural gas from the Hamilton-Federal #34–1 Well located in the SE¼ of section 34, T. 15 N., R. 92 W., to a point of connection with an existing pipeline located in the NE¼ of section 3, T. 14 N., R. 92 W., all within Carbon County, Wyoming. The proposed 4′ × 6′ meter house and related metering and dehydration facilities are to be located entirely within the proposed 50 foot right-of-way in the SE¼ of section 34, T. 15 N., R. 92 W., Carbon County, Wyoming.

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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-17080 Filed 5-31-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 67824]

Wyoming; Application

May 24, 1979.

Notice is hereby that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct two 4½ and one 6⅝ inch O. D. pipelines for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 27 N., R. 111 W.,
Secs. 2, 3, 4, 5, 10, 11, 15, 19, 22, 23, 26, 27, 28, 30, 31, 32, 33 and 34.

The proposed lateral A-26 pipeline will transport natural gas from the Federal well number 40-30, 30,23, 10-5, 30-15, 10-29, 40-32, and the 40-29 to points of connection with Northwest Pipeline's existing lines all within T. 27 N., R. 111 W., Sublette County, Wyoming.

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, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their names and address and send them to the District Manger, Bureau of Land Management, P.O. Box 1869, Highwary 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals.

[FR Doc. 79-17081 Filed 5-31-79; 8:45 am]

[BILLING CODE 4310-84-M

[W-67905]

Wyoming; Application

May 22, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct an 8⅝ inch, three 6⅝ inch and two 4½ inch buried piplines for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 19 N., R. 93 W.,
Sec. 14, W½W½,
Sec. 22, S½S½,
Sec. 24, S½S½,
Sec. 26, W½W½, SE¼SW¼, S½SE¼.

The proposed 4½ inch O.D. and 6⅝ inch O.D. lateral pipelines all located within T. 19 N., R. 93 W., will transport natural gas produced from several Champlin wells located within T. 19 N., Rs. 92 and 93 W., to points of connection with the proposed 8⅝ inch O.D. gathering line located within T. 19 N., R. 93 W., all within Carbon County, Wyoming.

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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-17169 Filed 6-1-79; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

General Mining Order; Intention To Develop and Order for Conservation of Coal Resources and Prevention of Waste Related to Coal Fenders in Surface Mines

AGENCY: Department of the Interior, Geological Survey

ACTION: Proposed Issuance of a General Mining Order

SUMMARY: In carrying out lease management resposibilities under provisions of the Mineral Leasing Acts, as amended, the Conservation Division must assure conservation of Federal coal resources, prevention of waste, and maximum ultimate recovery of coal during mining operations. Accordingly, the Conservation Divison proposes to develop a General Mining Order for recovery of coal fenders during surface mining operations. Written comments and views are requested on the content of that Order by interested persons.

DATES: In order to implement more fully the purposes and objectives of the operating regulations for mining on Federal lands, all concerned parties and the general public are invited and encouraged to submit comments and suggestions as to the content of the proposed General Mining Order for prevention of waste and recovery of coal fenders. Written comments and suggestions must be received on or before: July 16, 1979.

ADDRESS: Responses should be directed to: Chief, Conservation Divison, U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Mr. Brinton C. Brown, Chief, Orders Section, Conservation Division, U.S. Geological Survey, Reston, Virginia 22092, phone (703) 860-6259 or FTS 928-6259.

SUPPLEMENTARY INFORMATION: Notice is given that under Coal Mining Operating Regulations published in 30 CFR part 211 (41 FR 20261, May 17, 1976), in particular § 211.3(a) and § 211.3(c)(12), the Chief, Conservation Division, intends to develop a General Mining Order for prevention of waste and recovery of coal fenders during surface mining operations and solicits views of interested persons on the content of that Order.

For the purpose of this Order, a coal fender (surface mine) is defined as a thin strip of coal left in-place to keep the spoil (mined overburden) from sliding into a strip pit in order to lessen contamination of the coal being mined and to increase the safety of the men working within the pit.

The mining and recovery of coal fenders in strip mine operations has been a problem for both the operators and the Mining Supervisor. Obtaining maximum coal recovery required by regulations is of great concern to the Government.

In carrying out lease management responsibilities under provisions of the Mineral Leasing Acts, as amended, particularly the Federal Coal Leasing Amendments Act of 1976, the Conservation Division must consider conservation of coal resources, prevention of waste, and recovery of coal fenders during surface mining operations. Some questions under consideration are: (1) Can approval be justified for mining plans that do not

provide for completed recovery of coal fenders?

(2) Should such mining plans be rejected until technology has been developed to obtain maximum recovery of fenders?

(3) Is there any justification for leaving or abandoning fenders in existing operations?

(4) Shall the lessee be liable for royalty on coal lost in fenders in operations where fenders cannot be removed?

Precise mine planning will be necessary to recover the coal commonly left in fenders, taking in consideration that the mining conditions of each mine are different including overburden rock characteristics, coal seam characteristics and coal-floor and coal-roof contact characteristics. Each of these characteristics will have an influence on the method and procedures for recovery of coal fenders.

Public input in developing the content of this Order is solicited.

Dated: May 24, 1979.

Hillary A. Oden,

Acting Chief, Conservation Division.

[FR Doc. 79-17082 Filed 5-31-79; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Defense Manpower Policy No. DMP-4B and Executive Orders 12073 and 10582; Annual List of Labor Surplus Areas

The areas described below have been classified by the Assistant Secretary of Labor for Employment and Training as labor surplus areas for purposes of Defense Manpower Policy No. 4B (DMP-4B) and Executive Orders 12073 and 10582.

DMP-4B is implemented by regulations of the Federal Preparedness Agency of the General Services Administration at 32A CFR Part 134. Under DMP-4B, firms which agree to perform most of the work in labor surplus areas are given priority in the award and execution of Federal procurement contracts, grants, and agreements. To carry out this policy, DMP-4B assigns to the Secretary of Labor responsibility for classifying labor surplus areas and disseminating this information on a timely basis to Federal departments and agencies.

Executive Order 12073 also requires Executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is also responsible under this Order for classifying and designating labor surplus areas.

Under Executive Order 10582, Executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment, as defined by the Secretary of Labor. Areas of substantial unemployment are defined by Department of Labor regulations as labor surplus areas.

The Department's labor surplus classification procedures are set forth at 20 CFR Part 654. These regulations require that the Assistant Secretary for Employment and Training publish annually a list of labor surplus areas together with corresponding political jurisdictions. Accordingly, the following list of labor surplus areas is published for the use of all Federal departments and agencies in directing procurement activity and locating new plants or facilities.

Labor Surplus Areas Eligible for Federal Procurement Preference From June 1, 1979 Through May 31, 1980

Eligible labor surplus areas and political jurisdictions included:

Alabama

Bibb County—Bibb County
Calhoun County—Calhoun County
Clarke County—Clarke County
Colbert County—Colbert County
Dale County—Dale County
Dallas County—Dallas County
Balance of Etowah County—Etowah County less Gadsden City
Franklin County—Franklin County
Geneva County—Geneva County
Greene County—Greene County
Hale County—Hale County
Jackson County—Jackson County
Lawrence County—Lawrence County
Lowndes County—Lowndes County
Marengo County—Marengo County
Mobile City—Mobile City in Mobile County
Perry County—Perry County
Pickens County—Pickens County
Randolph County—Randolph County
Talladega County—Talladega County
Washington County—Washington County
Wilcox County—Wilcox County
Winston County—Winston County

Alaska

Angoon division—Angoon division
Bethel division—Bethel division
Bristol Bay Borough div—Bristol Bay Borough div
Bristol Bay division—Bristol Bay division
Cordova-McCarthy division—Cordova-McCarthy division
Fairbanks Division—Fairbanks division
Haines Division—Haines Division
Juneau Division—Juneau Division
Kenai-Cook Inlet division—Kenai-Cook Inlet division
Ketchikan division—Ketchikan division
Kobuk division—Kobuk division
Kodiak division—Kodiak division
Kuskokwim division-Kuskokwim division
Matanuska-Susitna div—Matanuska-Susitna div
Nome division—Nome division
Outer Ketchikan division—Outer Ketchikan division
Prince of Wales division—Prince of Wales division
Seward division—Seward division
Sitka division—Sitka division
Skagway-Yakutat division—Skagway-Yakutat division
Southeast Fairbanks div—Southeast Fairbanks div
Upper Yukon division—Upper Yukon division
Valdez-Chitina-Whittier—Valdez-Chitina-Whittier
Wade Hampton division—Wade Hampton division
Wrangell-Petersburg div—Wrangell-Petersburg div
Yukon-Koyukuk division—Yukon-Koyukuk division

Arizona

Apache County—Apache County
Cochise County—Cochise County
Gila County—Gila County
Graham County—Graham County
Mohave County—Mohave County
Navajo County—Navajo County
Pinal County—Pinal County
Santa Cruz County—Santa Cruz County
Yuma County—Yuma County

Arkansas

Calhoun County—Calhoun County
Clay County—Clay County
Cleburne County—Cleburne County
Cleveland County—Cleveland County
Crittendon County—Crittendon County
Faulkner County—Faulkner County
Franklin County—Franklin County
Fulton County—Fulton County
Jackson County—Jackson County
Lawrence County—Lawrence County
Lee County—Lee County
Madison County—Madison County
Balance of Miller County—Miller County less Texarkana City Ark
Newton County—Newton County
Ouachita County—Ouachita County
Phillips County—Phillips County
Polk County—Polk County
Pope County—Pope County
Randolph County—Randolph County
Scott County—Scott County
Searcy County—Searcy County
Balance of Sebastian County—Sebastian County less Fort Smith City
Sharp County—Sharp County
St. Francis County—St. Francis County
Van Buren County—Van Buren County
White County—White County

California

Alpine County—Alpine County
Amador County—Amador County

Berkeley City—Berkeley City in Alameda County
Butte County—Butte County
Calaveras County—Calaveras County
Carson City—Carson City in Los Angeles County
Chula Vista City—Chula Vista City in San Diego County
Colusa County—Colusa County
Compton City—Compton City in Los Angeles County
Del Norte County—Del Norte County
El Cajon City—El Cajon City in San Diego County
El Dorado County—El Dorado County
Escondido City—Escondido City in San Diego County
Fairfield City—Fairfield City in Solano County
Fresno City—Fresno City in Fresno County
Balance of Fresno County—Fresno County less Fresno City
Glenn County—Glenn County
Hayward City—Hayward City in Alameda County
Humboldt County—Humboldt County
Imperial County—Imperial County
Inyo County—Inyo County
Balance of Kern County—Kern County less Bakersfield City
Kings County—Kings County
Lake County—Lake County
Lassen County—Lassen County
Los Angeles City—Los Angeles City in Los Angeles County
Madera County—Madera County
Mariposa County—Mariposa County
Mendocino County—Mendocino County
Merced County—Merced County
Modesto City—Modesto City in Stanislaus County
Mono County—Mono County
Balance of Monterey County—Monterey County less Salinas City
Nevada County—Nevada County
Oakland City—Oakland City in Alameda County
Oceanside City—Oceanside City in San Diego County
Ontario City—Ontario City in San Bernardino County
Oxnard City—Oxnard City in Ventura County
Placer County—Placer County
Plumas County—Plumas County
Pomona City—Pomona City in Los Angeles County
Richmond City—Richmond City in Contra Costa County
Balance of Riverside County—Riverside County less Riverside City
Sacramento City—Sacramento City in Sacramento County
Salinas City—Salinas City in Monterey County
San Benito County–San Benito County
San Bernadino City—San Bernadino City in San Bernardino County
Balance of San Bernardino County–San Bernardino County less Ontario City, San Bernadino City
San Diego City—San Diego City in San Diego County
Balance of San Diego County—San Diego County less Chula Vista City, El Cajon City, Escondido City, Oceanside City, San Diego City
San Francisco City—San Francisco City in San Francisco County
Balance of San Joaquin County—San Joaquin County less Stockton City
Santa Cruz County—Santa Cruz County
Shasta County—Shasta County
Sierra County—Sierra County
Simi Valley City—Simi Valley City in Ventura County
Siskiyou County—Siskiyou County
Balance of Solano County—Solano County less Fairfield City, Vallejo City
Balance of Sonoma County—Sonoma County less Santa Rosa City
Balance of Stanislaus County—Stanislaus County less Modesto City
Stockton City—Stockton City in San Joaquin County
Sutter County—Sutter County
Tehama County—Tehama County
Trinity County—Trinity County
Tulare County—Tulare County
Tuolumne County—Tuolumne County
Balance of Ventura County—Ventura County less Oxnard City, Simi Valley City, Thousand Oaks City, Ventura City
Yolo County—Yolo County
Yuba County—Yuba County

Colorado

Archuleta County—Archuleta County
Conejos County—Conejos County
Costilla County—Costilla County
Delta County—Delta County
Eagle County—Eagle County
Garfield County—Garfield County
Huerfano County—Huerfano County
Lake County—Lake County
Las Animas County—Las Animas County
Ouray County—Ouray County
Pitkin County—Pitkin County
Pueblo City—Pueblo City in Pueblo County
Balance of Pueblo County—Pueblo County less Pueblo City
Saguache County—Saguache County
San Juan County—San Juan County
San Miguel County—San Miguel County

Connecticut

Ansonia Town—Ansonia Town
Bridgeport City—Bridgeport City
Derby Town—Derby Town
East Haven Town—East Haven Town
Griswold Town—Griswold Town
Hartford City—Hartford City
Killingly Town—Killingly Town
Naugatuck Town—Naugatauck Town
North Canaan Town—North Canaan Town
Norwich City—Norwich City
Oxford Town—Oxford Town
Plainfield Town—Plainfield Town
Putnam Town—Putnam Town
Seymour Town—Seymour Town
Sprague Town—Sprague Town
Stafford Town—Stafford Town
Torrington City—Torrington City
Voluntown Town—Voluntown Town
Waterbury City—Waterbury City
Winchester Town—Winchester Town

Delaware

Kent County—Kent County
Wilmington City—Wilmington City in New Castle County

District of Columbia

Washington D.C. City—Washington D.C. City in District of Columbia

Florida

Bay County—Bay County
Brevard County—Bervard County
Collier County—Collier County
Franklin County—Franklin County
Glades County—Glades County
Gulf County—Gulf County
Hernando County—Hernando County
Hialeah City—Hialeah City in Dade County
Highlands County—Highlands County
Hollywood City—Hollywood City in Broward County
Indian River County—Indian River County
Lake County—Lake County
Liberty County—Liberty County
Marion County—Marion County
Miami Beach City—Miami Beach City in Dade County
Miami City—Miami City in Dade County
Monroe County—Monroe County
Okaloosa County—Okaloosa County
Okeechobee County—Okeechobee County
Osceola County—Osceola County
Pasco County—Pasco County
Polk County—Polk County
St Lucie County—St Lucie County
St. Johns County—St. Johns County
Sumter County—Sumter County
Taylor County—Taylor County
Washington County—Washington County
West Palm Beach City—West Palm Beach City in Palm Beach County

Georgia

Albany City—Albany City in Dougherty County
Atkinson County—Atkinson County
Atlanta City—Atlanta City in De Kalb County, Fulton County
Augusta City—Augusta City in Richmond County
Barrow County—Barrow County
Balance of Bibb County—Bibb County less Macon City
Burke County—Burke County
Butts County—Butts County
Chattahoochee County—Chattahoochee County
Chattooga County—Chattooga County
Dawson County—Dawson County
Macon City—Macon City in Bibb County
McDuffie County—McDuffie County
Mc Intosh County—McIntosh County
Mitchell County—Mitchell County
Wilcox County—Wilcox County

Hawaii

Hawaii County—Hawaii County

Idaho

Adams County—Adams County
Benewah County—Benewah County
Blaine County—Blaine County
Boise County—Boise County
Bonner County—Bonner County
Boundary County—Boundary County
Camas County—Camas County
Clearwater County—Clearwater County
Gem County—Gem County
Idaho County—Idaho County
Kootenai County—Kootenai County

Lemhi County—Lemhi County
Valley County—Valley County

Illinois

Alexander County—Alexander County
Bond County—Bond County
Calhoun County—Calhoun County
Chicago City—Chicago City in Cook County
Clay County—Clay County
East St. Louis City—East St. Louis City in St. Clair County
Franklin County—Franklin County
Fulton County—Fulton County
Gallatin County—Gallatin County
Hamilton County—Hamilton County
Hardin County—Hardin County
Jackson County—Jackson County
Jefferson County—Jefferson County
Jersey County—Jersey County
Johnson County—Johnson County
Kankakee County—Kankakee County
Marion County—Marion County
Massac County—Massac County
Pike County—Pike County
Pope County—Pope County
Pulaski County—Pulaski County
Richland County—Richland County
Saline County—Saline County
Union County—Union County
Warren County—Warren County
Wayne County—Wayne County
White County—White County
Williamson County—Williamson County

Indiana

Crawford County—Crawford County
Dearborn County—Dearborn County
Franklin County—Franklin County
Gary City—Gary City in Lake County
Greene County—Greene County
Jefferson County—Jefferson County
Martin County—Martin County
Ohio County—Ohio County
Orange County—Orange County
Scott County—Scott County
Shelby County—Shelby County

Iowa

Appanoose County—Appanoose County

Kentucky

Carter County—Carter County
Clay County—Clay County
Edmonson County—Edmonson County
Jackson County—Jackson County
Lee County—Lee County
Letcher County—Letcher County
Lincoln County—Lincoln County
Magoffin County—Magoffin County
Marshall County—Marshall County
McCreary County—McCreary County
Owsley County—Owsley County
Powell County—Powell County
Russell County—Russell County

Louisiana

Alexandria City—Alexandria City in Rapides Parish
Allen County—Allen County
Ascension County—Ascension County
Avoyelles County—Avoyelles County
Catahoula County—Catahoula County
Concordia County—Concordia County
East Carroll County—East Carroll County
Evangeline County—Evangeline County
Franklin County—Franklin County
Grant County—Grant County
Iberville County—Iberville County
Kenner City—Kenner City in Jefferson Parish
Lake Charles City—Lake Charles City In Calcasieu County
Livingston County—Livingston County
Madison County—Madison County
Morehouse County—Morehouse County
Balance of Ouachita Parish—Ouachita Parish less Monroe City
Pointe Coupee County—Pointe Coupee County
Richland County—Richland County
St Bernard Parish—St Bernard Parish
St James County—St James County
St Landry Parish—St Landry Parish
Tangipahoa Parish—Tangipahoa Parish
Vernon Parish—Vernon Parish
Washington County—Washington County
Webster County—Webster County
West Carroll County—West Carroll County
West Feliciana County—West Feliciana County

Maine

Aroostook County—Aroostook County
Lincoln County—Lincoln County
Somerset County—Somerset County
Waldo County—Waldo County
Washington County—Washington County

Maryland

Allegany County—Allegany County
Baltimore City—Baltimore City in Baltimore City
Calvert County—Calvert County
Caroline County—Caroline County
Dorchester County—Dorchester County
Garrett County—Garrett County
Kent County—Kent County
Queen Annes County—Queen Annes County
Somerset County—Somerset County
Washington County—Washington County
Wicomico County—Wicomico County
Worcester County—Worcester County

Massachusetts

Acushnet Town—Acushnet Town in Bristol County
Adams Town—Adams Town in Berkshire County
Alford Town—Alford Town in Berkshire County
Ashby Town—Ashby Town in Middlesex County
Ashfield Town—Ashfield Town in Franklin County
Athol Town—Athol Town in Worcester County
Ayer Town—Ayer Town in Middlesex County
Barnstable Town—Barnstable Town in Barnstable County
Becket Town—Becket Town in Berkshire County
Berkley Town—Berkley Town in Bristol County
Blackstone Town—Blackstone Town in Worcester County
Boston City—Boston City in Suffolk County
Bourne Town—Bourne Town in Barnstable County
Boylston Town—Boylston Town in Worcester County
Bridgewater Town—Bridgewater Town in Plymouth County
Brimfield Town—Brimfield Town in Hampden County
Brockton City—Brockton City in Plymouth County
Brookfield Town—Brookfield Town in Worcester County
Carver Town—Carver Town in Plymouth County
Clinton Town—Clinton Town in Worcester County
Cummington Town—Cummington Town in Hampshire County
Dartmouth Town—Dartmouth Town in Bristol County
Dracut Town—Dracut Town in Middlesex County
Dunstable Town—Dunstable Town in Middlesex County
Duxbury Town—Duxbury Town in Plymouth County
Edgartown Town—Edgartown Town in Dukes County
Everett City—Everett City in Middlesex County
Fairhaven Town—Fairhaven Town in Bristol County
Fall River City—Fall River City in Bristol County
Falmouth Town—Falmouth Town in Barnstable County
Florida Town—Florida Town in Berkshire County
Freetown Town—Freetown Town in Bristol County
Gardner Town—Gardner Town in Worcester County
Gloucester City—Gloucester City in Essex County
Granville Town—Granville Town in Hampden County
Greenfield Town—Greenfield Town in Franklin County
Groten Town—Groten Town in Middlesex County
Hanson Town—Hanson Town in Plymouth County
Hardwick Town—Hardwick Town in Worcester County
Harvard Town—Harvard Town in Worcester County
Harwich Town—Harwich Town in Barnstable County
Hatfield Town—Hatfield Town in Hampshire County
Haverhill City—Haverhill City in Essex County
Holbrook Town—Holbrook Town in Norfolk County
Holland Town—Holland Town in Hampden County
Holyoke City—Holyoke City in Hampden County
Hull Town—Hull Town in Plymouth County
Kingston Town—Kingston Town in Plymouth County
Lakeville Town—Lakeville Town in Plymouth County
Lancaster Town—Lancaster Town in Worcester County
Lawrence City—Lawrence City in Essex County
Lee Town—Lee Town in Berkshire County
Leverett Town—Leverett Town in Franklin County

Leyden Town—Leyden Town in Franklin County
Lowell City—Lowell City in Middlesex County
Lunenberg Town—Lunenberg Town in Worcester County
Lynn City—Lynn City in Essex County
Marion Town—Marion Town in Plymouth County
Marshfield Town—Marshfield Town in Plymouth County
Mashpee Town—Mashpee Town in Barnstable County
Mattapoisett Town—Mattapoisett Town in Plymouth County
Medway Town—Medway Town in Norfolk County
Mendon Town—Mendon Town in Worcester County
Merrimac Town—Merrimac Town in Essex County
Methuen Town—Methuen Town in Essex County
Middleborough Town—Middleborough Town in Plymouth County
Middlefield Town—Middlefield Town in Hampshire County
Millis Town—Millis Town in Norfolk County
Millville Town—Millville Town in Worcester County
Monroe Town—Monroe Town in Franklin County
Montague Town—Montague Town in Franklin County
Montgomery Town—Montgomery Town in Hampden County
New Ashford Town—New Ashford Town in Berkshire County
New Bedford City—New Bedford City in Bristol County
New Marlborough Town—New Marlborough Town in Berkshire County
Newburyport City—Newburyport City in Essex County
North Adams Town—North Adams Town in Berkshire County
Orleans Town—Orleans Town in Barnstable County
Phillipston Town—Phillipston Town in Worcester County
Plainfield Town—Plainfield Town in Hampshire County
Plymouth Town—Plymouth Town in Plymouth County
Plympton Town—Plympton Town in Plymouth County
Provincetown Town—Provincetown Town in Barnstable County
Rehoboth Town—Rehoboth Town in Bristol County
Revere City—Revere City in Suffolk County
Rochester Town—Rochester Town in Plymouth County
Rockland Town—Rockland Town in Plymouth County
Rockport Town—Rockport Town in Essex County
Rowley Town—Rowley Town in Essex County
Royalston Town—Royalston Town in Worcester County
Salem City—Salem City in Essex County
Salisbury Town—Salisbury Town in Essex County
Sandwich Town—Sandwich Town in Barnstable County
Savoy Town—Savoy Town in Berkshire County
Shirley Town—Shirley Town in Middlesex County
Sommerville City—Sommerville City in Middlesex County
Stoughton Town—Stoughton Town in Norfolk County
Taunton City—Taunton City in Bristol County
Tolland Town—Tolland Town in Hampden County
Tyringham Town—Tyringham Town in Berkshire County
Upton Town—Upton Town in Worcester County
Ware Town—Ware Town in Hampshire County
Wareham Town—Wareham Town in Plymouth County
Wellfleet Town—Wellfleet Town in Barnstable County
West Tisbury Town—West Tisbury Town in Dukes County
Westford Town—Westford Town in Middlesex County
Westport Town—Westport Town in Bristol County
Windsor Town—Windsor Town in Berkshire County
Worthington Town—Worthington Town in Hampshire County

Michigan

Alcona County—Alcona County
Alger County—Alger County
Alpena County—Alpena County
Antrim County—Antrim County
Arenac County—Arenac County
Baraga County—Baraga County
Benzie County—Benzie County
Berrien County—Berrien County
Charlevoix County—Charlevoix County
Cheboygan County—Cheboygan County
Chippewa County—Chippewa County
Clare County—Clare County
Crawford County—Crawford County
Delta County—Delta County
Detroit City—Detroit County in Wayne County
East Lansing City—East Lansing City in Ingham County
Emmet County—Emmet County
Flint city—Flint City in Genesee County
Gladwin County—Gladwin County
Gogebic County—Gogebic County
Gratiot County—Gratiot County
Houghton County—Houghton County
Huron County—Huron County
Ionia County—Ionia County
Iosco County—Iosco County
Iron County—Iron County
Kalkaska County—Kalkaska County
Keweenaw County—Keweenaw County
Lake County—Lake County
Leelanau County—Leelanau County
Lenawee County—Lenawee County
Luce County—Luce County
Mackinac County—Mackinac County
Manistee County—Manistee County
Marquette County—Marquette County
Mason County—Mason County
Balance of Midland County—Midland County less Midland City—Midland
Missaukee County—Missaukee County
Montcalm County—Montcalm County
Montmorency County—Montmorency County
Muskegon County—Muskegon County
Newaygo County—Newaygo County
Oceana County—Oceana County
Ogemaw County—Ogemaw County
Ontonagon County—Ontonagon County
Osceola County—Osceola County
Oscoda County—Oscoda County
Otsego County—Otsego County
Pontiac City—Pontiac City in Oakland County
Presque Isle County—Presque Isle County
Roscommon County—Roscommon County
Sanilac County—Sanilac County
Schoolcraft County—Schoolcraft County
Shiawasee County—Shiawasee County
St. Clair County—St. Clair County
Tuscola County—Tuscola County
Waterford Township—Waterford Township in Oakland County
Wexford County—Wexford County

Minnesota

Aitkin County—Aitkin County
Clearwater County—Clearwater County
Hubbard County—Hubbard County
Itasca County—Itasca County
Mahnomen County—Mahnomen County
Marshall County—Marshall County
Morrison County—Morrison County
Red Lake County—Red Lake County
Roseau County—Roseau County

Mississippi

Adams County—Adams County
Alcorn County—Alcorn County
Attala County—Attala County
Benton County—Benton County
Biloxi City—Biloxi City in Harrison County
Bolivar County—Bolivar County
Coahoma County—Coahoma County
George County—George County
Greene County—Greene County
Grenada County—Grenada County
Hancock County—Hancock County
Holmes County—Holmes County
Humphreys County—Humphreys County
Jefferson County—Jefferson County
Jefferson Davis County—Jefferson Davis County
Kemper County—Kemper County
Leflore County—Leflore County
Madison County—Madison County
Marion County—Marion County
Marshall County—Marshall County
Montgomery County—Montgomery County
Noxubee County—Noxubee County
Panola County—Panola County
Pearl River County—Pearl River County
Quitman County—Quitman County
Sharkey County—Sharkey County
Sunflower County—Sunflower County
Tallahatchie County—Tallahatchie County
Tate County—Tate County
Tunica County—Tunica County
Warren County—Warren County
Washington County—Washington County
Wayne County—Wayne County
Wilkinson County—Wilkinson County
Winston County—Winston County
Yazoo County—Yazoo County

Missouri

Bollinger County—Bollinger County
Butler County—Butler County
Franklin County—Franklin County
Moniteau County—Moniteau County
Morgan County—Morgan County
Oregon County—Oregon County
Ripley County—Ripley County
Shannon County—Shannon County
Washington County—Washington County
Wayne County—Wayne County

Montana

Deer Lodge County—Deer Lodge County
Flathead County—Flathead County
Glacier County—Glacier County
Granite County—Granite County
Jefferson County—Jefferson County
Lincoln County—Lincoln County
Mineral County—Mineral County
Ravalli County—Ravalli County
Sanders County—Sanders County
Silver Bow County—Silver Bow County

Nebraska

Thurston County—Thurston County

Nevada

Carson City—Carson City
Lyon County—Lyon County
White Pine County—White Pine County

New Jersey

Atlantic County—Atlantic County
Bayonne City—Bayonne City in Hudson County
Burlington County—Burlington County
Camden City—Camden City in Camden County
Cape May County—Cape May County
Balance of Cumberland County—Cumberland County less Vineland City
East Orange City—East Orange City in Essex County
Elizabeth City—Elizabeth City in Union County
Gloucester County—Gloucester County
Balance of Hudson County—Hudson County less Bayonne City, Jersey City, Union City
Irvington City—Irvington City in Essex County
Jersey City—Jersey City in Hudson County
Balance of Monmouth County—Monmouth County less Middletown Township
Newark City—Newark City in Essex County
Balance of Ocean County—Ocean County less Brick Township, Dover Township
Passaic City—Passaic City in Passaic County
Paterson City—Paterson City in Passaic County
Sussex County—Sussex County
Trenton City—Trenton City in Mercer County
Union City—Union City in Hudson County
Vineland City—Vineland City in Cumberland County
Warren County—Warren County

New Mexico

Guadalupe County—Guadalupe County
Luna County—Luna County
Mora County—Mora County
Rio Arriba County—Rio Arriba County
San Miguel County—San Miguel County
Taos County—Taos County

New York

Allegany County—Allegany County
Babylon Town—Babylon Town in Suffolk County
Binghamton City—Binghamton City in Broome County
Brookhaven Town—Brookhaven Town in Suffolk County
Buffalo City—Buffalo City in Erie County
Cattaraugus County—Cattaraugus County
Cayuga County—Cayuga County
Chemung County—Chemung County
Chenango County—Chenango County
Clinton County—Clinton County
Columbia County—Columbia County
Cortland County—Cortland County
Essex County—Essex County
Franklin County—Franklin County
Fulton County—Fulton County
Genesee County—Genesee County
Greene County—Green County
Hamburg Town—Hamburg Town in Erie County
Hamilton County—Hamilton County
Hempstead Town—Hempstead Town in Nassau County
Herkimer County—Herkimer County
Jefferson County—Jefferson County
Lewis County—Lewis County
Montgomery County—Montgomery County
Mount Vernon City—Mount Vernon City in Westchester County
Balance of Nassau County—Nassau County less Hempstead Town, North Hempstead Town, Oyster Bay Town
New York City—New York City in Bronx County, Kings County, New York County, Queens County, Richmond County
Niagara Falls City—Niargara Falls City in Niagara County
Ontario County—Ontario County
Orange County—Orange County
Oswego County—Oswego County
Ramapo Town—Ramapo Town in Rockland County
Rochester City—Rochester City in Monroe County
Balance of Rockland County—Rockland County less Clarkstown Town, Orangetown Town, Ramapo Town
Rome City—Rome City in Oneida County
Schoharie County—Schoharie County
Schuyler County—Schuyler County
St. Lawrence County—St. Lawrence County
Balance of Suffolk County—Suffolk County less Babylon Town, Brookhaven Town, Huntington Town, Islip Town, Smithtown Town
Sullivan County—Sullivan County
Syracuse City—Syracuse City in Onondaga County
Ulster County—Ulster County
Utica City—Utica City in Oneida County
Warren County—Warren County
Washington County—Washington County
Wayne County—Wayne County
Wyoming County—Wyoming County
Yates County—Yates County

North Carolina

Bertie County—Bertie County
Bladen County—Bladen County
Brunswick County—Brunswick County
Cherokee County—Cherokee County
Balance of Cumberland County—Cumberland County less Fayetteville City
Balance of Edgecombe County—Edgecombe County less Rocky Mount City—Edgecomb
Graham County—Graham County
Greene County—Greene County
Halifax County—Halifax County
Hoke County—Hoke County
Hyde County—Hyde County
Martin County—Martin County
Pamlico County—Pamlico County
Robeson County—Robeson County
Swain County—Swain County
Tyrrell County—Tyrrell County
Warren County—Warren County
Wilmington City—Wilmington City in New Hanover County

North Dakota

Kidder County—Kidder County
McHenry County—McHenry County
Rolette County—Rolette County

Ohio

Adams County—Adams County
Hocking County—Hocking County
Jackson County—Jackson County
Lawrence County—Lawrence County
Lima City—Lima City in Allen County
Mansfield City—Mansfield City in Richland County
Noble County—Noble County
Ottawa County—Ottawa County
Pike County—Pike County
Scioto County—Scioto County
Youngstown City—Youngstown City in Mahoning County

Oklahoma

Coal County—Coal County
Haskell County—Haskell County
Hughes County—Hughes County
Latimer County—Latimer County
McIntosh County—McIntosh County
Okmulgee County—Okmulgee County
Pittsburg County—Pittsburg County
Pushmataha County—Pushmataha County

Oregon

Clatsop County—Clatsop County
Columbia County—Columbia County
Coos County—Coos County
Crook County—Crook County
Curry County—Curry County
Douglas County—Douglas County
Hood River County—Hood River County
Josephine County—Josephine County
Balance of Lane County—Lane County less Eugene City
Union County—Union County
Wallowa County—Wallowa County
Wheeler County—Wheeler County

Pennsylvania

Abington Township—Abington Township in Montgomery County
Armstrong County—Armstrong County
Bedford County—Bedford County
Bristol Township—Bristol Township in Bucks County
Cambria County—Cambria County
Cameron County—Cameron County
Chester City—Chester City in Delaware County
Clearfield County—Clearfield County
Clinton County—Clinton County

Columbia County—Columbia County
Crawford County—Crawford County
Elk County—Elk County
Fayette County—Fayette County
Fulton County—Fulton County
Greene County—Greene County
Huntingdon County—Huntingdon County
Juniata County—Juniata County
Balance of Lackawanna County—Lackawanna County less Scranton City
Lancaster City—Lancaster City in Lancaster County
Balance of Luzerne County—Luzerne County less Wilkes-Barre City
Lycoming County—Lycoming County
McKean County—McKean County
Mifflin County—Mifflin County
Monroe County—Monroe County
Northumberland County—Northumberland County
Philadelphia City—Philadelphia City in Philadelphia County
Pittsburgh City—Pittsburgh City in Allegheny County
Potter County—Potter County
Reading City—Reading City in Berks County
Schuylkill County—Schuylkill County
Scranton City—Scranton City in Lackawanna County
Somerset County—Somerset County
Sullivan County—Sullivan County
Tioga County—Tioga County
Wayne County—Wayne County
Westmoreland County—Westmoreland County
Wilkes-Barre City—Wilkes-Barre City in Luzerne County
Wyoming County—Wyoming County
York City—York City in York County

Puerto Rico

Aguadilla Municipio—Aguadilla Municipio in Puerto Rico
Arecibo Municipio—Arecibo Municipio in Puerto Rico
Bayamon Municipio—Bayamon Municipio in Puerto Rico
Caguas Municipio—Caguas Municipio in Puerto Rico
Guayanabo Municipio—Guayanabo Municipio in Puerto Rico
Mayaguez Municipio—Mayaguez Municipio in Puerto Rico
Ponce Municipio—Ponce Municipio in Puerto Rico
Balance of Puerto Rico—Puerto Rico less Aguadilla Municipio, Arecibo Municipio, Bayamon Municipio, Caguas Municipio, Carolina Municipio, Guaynabo Municipio, Mayaguez Municipio, Ponce Municipio, San Juan Municipio, Toa Baja Municipio
San Juan Municipio—San Juan Municipio in Puerto Rico
Toa Baja Municipio—Toa Baja Municipio in Puerto Rico

Rhode Island

Burrillville Town—Burrillville Town
Charlestown Town—Charletown Town
Coventry Town—Coventry Town
East Greenwich Town—East Greenwich Town
Foster Town—Foster Town
Glocester Town—Glocester Town
Hopkinton Town—Hopkinton Town
Johnston Town—Johnston Town
New Shoreham Town—New Shoreham Town
Newport City—Newport City
North Kingstown Town—North Kingstown Town
North Smithfield Town—North Smithfield Town
Pawtucket City—Pawtucket City
Providence City—Providence City
Richmond Town—Richmond Town
Scituate Town—Scituate Town
West Warwick Town—West Warwick Town
Woonsocket City—Woonsocket City

South Carolina

Barnwell County—Barnwell County
Dillon County—Dillon County
Florence County—Florence County
Georgetown County—Georgetown County
Jasper County—Jasper County
Marion County—Marion County
Marlboro County—Marlboro County
McCormick County—McCormick County
North Charleston City—North Charleston City in Charleston County
Sumter County—Sumter County
Union County—Union County

South Dakota

Buffalo County—Buffalo County
Dewey County—Dewey County
Shannon County—Shannon County
Washabaugh County—Washabaugh County

Tennessee

Campbell County—Campbell County
Carter County—Carter County
Cocke County—Cocke County
Cumberland County—Cumberland County
Decatur County—Decatur County
Fayette County—Fayette County
Fentress County—Fentress County
Gibson County—Gibson County
Grainger County—Grainger County
Grundy County—Grundy County
Hancock County—Hancock County
Hardin County—Hardin County
Haywood County—Haywood County
Henderson County—Henderson County
Houston County—Houston County
Jackson County—Jackson County
Lake County—Lake County
Lawrence County—Lawrence County
Loudon County—Loudon County
McMinn County—McMinn County
McNairy County—McNairy County
Meigs County—Meigs County
Monroe County—Monroe County
Overton County—Overton County
Pickett County—Pickett County
Balance of Roane County—Roane County less Oak Ridge City—Roane
Scott County—Scott County
Sevier County—Sevier County
Stewart County—Stewart County
Wayne County—Wayne County

Texas

Brownsville City—Brownsville City in Cameron County
Balance of Cameron County—Cameron County less Brownsville City
Dimmit County—Dimmit County
El Paso City—El Paso City in El Paso County
Balance of El Paso County—El Paso County less El Paso City
Galveston City—Galveston City in Galveston County
Balance of Hidalgo County—Hidalgo County less McAllen City
Killeen City—Killeen City in Bell County
La Salle County—La Salle County
Laredo City—Laredo City in Webb County
Loving County—Loving County
Maverick County—Maverick County
McAllen City—McAllen City in Hidalgo County
Port Arthur City—Port Arthur City in Jefferson County
Balance of Potter County—Potter County less Amarillo City—Potter
Sabine County—Sabine County
Starr County—Starr County
Val Verde County—Val Verde County
Waller County—Waller County
Balance of Webb County—Webb County less Laredo City
Willacy County—Willacy County
Zapata County—Zapata County
Zavala County—Zavala County

Utah

Garfield County—Garfield County
Sanpete County—Sanpete County
Wasatch County—Wasatch County

Vermont

Essex County—Essex County
Grand Isle County—Grand Isle County
Orleans County—Orleans County

Virginia

Bath County—Bath County
Brunswick County—Brunswick County
Buchanan County—Buchanan County
Caroline County—Caroline County
Craig County—Craig County
Danville City—Danville City
Dickenson County—Dickenson County
Grayson County—Grayson County
King and Queen County—King and Queen County
Lancaster County—Lancaster County
Lunenburg County—Lunenburg County
Mecklenburg County—Mecklenburg County
Northampton County—Northampton County
Northumberland County—Northumberland County
Richmond County—Richmond County
Rockbridge County—Rockbridge County
Russell County—Russell County
Smyth County—Smyth County
South Boston City—South Boston City
Suffolk City—Suffolk City
Sussex County—Sussex County
Westmoreland County—Westmoreland County
Williamsburg City—Williamsburg City

Washington

Chelan County—Chelan County
Clallam County—Clallam County
Columbia County—Columbia County
Cowlitz County—Cowlitz County
Douglas County—Douglas County
Everett City—Everett City in Snohomish County
Ferry County—Ferry County
Grant County—Grant County
Grays Harbor County—Grays Harbor County
Island County—Island County
Kittitas County—Kittitas County

Klickitat County—Klickitat County
Lewis County—Lewis County
Okanogan County—Okanagan County
Pacific County—Pacific County
Pend Oreille County—Pend Oreille County
Balance of Pierce County—Pierce County less Tacoma City
Skagit County—Skagit County
Skamania County—Skamania County
Stevens County—Stevens County
Tacoma City—Tacoma City in Pierce County
Whatcom County—Whatcom County
Yakima City—Yakima City in Yakima County
Balance of Yakima County—Yakima County less Yakima City

West Virginia

Boone County—Boone County
Braxton County—Braxton County
Calhoun County—Calhoun County
Clay County—Clay County
Doddridge County—Doddridge County
Fayette County—Fayette County
Grant County—Grant County
Greenbrier County—Greenbrier County
Jackson County—Jackson County
Lewis County—Lewis County
Lincoln County—Lincoln County
Logan County—Logan County
McDowell County—McDowell County
Mingo County—Mingo County
Monroe County—Monroe County
Nicholas County—Nicholas County
Preston County—Preston County
Randolph County—Randolph County
Ritchie County—Ritchie County
Roane County—Roane County
Summers County—Summers County
Taylor County—Taylor County
Tucker County—Tucker County
Webster County—Webster County
Wyoming County—Wyoming County

Wisconsin

Ashland County—Ashland County
Kentucky
Covington City—Covington City in Kenton County
Massachusetts
Bellingham Town—Bellingham Town in Norfolk County
Cambridge City—Cambridge City in Middlesex County
Chelsea City—Chelsea City in Suffolk County
Malden City—Malden City in Middlesex County
Nahant Town—Nahant Town in Essex County
Pembroke Town—Pembroke Town in Plymouth County
Quincy City—Quincy City in Norfolk County
Stoneham Town—Stoneham Town in Middlesex County
Wakefield Town—Wakefield Town in Middlesex County
Watertown Town—Watertown Town in Middlesex County
Wilmington Town—Wilmington Town in Middlesex County
Winthrop Town—Winthrop Town in Suffolk County
Missouri
St. Louis City—St. Louis City in St. Louis City
New York
New Rochelle City—New Rochelle City in Westchester County
Yonkers City—Yonkers City in Westchester County
Ohio
Cincinnati City—Cincinnati City in Hamilton County
Cleveland City—Cleveland City in Cuyahoga County
Bayfield County—Bayfield County
Burnett County—Burnett County
Douglas County—Douglas County
Florence County—Florence County
Forest County—Forest County
Iron County—Iron County
Kenosha City—Kenosha City in Kenosha County
Menominee County—Menominee County
Sawyer County—Sawyer County
Washburn County—Washburn County

Signed at Washington, D.C., this 25th day of May, 1979.

William B. Hewitt.

Administrator, Office of Policy, Evaluation and Research.

[FR Doc. 79-16990 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-30-M

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal Assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 29th day of May 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

Applications Received During the Week Ending May 25, 1979

Name of Applicant and Location of Enterprise and Principal Product or Activity

Millsap Processed Foods, Inc., Rissellville, Ark.—further processing of poultry.
Areolite, Inc., Thomson, Ga.—manfacture of plastic drinkware.
Serbin Fasions, Inc., West Fayetteville, Tenn.—Manufacture of ladies' ready-to-wear dresses and coats.

[FR Doc. 79-17153 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-49-C]

Five M Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Five M Coal Company, Inc., P.O. Box 128, Turkey Creek, Ky. 41570 has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its No. 1 Mine located in Pike County, Ky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the installation of canopies on the petitioner's scoops, cutting machine, and roof bolting machine.

2. The petitioner is mining coal seams ranging from 38 to 50 inches height.

3. Undulations in the coal seam would necessitate the use of a low canopy configuration to prevent the canopy from dislodging and possibility destroying roof support.

4. Such a configuration would allow vertical space of only 23 inches in the operating compartment, thereby limiting the equipment operator's view of surrounding mining conditions and of other miners.

5. For these reasons the petitioner feels that the application of the standard to its mine would result in a reduction of the safety to its miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 2, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Date: May 22, 1979.

Eckehard Muessig,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-17107 Filed 5-31-79; 8:45 am]

[BILLING CODE 4510-43-M

[Docket No. M-79-50-C]

Polcovich Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Polcovich Coal Company, Centralia, Pa. 17927, has filed a petition to modify the application of 30 CFR 75.301 (air flow), to its No. 3 Mine, located in Columbia County, Pa. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

(1) Air sample analysis reveals that harmful quantities of methane are nonexistent in the petitioner's mine.

(2) There is no history of ignition, explosion or fire in the mine.

(3) There is no history of harmful quantities of carbon dioxide and other noxious or harmful gases in the mine.

(4) Mine dust sampling programs have revealed extremely low concentrations of responsible dust.

(5) Extremely high velocities of air in small cross-sectional areas or airways and manways in friable anthracite veins present a hazard of dangerous flying objects.

(6) High velocities and large quantities of air cause extremely uncomfortable damp and cold conditions in the already uncomfortable wet mine.

(7) Difficulty in keeping miners on the job and securing additional mine help is due primarily to these conditions.

(8) For these reasons petitioner requests that for its mine the minimum quantity of air reaching each working face be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last crosscut in any pair of developing entries be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of the pillar line be 5,000 cubic feet a minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

(9) The petitioner states that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 2, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 5015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 24, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-17108 Filed 5-31-79; 8:45 am]

[BILLING CODE 4510-43-M

Office of the Secretary

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 11, 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 June 11, 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, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of May 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Anderson & Anderson Contractors, Anderson Strip Mine (U.M.W.A.).	Raleigh County, W. Va.	5/14/79	5/10/79	TA-W-5,451	Contract mining of coal.
Anderson & Anderson Contractor, Anderson Strip Mine (U.M.W.A.).	McDowell County, W. Va.	5/14/79	5/10/79	TA-W-5,452	Contract mining of coal.
Beaunit Corporation (workers)	New York, N.Y	5/12/79	4/9/79	TA-W-5,453	Company headquarters and sales office.
Cobbler's Inc. (company)	Williamsport, Pa	5/21/79	5/17/79	TA-W-5,454	Women's footwear.
Hull Dye & Print Works, Inc. (Machine Printers & Engravers Assoc.).	Derby, Conn	5/21/79	5/14/79	TA-W-5,455	Processing, printing and dyeing of all text materials.
Island Creek Coal Company, Mine #1 and #1a (U.M.W.A.).	Amherstdale, W. Va	5/21/79	5/16/79	TA-W-5,456	Mining of coal.
Jones & Laughlin Steel Corp. (workers)	Saddlebrook, N.J	5/2/79	4/25/79	TA-W-5,457	District sales office.
King Powellton Mining, Inc. (U.M.W.A.)	Kingston, W. Va	5/16/79	5/10/79	TA-W-5,458	Mining of coal.
Roberts & Shaefer (workers)	Beckley, W. Va	5/16/79	4/26/79	TA-W-5,459	Contract construction work of preparation plants.
Roseburg Shingle & Studal (Shingle Weavers Union).	Roseburg, Oreg	5/18/79	5/14/79	TA-W-5,460	Lumber and shingle.
Sharples Coal Co. (U.M.W.A.)	Sharples, W. Va	5/18/79	5/15/79	TA-W-5,461	Mining of coal.
Smith & Stover, Inc. Hunter Mine (U.M.W.A.)	Raleigh County, W. Va	5/15/79	5/11/79	TA-W-5,462	Mining of coal.
Tobin Hamilton Co., Inc. (workers)	Birch Tree, Mo	5/4/79	5/1/79	TA-W-5,463	Cutting and fitting of children's shoes.
TRED 2, Inc. (workers)	Dover, N.H	5/18/79	5/16/79	TA-W-5,464	Athletic shoes.
Viancha Handbags (company)	New Haven, Conn	5/22/79	5/17/79	TA-W-5,465	Vinyl (polyurethane) handbags.
Welico Enterprises, Inc. (company)	Waynesville, N.C	5/24/79	5/23/79	TA-W-5,466	Men's work shoes, and fabric casuals, ladies' fabric, leather, plastic casuals and duty shoes and children's footwear.
Xcello Corporation (U.M.W.A.)	Kingston, W. Va	5/16/79	5/10/79	TA-W-5,467	Mining of coal.

[FR Doc. 79-17111 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 11, 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 June 11, 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, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 22nd day of May 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of.—	Location	Date received	Date of petition	Petition No.	Articles produced
Arkay Pants Co. (workers)	Fall River, Mass	5/18/79	5/10/79	TA-W-5,441	Men's and boy's outerwear.
General Gelatin Co. (workers)	Winchester, Mass	5/18/79	5/11/79	TA-W-5,442	Gelatin.
Ilene Sportswear Company, Inc. (ILGWU)	Elizabeth, N.J	5/11/79	5/7/79	TA-W-5,443	Ladies' sportswear.
R. D. Lunts Lobster Wharf (workers)	Southwest Harbor, Maine	5/18/79	5/7/79	TA-W-5,444	Wholesale and retail lobster.
Novelty Sportswear Company (ACTWU)	St. Louis, Mo	5/14/79	5/9/79	TA-W-5,445	Leather outerwear.
Q-T Shoe Manufacturing Co., Inc. (company)	Paterson, N.J	5/18/79	5/15/79	TA-W-5,446	Adult's shoes—mainly women's.
Sarama Lighting Pennsylvania (USWA)	West Hazleton, Pa	5/18/79	5/4/79	TA-W-5,447	Light fixtures.
Torwico Electronics (International Union of Electrical, Radio & Machine Workers).	Lakewood, N.J	5/18/79	5/10/79	TA-W-5,448	Transformers.
Weldon Manufacturing Company (ACTWU)	Williamsport, Pa	5/14/79	5/9/79	TA-W-5,449	Pajamas and robes.
Zwicker Knitting Mills (ACTWU)	Appleton, Wis	5/14/79	4/25/79	TA-W-5,450	Knitted accessories (scarfs, hats, gloves, etc).

[FR Doc. 79-17112 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

Labor Advisory Committees for Multilateral Trade Negotiations; Renewal

Notice is hereby given of the renewal, after consultation with the Special Representative for Trade Negotiations and the General Services Administration, of the following advisory committees: Labor Policy Advisory Committee for Multilateral Trade Negotiations, and the six Labor Sector Advisory Committees for Multilateral Trade Negotiations on:

I. Electrical and Electronic Equipment and Supplies, and Non-electrical Machinery.
II. Food and Agricultural Products and Chemical, Plastic and Rubber Products.
III. Services.
IV. Textile, Apparel and Leather Products and Miscellaneous Manufacturing Industries.
V. Lumber, Wood and Paper Products, and Stone, Clay and Glass Products.
VI. Transportation Equipment and Primary and Fabricated Metal Products.

The purpose of these committees is to provide advice to the Secretary and the Special Representative for Trade Negotiations in respect to multilateral trade negotiations pursuant to Section 135(c) of the Trade Act of 1974 (Pub. L. 93–618, 19 U.S.C. 2155).

The renewal of such committees is in the public interest in connection with the duties of the Department imposed by the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of May, 1979.

Howard D. Samuel,
Deputy Under Secretary International Affairs.

[FR Doc. 79–17106 Filed 5–31–79; 8:45 am]
BILLING CODE 4510–28–M

[TA–W–5005]

American Crystal Sugar Co., Clarksburg, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 21, 1979 in response to a worker petition received on March 15, 1979 which was filed by the Distillery, Wine and Allied Workers' International Union of America on behalf of workers and former workers producing refined beet sugar at American Crystal Sugar Company, Clarksburg, California. 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.

American Crystal Sugar Company's aggregate sales increased in 1978 compared to 1977. The Clarksburg factory's sales increased in 1978 compared to 1977. Total production of American Crystal Sugar Company increased in 1978 compared to 1977. Production at the Clarksburg plant decreased in 1978 compared to 1977 primarily because weather conditions delayed planting and harvesting for the 1978 fall campaign.

During the last two crop years, weather has been a dominant factor in determining the production at the Clarksburg factory. Contracted acreage for the 1977 crop (1977 fall and 1978 spring campaigns) was below that for the 1976 record crop because of the drought conditions and the uncertainty about available irrigation water.

Acreage contracted for the 1978 crop (1978 fall and 1979 spring campaigns) was above that for any crop year during the last ten years with the exception of 1976. However, contracted acreage could not be planted because rains delayed planting during spring 1978. The late planting delayed and shortened the 1978 fall harvest campaign. Planted acreage not harvested during the 1978 fall campaign will be harvested during the 1979 spring campaign.

Conclusion

After careful review, I determine that all workers of American Crystal Sugar Company, Clarksburg, California 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 18th day of May 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79–17110 Filed 5–31–79; 8:45 am]
BILLING CODE 4510–23–M

[TA–W–5217]

Autocrat Corp., New Athens, Ill.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 12, 1979, in response to a worker petition received on April 10, 1979, which was filed by the International Molders' and Allied Workers' Union on behalf of workers and former workers producing wood burning stoves and heaters. The Department's investigation revealed that Autocrat produces wood and coal burning stoves, heaters and accessories. Accessories are an insignificant percentage of Autocrat's sales and production. It is concluded that all of the requirements have been met.

U.S. imports of cast-iron household stoves increased in 1977 compared to 1976 and increased in 1978 compared to 1977.

U.S. imports of gas, oil, wood and coal burning heaters increased in 1977 compared to 1976 and in 1978 compared to 1977.

The Department conducted a survey of major customers of the subject firm. Customers representing a significant

proportion of the subject firm's sales in 1977 and 1978 made a decision to terminate orders from Autocrat Corporation in 1978. These customers increased purchases of imported wood and coal burning stoves and heaters from 1977 to 1978.

Conclusion

After careful reveiw of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with wood and coal burning stoves and heaters produced at Autocrat Corporation, New Athens, Illinois 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 Autocrat Corporation, New Athens, Illinois who became totally or partially separated from employment on or after September 8, 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17113 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4584]

Bishop Coal Co., McDowell County, W. Va.; Negative Determination Regarding Application for Reconsideration

By letter of April 4, 1979, the petitioning union 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 mining and preparing metallurgical coal at Bishop Coal Company, Pocahontas, Virginia. The determination was published in the **Federal Register** on March 16, 1979 (44 FR 16048).

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 petitioning union claims that Bishop's customers have recently begun to make purchases of imported metallurgical coal.

The Department's review revealed that the "contributed importantly" test was not met by workers at Bishop Coal Company. The only domestic purchases of metallurgical coal from Bishop in the period April through November 1978 compared to the same period in 1977. No customer reported purchases of imported metallurgical coal. The Department does not agree with the petitioning union's claim that Bishop's customers have recently begun to purchase imported metallurgical coal is sufficient to rebut basis upon which the Department's original denial was predicated upon.

Conclusion

After review of the application and the investigative file I conclude 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 18th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17114 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5313, 5314]

Blair Electric Service Co., Raleigh County, W. Va., Wyoming County, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 30, 1979, in response to a worker petition received on April 23, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers engaged in constructing preparation plants at Blair Electric Service Company, Raleigh and Wyoming Counties, West Virginia.

Blair Electric Service Company, Raleigh and Wyoming Counties, West Virginia is engaged in providing the service of electrical construction of coal preparation plants.

Thus, workers of Blair Electric Service Company, Raleigh and Wyoming Counties, West Virginia do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Blair Electric Service Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Blair Electric Service Company and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in electrical construction at Blair Electric Service Company, Raleigh and Wyoming Counties, West Virginia, are employed by that firm. All personnel actions and payroll transactions are controlled by Blair Electric Service Company. All employee benefits are provided and maintained by Blair Electric Service Company. Workers are not, at any time, under employment or supervision by customers of Blair Electric Service Company. Thus, Blair Electric Service Company, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Blair Electric Service Company, Raleigh and Wyoming Counties, West Virginia are denied eligibiity to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17115 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5118]

Bock Coal Co., Inc., Lynco, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 5, 1979, in response to a worker petition received on April 2, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at Bock Coal Company, Incorporated, Lynco, West Virginia. In the following determination, at least one of the criteria 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 productions.

Bock Coal Company mines metallurgical coal on a contract basis for a larger coal company. Neither this larger coal company nor Bock Coal imports any coal or coke. The larger company's total sales of metallurgical coal increased in terms of quantity in 1978 compared with 1977, despite the United Mine Workers' three-month and the Norfolk and Western Railroad strike, both in 1978. The company's sales also increased in the first quarter of 1979 compared with the like period of 1977. The first quarter of 1978 was not used for comparison because of the United Mine Workers' strike during the period.

Conclusion

After careful review, I determine that all workers of Bock Coal Company, Incorporated, Lynco, West Virginia 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 22nd day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17116 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5087]

Buffalo Mining Co., Lorado, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 30, 1979 in response to a worker petition received on March 26, 1979 which was filed on behalf of workers and former workers mining coal at the Buffalo Mining Company, Lorado, West Virginia. The investigation revealed that the plant produces primarily metallurgical coal. In the following determination, without regard to whether any of the other cirteria 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 the only decreases in sales or production at Buffalo Mining Company were the result of the U.M.W.A. strike. Production at the Buffalo Mining Company increased during the April through November period of 1978 compared to the same period of 1977 and in the first quarter of 1979 compared to the fourth quarter of 1978. A strike by the United Mine Workers of America, which lasted from December 6, 1977 through March 27, 1978, halted mining during that period. Sales are equal to production.

Conclusion

After careful review, I determine that all workers of the Buffalo Mining Company, Lorado, West Virginia 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 25th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-17117 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5334]

Cementation Co. of America, Inc., Raleigh County, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was intiated on May 2, 1979 in response to a worker petition received on April 23, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers of Cementation Company of America, Incorporated, Raleigh County, West Virginia, engaged in contract construction work for coal companies. The investigation revealed that the legal title of the firm is The Cementation Company of America, Incorporated.

The subject firm is a subsidiary of Trollope and Colls Cementation Subsidiaries, Limited, and is affiliated with several construction companies.

The Cementation Company of America, Incorporated is engaged in providing the service of shaft and slope construction for coal companies.

Thus, workers of The Cementation Company of America, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from the parent firm, a firm otherwise related to the Cementation Company of America, Incorporated by ownership, or firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and

that reduction must directly relate to the product impacted by imports.

The Cementation Company of America, Incorporated and its customers have no controlling interest in one another. Neither the parent firm nor any affiliated companies produce an article.

All workers engaged in shaft and slope construction work at The Cementation Company of America, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by The Cementation Company of Amnerica, Incorporated. All employee benefits are provided and maintained by the Cementation Company of America, Incorporated. Workers are not, at any time under employment or supervision by customers of The Cementation Company of America, Incorporated. Thus, the Cementation Company of America, Incorporated and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of the Cementation Company of America, Raleigh County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17118 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5149]

Chloe Trucking Corp., Jolo, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 5, 1979 in response to a worker petition received on April 2, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers of Chloe Trucking Corporation, Jolo, West Virginia, a contract hauler.

Chloe Trucking Corporation is engaged in providing the service of transporting coal by truck from a customer's mine.

Thus, workers of Chloe Trucking Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Chloe Trucking Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Chloe Trucking Corporation and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting coal by truck at Chloe Trucking Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by Chloe Trucking Corporation. Employee benefits, with the exception of hospitalization insurance are provided and maintained by Chloe Trucking Corporation. Workers are not, at any time, under employment or supervision by customers of Chloe Trucking Corporation. Thus, Chloe Trucking Corporation, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Chloe Trucking Corporation, Jolo, West Virginia 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 22nd day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17119 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4585 A-P]

Consolidation Coal Co, Southern Appalachia Region; Negative Determination Regarding Application for Reconsideration

A. Eckman Operation, McDowell County, West Virginia;

B. Maitland Operation, McDowell County, West Virginia;

C. Crane Creek Operation, Mercer County, West Virginia;

D. Beechfork Operation, McDowell County, West Virginia;

E. Jenkins Jones Operation, McDowell County, West Virginia;

F. Buckeye Operation, Wyoming County, West Virginia;

G. Turkey Gap Operation, Mercer County, West Virginia;

H. Eckman Page Operation, McDowell County, West Virginia;

I. Coal Bank Strip Operation, McDowell County, West Virginia;

J. Three Forks Strip Operation, McDowell County, West Virginia;

K. Horsepen Strip Operation, McDowell County, West Virginia;

L. Reed Strip Operation, McDowell County, West Virginia;

M. Pocahontas Reclaim Plant, Tazewell County, Virginia;

N. Pageton Preparation Plant, McDowell County, West Virginia;

O. Amonate Operation, McDowell County, West Virginia;

P. Rowland Operation, Raleigh County, West Virginia.

By letter of April 4, 1979, the petitioning union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Elgibility to Apply for Worker Adjustment Assistance in the case of workers and former workers mining and preparing coal at facilities of Consolidation Coal Company, Southern Appalachia Region, Pocahontas, Virginia. The determination was published in the **Federal Register** on March 27, 1979, (44 FR 18296).

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 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 petitioning union claims that the Consolidation Coal Company lost potential customers in the domestic metallurgical coal market because the potential customers were bying imported metallurgical coal and coke.

The Department's review revealed that the workers at Consolidation's several mines and preparation plants were denied certification for various reasons. The sales and production declines at the Eckman, Maitland and

Crane Creek Operations could be explained by a drop in foreign sales as well as the UMW strike in the first quarter of 1978 and the Norfolk and Western Railroad strike in the third quarter of 1978. A Departmental survey of customers purchasing coal from the Jenkins Jones Preparation plant which cleans and ships coal from the Jenkins Jones and Beechfork mines, revealed that only domestic customers who decreased purchases of coal from 1977 to 1978 did not purchase imported metallurgical coal or coke. Workers at the following consolidation mines and facilities export nearly 100 percent of their coal output: Buckeye, Turkey Gap, Eckman Page, Coal Bank Strip, Three Forks Strip, Horsepen Strip, Reed Strip, Pocahontas Reclaim Plant and the Pageton Preparation Plant. Cutbacks in employment resulted from a loss of foreign markets rather than from any penetration of imports of metallurgical coal or coke into Consolidation's domestic market. The worker group at consolidation's Amonate Operations could not meet the significant decrease in employment criterion of the Trade Act of 1974. Significant separations did not occur except for those idle days attributable to either the UMW strike or to the Norfolk and Western Railroad strike or railroad car shortage. The worker group at the Rowland Operations could not meet the "contributed importantly" test of the Trade Act of 1974. A Departmental survey revealed that the only significant domestic customer increased its purchases of coal from Rowland in 1978 from 1977. The major portion of coal from the Rowland Operation is expected.

Accordingly to the petitioning union, since many of Consolidation's long term foreign contracts for coal have expired, the present domestic market would be the one with the most immediate purchasing possibilities for consolidation's coal. The petitioning union claims that Consolidation lost the domestic market since many of Consolidation's potential customers are purchasing imported coal and coke. The Department does not agree that the inability to get potential domestic business following losses in the export market can be considered as a basis for certification under the Trade Act of 1974. The actual layoffs were generally attributable to the loss of export sales.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of facts 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 18th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17120 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4586, 4586a, 4587, 4587a, 4588, 4589, and 4589a]

Eastern Associated Coal Corp., Keystone, W. Va. (TA-W-4586, 4586a), Herndon, W. Va. (TA-W-4587, 4587a, 4588), Sophia, W. Va. (TA-W-4589, 4589a); Negative Determination Regarding Application for Reconsideration

By letter of April 4, 1979, the petitioning union 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 producing metallurgical coal at Keystone mines 1, 2, 3, 4 at Keystone, West Virginia, Herndon, West Virginia and Sophia, West Virginia of the Eastern Associated Coal Corporation. The determination was published in the Federal Register on March 16, 1979, (44 FR 16049).

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 previosly 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 petitioning union claims that the Department's use of comparing 1978 production and sales data to 1977 production and sales data is artificial and arbitrary. The use of a 5–10 year period would show production and sales data in more absolute terms. Furthermore, no consideration of 1979 sales or production were made.

The Department's review revealed that the worker group at Eastern Associated Coal Corporation's Keystone 1,2, 3, and 4 mines did not meet all the criteria necessary for a worker group certification. Workers at Keystone 1 mine experienced increased production and sales during the period not affected by the two strikes April–June and October–November 1978 compared to the same periods in 1977. The Norfolk and Western Railroad strike was from July 7, 1978 to October 10, 1978 and the UMW strike was from December 6, 1977 to March 27, 1978. With respect to Keystone 2 and 3 and Preparation Plant and Keystone 4 mine and Preparation Plant, both sales and production of coal increased in quantity in 1978 compared to 1977. The Department does not agree with the petitioning union's claim that the comparison of 1977 and 1978 sales and production data is artificial and arbitrary. The Trade Act of 1974 does not permit the certification of workers who were separated from employment more than one year before the date of the petition on which the certification was granted. Therefore, of particular interest to the Department in its investigation are lack of work layoffs occurring within one year of the date of the petition, i.e., those occuring in 1978. While a longer time frame for comparison might be relevant for other purposes, the most relevant comparison in terms of a finding of worker eligibility under the Trade Act would be to compare 1978 to 1977.

Projections of 1979 sales or production data would not be relevant to the Department's determination since potential or future business losses would not be an important factor in worker separations which occurred in 1978.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of facts 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 18th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17121 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5120]

Daniels Coal Co., Deep Mine #12 Wyoming County, W. Va., Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 5, 1979 in response to a worker petition received on April 2,

1979 which was filed by the United Mine Workers of America Union on behalf of workers and former workers mining coal at the Daniels Coal Company, Inc., Deep Mine #12 in Wyoming County, West Virginia.

The Notice of Investigation was published in the **Federal Register** on April 13, 1979 (44 FR 22206–7). No public hearing was requested and none was held.

In a letter dated May 14, 1979 the petitioner requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C., this 25th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-17122 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA—W-5274]

Florsheim Shoe Co., Chaffee, Mo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 23, 1979 in response to a worker petition received on April 10, 1979 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing men's shoes at the Chaffee, Missouri plant of Florsheim Shoe Company. In the following determinations, 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's investigation revealed that separations at the Chaffee, Missouri plant of Florsheim Shoe Company resulted solely from the cave-in of the plant's roof on February 25, 1979. All production workers were laid off at that time. There were no significant separations at the plant prior to the cave-in of the roof.

Conclusion

After careful review, I determine that all workers of the Chaffee, Missouri plant of the Florsheim Shoe Company 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 25th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-17122 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5223]

G & I Coal Co., Cool Ridge, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 12, 1979 in response to a worker petition received on April 9, 1979 which was filed by the United Mine Workers of America Union on behalf of workers and former workers mining coal at G and I Coal Company, Cool Ridge, West Virginia. In the following determination, at least one of the criteria 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 G and I Coal Company is engaged in contract work for only one cool company. This coal company exports all its production to foreign users and does not import any coal.

Conclusion

After careful review, I determine that all workers of G and I Coal Company, Cool Ridge, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of May 1979.

Harry J. Gilman,,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-17124 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5195]

Genesco, Inc., Men's Apparel Sector, Ainsbrooke Division, Olney, Ill.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 10, 1979, in response to a worker petition received on March 26, 1979, which was filed on behalf of workers and former workers producing men's pajamas, robes and cut men's underwear at the Ainsbrooke Division of Genesco, Nashville, Tennessee. The investigation revealed that the petition was filed on behalf of workers and former workers of the Olney, Illinois plant of the Ainsbrooke Division of the Men's Apparel Sector of Genesco, Incorporated. The Olney plant produced primarily men's pajamas. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' pajamas and other nightwear increased absolutely and relatively in 1977 compared to 1976 and increased absolutely in 1978 compared to 1977.

A Department survey of Ainsbrooke's pajama customers indicated an increasing reliance on imported men's pajamas by respondents. Customers who represented a significant proportion of the decline in sales of pajamas by Ainsbrooke from 1977 to 1978 indicated that they increased purchases of imported pajamas during the same time period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like

or directly competitive with men's pajamas produced at the Olney, Illinois plant of the Ainsbrooke Division of the Men's Apparel Sector of Genesco, Incorporated 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 the Olney, Illinois plant of the Ainsbrooke Division of the Men's Apparel Sector of Genesco, Incorporated who became totally or partially separated from employment on or after March 3, 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 29th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economist Research.

[FR Doc. 79-17125 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5318, 5319]

Gibson Electric Co., Inc., Raleigh County, W. Va., Wyoming County, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 30, 1979, in response to a worker petition received on April 23, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers engaged in electrical construction of coal preparation plants at Gibson Electric Company, Incorporated, Raleigh and Wyoming Counties, West Virginia.

Gibson Electric Company, Incorporated, Raleigh and Wyoming Counties, West Virginia is engaged in providing the service of electrical construction of coal preparation plants.

Thus, workers of Gibson Electric Company, Incorporated, Raleigh and Wyoming Counties, West Virginia do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Gibson Electric Company, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Gibson Electric Company, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in electrical construction at Gibson Electric Company, Incorporated, Raleigh and Wyoming Counties, West Virginia, are employed by that firm. All personnel actions and payroll transactions are controlled by Gibson Electric Company, Incorporated. All employee benefits are provided and maintained by Gibson Electric Company, Incorporated. Workers are not, at any time, under employment or supervision by customers of Gibson Electric Company, Incorporated. Thus, Gibson Electric Company, Incorporated and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Gibson Electric Company, Incorporated, Raleigh and Wyoming Counties, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17126 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5360]

Hobet Mining & Construction Co., Hobet 28 Mine, Craigsville, Nicholas County, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 8, 1979 in response to a worker petition received on April 9, 1979 which was filed by District 31 of the United Mine Workers of America on behalf of workers and former workers engaged in the mining of coal at Hobet Mining & Construction Company, Craigsville, West Virginia. The investigation revealed that Hobet Mining & Construction Company has only one mine, Hobet 28, in or near Craigsville, in Nicholas County, West Virginia. Company headquarters are located in South Charleston, West Virginia. 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.

Hobet Mining & Construction Company has operated six mines, located in Boone County, Fayette County, Logan County and Nicholas County, West Virginia, from 1977 through the present. Three of the mines were shut down in November 1977 and were not reopened. All of the mines have produced only steam coal, and the three mines currently in operation including Hobet 28, are producing only steam coal. Only the Hobet 28 facility is included in the District 31 petitioning jurisdiction. U.S. imports of steam coal are negligible.

Conclusion

After careful review, I determine that all workers of Hobet Mining & Construction Company's Hobet 28 facility located near Craigsville in Nicholas County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17127 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5209]

Hopeman Bros., Inc., Waynesboro, Va., Sparrows Point, Md. Shipyard; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974 (19 U.S.C. 2273), an investigation was initiated on April 10, 1979 in response to a worker petition received on April 3, 1979 which was filed on behalf of workers and former workers of Hopeman Brothers, Inc., Waynesboro, Virginia, Sparrows Point, Maryland Shipyard, constructing interiors and finishing ships. On March 26, 1979, a certification was issued on behalf of "all workers of the Sparrows Point Shipyard of the Bethlehem Steel Corporation, Sparrows Point, Maryland (TA–W–4747).

All workers of Hopeman Brothers, Inc., at the Sparrows Point, Maryland Shipyard who became totally or partially separated from employment on or after July 1, 1978 are certified eligible to apply for trade adjustment assistance under the TA–W–4747 Certification. Therefore, the investigation has been terminated. Signed at Washington, D.C., this 23rd day of May 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 79–17128 Filed 5–31–79; 8:45 am]

BILLING CODE 4510–28–M

[TA-W-5225]

Jenny Mining Corp., Rupert, W. Va.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was intitated on April 12, 1979 in response to a worker petition received on April 9, 1979 which was filed by the United Mine Workers of America Union on behalf of workers and former workers mining coal at Jenny Mining Corporation, Rupert, West Virginia.

The Notice of Investigation was published in the **Federal Register** on April 27, 1979 (44 FR 24946). No public hearing was requested and none was held.

Jenny Mining Corporation was incorporated in West Virginia in January, 1979. Due to the short term of operation of the Jenny Mining Corporation there is not sufficient information in this case upon which to base a determination. In addition, the worker qualifying requirements in Section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 18th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79–17129 Filed 5–31–79; 8:45 am]

BILLING CODE 4510–28–M

[TA-W-4994]

Kaiser Steel Corp., Structural Fabrication Plant, Fontana, Calif.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 20, 1979 in response to a worker petition received on March 15, 1979 which was filed by the United Steel Workers of America on behalf of workers and former workers producing fabricated structural shapes at the Fontana, California Structural Fabrication plant of Kaiser Steel Corporation. It is concluded that all of the requirements have been met.

U.S. Imports of fabricated structural shapes increased from 1976 to 1977 and increased from 1977 to 1978.

Kaiser's Fontana Structural Fabrication Plant manufactures fabricated steel products to customer order and specifications. Business is procured through competitive bid contracting. During the period from 1974 to 1978, Kaiser lost an increasing number of bids to foreign fabricators.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fabricated structural shapes produced at the Fontana, California Structural Fabrication plant of Kaiser Steel Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In acordance with the provisions of the Act, I make the following certification:

"All workers of the Fontana, California Structural Fabrication plant of Kaiser Steel Corporation who became totally or partially separated from employment on or after February 15, 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79–17130 Filed 5–31–79; 8:45 am]

BILLING CODE 4510–28–M

[TA-W-4995]

Kaiser Steel Corp., Light Steel Products Plant, Fontana, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 20, 1979 in response to a worker petition received on March 15, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing light steel products at the Fontana, California Light Steel Products plant of Kaiser Steel Corporation. 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.

Sales and production at the Light Steel Products plant increased in both quantity and value in each quarter of 1977 and in each quarter of 1978 compared to the same quarter of the previous year. Sales and production increased in quantity and value in the first two months of 1979 compared to the first two months of 1978.

Conclusion

After careful review, I determine that all workers of the Fontana, California Light Steel Products plant of Kaiser Steel 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17131 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5176, 5178-5180]

Kitchekan Fuel Corp., Mine No. 12A, Preparation Plant, Mine No. 60, Mine No. 59, Matoaka, W.Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 6, 1979 in response to a worker petition received on April 2, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining and cleaning metallurgical coal at the Kitchekan Fuel Corporation, Matoaka, West Virginia. In the following determination, 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.

Declines in production at mine Number 12A and mine Number 59 in 1978 occurred as a result of the United Mine Workers of America strike and the Norfolk and Western Railroad strike. When comparing the non-strike periods (April to June and October to November) of 1978 with the same 1977 period, production at both mines increased. Although production at mine Number 60 decreased in the non-strike periods of 1978 compared with the same 1977 period, total company sales and production increased during the same period.

Conclusion

After careful review, I determine that all workers of the following mines of the Kitchekan Fuel Corporation, Matoaka, West Virginia: Number 12A, Number 60, Number 59 and the Kitchekan Preparation Plant are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17131 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5226]

Leckie Smokeless Coal Co., Rupert, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 12, 1979 in response to a worker petition received on April 9, 1979 which was filed by the United Mine Workers of America Union on behalf of workers and former workers mining coal at Leckie Smokeless Coal Company, Rupert, West Virginia. In the following determination, at least on of the criteria has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of coal by Leckie Smokeless Coal Company increased in quantity and value in 1978 compared to 1977 and in the first quarter of 1979 compared to the first quarter of 1977. Comparison of the first quarter 1979 with the first quarter 1977 was used in order to extract the effect of the first quarter 1978 coal strike.

Conclusion

After careful review, I determine that all workers of Leckie Smokeless Coal Company, Rupert, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-17133 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4722]

Levi Strauss & Co., Blackstone, Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 18, 1979 in response to a worker petition received on January 15, 1979 which was filed on behalf of workers and former workers producing men's slacks and vests at the Blackstone, Virginia plant of Levi Strauss & Company. The investigation revealed that the plant primarily produces men's slacks. In the following determination, without regard to whether any of the 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.

Total production and sales at the Blackstone plant were higher in each month of FY 1978 and the first quarter of FY 1979 than the corresponding month of the previous year except one. December 1978 was the only month in the 15 month period in which production was below the level of the same month of the previous year. Production at the plant in January and February 1979 was higher than in January and February 1978.

Conclusion

After careful review, I determine that all workers of the Blackstone, Virginia plant of Levi Strauss & Company 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 21st day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17134 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5047]

Mikan Originals, Neptune, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was intitiated on March 28, 1979 in response to a worker petition received on March 22, 1979 which was filed on behalf of workers and former workers producing children's coats at Mikan Originals, Neptune, New Jersey. The workers at Mikan Originals cut fabric and handle the warehousing and shipping of coats for the parent manufacturer—Fashion Rite Corporation, New York, New York. In the following determination, at least one of the criteria 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.

Sales remained relatively unchanged in 1978 compared to 1977 and increased in the first quarter of 1979 compared to the same period in 1978.

Average employment of production workers increased in 1978 compared to 1977 and in the first two months of 1979 compared to the same period of 1978. The layoffs that occurred in the last quarter of 1978 were due to the seasonal nature of the product manufactured by the subject firm.

Conclusion

After careful review, I determine that all workers of Mikan Originals, Neptune, 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 25th day of may 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17135 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4998]

Myra Dress Co., 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 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 20, 1979, in response to a worker petition received on March 16, 1979, which was filed on behalf of workers and former workers producing women's dresses, sportswear, and coats at the Myra Dress Company, Incorporated, New York, New York. In the following determination, at least one of the criteria 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 Department survey of Myra Dress Company's customers indicated that most respondents did not purchase imported women's dresses in 1977, 1978 or the first quarter of 1979. Customers which imported dresses purchased insignificant quantities of imports in relation to their total sales.

Conclusion

After careful review, I determine that all workers of the Myra Dress Company, Incorporated, 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 22th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-17136 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5040]

N.L. Industries, Inc., Industrial Chemicals Division, Charleston, W. Va.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 26, 1979 in response to a worker petition received on March 22, 1979 which was filed by the United Steel Workers of America on behalf of workers and former workers producing lead-oxides at the Charleston, West Virginia plant of N.L. Industries, Incorporated, Industrial Chemicals Division. It is concluded that all of the requirements have been met.

Imports of litharge and red lead increased both absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

A Department survey of N.L. Industries' customers revealed that customers had decreased their purchases of lead-oxides from N.L. Industries and increased their purchases of lead-oxides from foreign sources.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with lead-oxides produced at Charleston, West Virginia plant of N.L. Industries, Incorporated, Industrial Chemicals Division 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 the Charleston, West Virginia plant of N.L. Industries, Incorporated, Industrial Chemicals Division engaged in employment related to the

production of lead-oxides who became totally or partially separated from employment on or after January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 22nd day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR DOC 79-17137 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5031]

North American Dehydrating Corp., Rocky Ford, Colo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was intitated on March 23, 1979 in response to a worker petition received on March 20, 1979 which was filed on behalf of workers and former workers producing dehydrated sugar beet pulp and dehydrated alfalfa pellets at North American Dehydrating Corporation, Rocky Ford, Colorado. Without regard to whether any of the other criteria have been met, the following cirterion 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 in the course of the investigation revealed that U.S. imports of livestock feed used for the same purposes as the dehydrated sugar beet pulp and the dehydrated alfalfa pellets are negligible.

Conclusion

After careful review, I determine that all workers of North American Dehydrating Corporation, Rocky Ford, Colorado 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 22nd day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17138 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5053]

Pulverizing Services, Inc., Moorestown, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 29, 1979 in response to a worker petition received on March 27, 1979 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America on behalf of workers and former workers producing chemical and allied products at Pulverizing Service, Incorporated, Moorestown, New Jersey. The investigation revealed that the correct company name is Pulverizing Services, Incorporated, and that the company formulates, blends, grinds and packages pesticides. In the following determination, 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 conducted survey of customers of Pulverizing Services. The survey revealed that customers did not purchase imported pesticides or use foreign firms to formulate, blend, grind and package pesticides. The survey revealed that the formulating, blending, grinding and packaging operations for pesticides were transferred to other domestic processors or are now being performed by the customer.

Conclusion

After careful review, I determine that all workers of the Pulverizing Services Incorporated, Moorestown, 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 25th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-17139 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5041]

Roosevelt Mills, Inc., Vernon, Conn.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 26, 1979, in response to a worker petition received on March 23, 1979, which was filed on behalf of workers and former workers producing women's and men's sweaters at Roosevelt Mills, Incorporated, Vernon, Connecticut. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production (IP ratio) from 1975 to 1976. Imports of sweaters increased in 1977 as compared to the average level of imports for the years 1974 through 1976. The ratio of imports of sweaters to domestic production exceeded (IP ratio) 140 percent in 1976 and in 1977. The IP ratio in 1977 was higher than the IP average IP ratio for the period 1974 through 1976.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased absolutely and relative to domestic production from 1975 to 1976. U.S. imports increased absolutely from 1976 to 1977 and from 1977 to 1978.

The Office of Trade Adjustment Assistance conducted a survey of customers of Roosevelt Mills, Incorporated. Women's sweaters represented the major product produced at Roosevelt Mills. The survey revealed that major customers increased their purchases of imported women's

sweaters and decreased their purchases from Roosevelt Mills in 1977 as compared to 1976 and in 1978 as compared to 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 women's sweaters produced at Roosevelt Mills, Incorporated, Vernon, Connecticut 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 Roosevelt Mills, Incorporated, Vernon, Connecticut who became totally or partially separated from employment on or after March 14, 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 25th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17140 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4624]

Royal Coal Co., Clairmont Preparation Plant, Clairmont, W. Va.; Negative Determination Regarding Application for Reconsideration

By letter of April 4, 1979, the petitioning union 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 cleaning metallurgical coal at the Clairmont Preparation Plant of the Royal Coal Company, Clairmont, West Virginia. The determination was published in the **Federal Register** on March 20, 1979, (44 FR 16983).

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 petitioning union claims that workers at Royal Coal Company's Clairmont Preparation Plant in Clairmont, West Virginia have been underemployed since March 1978 because of a loss of workers and imports of metallurgical coal.

The Department's review of the investigative file of the Royal Coal Company's Clairmont Preparation Plant revealed that the decreased employment criterion of the Trade Act of 1974 was not met by the worker group. The average employment of production workers increased in 1977 from 1976. Workers at the plant were on strike from December 6, 1977 until March 27, 1978. Employment increased in the April–November period of 1978 compared to the same period in 1977. Furthermore, employment was higher in the fourth quarter of 1978 than in the same period in 1977 or 1976. Average weekly hours worked per employee did not change significantly during this period. Since 1974, according to a high company official, the Royal Coal Company has experienced a steady erosion of its sizeable export market until 1978 when its export sales were non existent. The Department does not agree with the petitioning union's claim that the loss of markets and imports of metallurgical coal rebuts the basis of the Department's original denial which was based on increased employment at the Clairmont Preparation Plant.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of facts or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therfore, denied.

Signed at Washington, D.C., this 18th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17141 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4650, 4651, 4652, 4653, and 4654]

Slab Fork Coal Co., Raleigh County, W. Va. (TA-W-4650, 4651, 4652, and 4653), Wyoming County, W. Va. (TA-W-4654); Negative Determination Regarding Application for Reconsideration

By letter of April 4, 1979, the petitioning union 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 producing metallurgical coal at the Slab Fork mine #8 (TA-W-4651), mine #10 (TA-W-4650), Preparation Plant #1 (TA-W-4652), Preparation Plant #2 (TA-W-4653) all of Raleigh County, West Virginia and the Gaston Mine (TA-W-4654) of Wyoming County, West Virginia, all facilities of Slab Fork Coal Company, Slab Fork, West Virginia. The determination was published in the **Federal Register** on March 20, 1979, (FR 44 16977).

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 petitioning union claims that sales and production at Slab Fork Coal Company have completely halted because of imported metallurgical coal since the Department's denial of Slab Fork Coal Company.

The Department's review revealed that the worker group at the Slab Fork Coal Company did not meet the "contributed importantly" test of the Trade Act of 1974. The Departmental survey indicated that all but one of Slab Fork's major customers increased their purchases of metallurgical coal from Slab Fork in 1978. The major customer who reduced its purchases of coal from Slab Fork in 1978 did not purchase any imported coal or coke. Furthermore, sales and production of metallurgical coal at Slab Fork increased in both quantity and value during the strike period, April–November 1978 compared to the same period in 1977.

There is nothing in the petitioning union's claim, that sales and production declines have occurred since the denial notice, that would rebut the basis of the Department's denial, especially during the period under investigation. The Department does not regard the petitioning union's claim as relevant for an administrative reconsideration since none of the three circumstances, contained in 29 CFR 90.18(c), necessary for the granting of an application for reconsideration, have been met.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of facts 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 18th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17142 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5049]

Sylvania Shoe Manufacturing Corp., Kennebunk, Maine; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 28, 1979 in response to a worker petition received on March 14, 1979 which was filed on behalf of workers and former workers producing men's, women's and children's shoes at the Kennebunk, Maine plant of the Sylvania Shoe Manufacturing Corporation. The investigation revealed that the plant primarily produces leather uppers for men's and boys' dress and casual shoes produced by the Sylvania Shoe Manufacturing Corporation. In the following determination, at least one of the criteria 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 since the Kennebunk, Maine facility of Sylvania Shoe Manufacturing Corporation has produced uppers for men's and boys' shoes for barely one year, it is not possible to discern any trends in production or to statistically measure the impact of imports.

The Kennebunk, Maine plant was purchased by Sylvania Shoe Manufacturing in March 1978 to supplement its other uppers production facilities. The plant began producing uppers for men's and boys' shoes in March 1978. Production at Kennebunk to-date has fluctuated with no discernible trend. Therefore, the impact of imports cannot be accurately measured.

Conclusion

After careful review, I determine that all workers of the Kennebunk, Maine plant of the Sylvania Shoe Manufacturing 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 22nd day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17143 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5231]

Tenna, Inc., Caguas, P.R.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 12, 1979 in response to a worker petition received on April 5, 1979 which was filed on behalf of workers and former workers producing motor components at the Motor Division of Tenna, Incorporated, Caguas, Puerto Rico. The investigation revealed that the correct product is DC fractional horsepower electric motors. It is concluded that all of the requirements have been met.

U.S. imports of fractional DC motors increased both absolutely and relative to domestic production from 1977 to 1978.

Imports of fractional DC motors by the Tenna Corporation, the parent firm of Tenna, Incorporated, increased in each quarter of 1978 compared to the same quarter of 1977. The ratio of company imports to company sales of motors increased in 1978 compared to 1977 and remained approximately the same in the first quarter of 1979 as in the first quarter of 1978. Company imports of fractional DC motors will increase significantly during the second and third quarters of 1979 as motor production is transferred from the Tenna Corporations's plant in Puerto Rico to a new facility in Mexico.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with DC fractional horsepower electric motors produced at Tenna, Incorporated, Caguas, Puerto Rico, 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 Tenna, Incorporated, Caguas, Puerto Rico, engaged in employment related to the production of DC fractional horsepower electric motors, who became totally or partially separated from employment on or after November 6, 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17144 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5025, 5026]

Uniontown, Pa., Plant No. 1, Uniontown, Pa., No. 3, Michael Berkowitz Co., Inc., New York, N.Y.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 23, 1979 in response to a worker petition received on March 20, 1979 which was filed by the Amalgamated Clothing and Textile Worker's Union on behalf of workers and former workers

producing ladies' and men's sleepwear and loungewear at Uniontown, Pennsylvania Plants #1 and #3 of the Michael Berkowitz Company, Incorporated, New York, New York. In the following determinations, without regard to whether any of the other criteria have been met for workers producing ladies sleepwear and loungewear, 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.

Total company sales of ladies' sleepwear and loungewear at Michael Berkowitz, Incorporated increased in both quantity and value in each year from 1976 through 1978 and in the first quarter of 1979 compared to the like period in 1978.

Total company production of ladies' sleepwear and loungewear increased in both quantity and value in the last three quarters of 1978 compared to the same period in 1977. Production declined during the first quarter of 1979 compared to the first quarter of 1978 due to Michael Berkowitz's increased reliance on domestic contractors for assembly operations. In view of Michael Berkowitz's shift in marketing strategy toward fancy ladies' sleepwear and loungewear, officials of the firm made a decision to increase reliance on domestic contractors for assembly operations. By April 1979, contractors would be responsible for all assembly operations.

For workers producing men's sleepwear, all of the criteria have been met.

U.S. imports of men's and boy's pajamas and otherr nightwear increased absolutely in each year from 1975 through 1978 and increased relative to domesic production in each year from 1975 through 1977. The import-to-domestic production ratio is not currently available for 1978.

The Department conducted a survey of customers purchasing men's sleepwear from Michael Berkowitz Company, Incorporated. The survey revealed that major customers decreased purchases from Michael Berkowitz and increased their purchases of imported men's sleepwear from 1977 to 1978 and in the first quarter of 1979 compared to the like period in 1978.

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 sleepwear produced at Uniontown, Pennsylvania Plants #1 and #3 of the Michael Berkowitz Company, Incorporated, contributed importantly to the decline in sales or production and to the total of partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of Uniontown, Pennsylvania Plants #1 and #3 of the Michael Berkowitz Company, Incorporated, engaged in employment related to the production of men's sleepwear who became totally or partially separated from employment on or after August 5, 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 21st day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-17145 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5142]

Yankee Coal Co., Bellwood Strip Mine, Fayette County, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 5, 1979 in response to a worker petition received on April 2, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at the Bellwood Strip Mine of Yankee Coal Company, Fayette County, West Virginia. In the following determination, without regard to whether 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.

Employment declines at the Bellwood Strip Mine were the result of the strike by the United Mine Workers, the transfer of mining rights, and the decision by the new operators to delay production in order to improve the site.

Declines in employment at the mine took place during the period of UMWA strike (December 1977 through March 1978). Employment declines also occurred during the period between the settlement of the UMWA strike and Yankee's takeover of the Bellwood Strip Mine in July, 1978. After the mining rights were transferred from the previous owner to Yankee Coal Company, Yankee employed a small number of workers to improve the site from July 1978 through January 1979. Workers have been engaged in the mining of coal only since February 1979. Employment at the mine has consistently increased since that time.

Conclusion

After careful review, I determine that all workers of the Bellwood Strip Mine of Yankee Coal Company, Fayette County, West Virginia 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 25th day of May 1979.

Harry J. Gilman,

Supervisory International Foreign Economic Research.

[FR Doc. 79-17146 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-23]

The Grumman Corp. Pension Trust; Exemption from the Prohibitions for Certain Transactions

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the leading by Grumman Corporation Pension Trust (the Plan) of securities to broker-dealers and/or banks which provide certain services to the Plan.

FOR FURTHER INFORMATION CONTACT: Frederic G. Burke of 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., 202-523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 23, 1979 notice was published in the **Federal Register** (44 FR 17815) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions

of section 406(a) of the Employee Retirement Income Security act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue code of 1974 (the Code) by reason of section 4975(c)(1)A) through (D) of the Code for transactions described in an application filed by the trustees of the Plan. The notice set forth a summary of 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 Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. A single comment signed by seventeen participants of the Plan was received.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Discussion of the Comment

The comment expressed dissatisfaction with the arrangement whereby the Plan would lend its securities to broker-dealers and/or banks which provide service to the Plan. The comment further indicated that the Plan could increase its income and maintain its capital integrity by liquidating lower return equities and transferring the funds from the liquidation into higher return U.S. Treasury debt.

After consideration of the comment received, the Department has concluded that the conditions of the proposed exemption meet the requirements of section 408(a) of the Act. Specifically, the Department believes that the collateral requirements that accompany the security lending adequately secure the transaction in case the broker-dealer and/or bank has financial difficulty. The Department notes that the investment determination as to whether the Plan should transfer its present investments from lower return equities to U.S. Treasury debt is a determination that must be made by the Plan trustees pursuant to the requirements of section 404 of the Act.

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 or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. 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 or her duties respecting the plan solely in the interest 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 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 406(b) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is 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 or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

The restrictions of section 406(a) 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 (D) of the Code shall not apply to the loan of securities of the Plan to broker-dealers and banks which are parties in interest with respect to the Plan by virture of providing services to the Plan. The exemption is granted on a temporary basis only. The exemption will terminate upon the final disposition of a class exemption for the lending of securities under similar circumstances currently being considered by the Department. 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 to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 22d day of May 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-16824 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-24]

International Cellulose, Inc., Employees Profit Sharing Plan; Exemption From the Prohibitions for Certain Transactions

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would permit the sale on July 31, 1975 of a 2.643 acre parcel of real property in Atlanta, Georgia by International Cellulose, Inc. Employees Profit Sharing Plan (the Plan) to International Cellulose, Inc. (the Employer).

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523–8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 10, 1979, notice was published in the **Federal Register** (44 FR 21397) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and 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 (D) of the Code, for a transaction described in an application

filed by the Plan. The notice set forth a summary of 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 Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department, because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

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 or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. 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 or her duties respecting the plan solely in the interest 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 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 sections 406(b) (1) and (3) of the Act and sections 4975(c)(1) (E) and (F) of the Code.

(3) This exemption is 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 or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

The restrictions of sections 406(a) and 406(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 (D) of the Code shall not apply to the sale on July 31, 1975 of the real property commonly known as 1240 Stewart Avenue, S.W., Atlanta, Georgia, comprising 2.643 acres, by the Plan to the Employer for a total cash purchase price of $123,750, provided that this amount was not less than the fair market value of the property at the time of the sale.

The availability of this exemption is subject to the express condition 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 that was consummated pursuant to this exemption.

Signed at Washington, D.C., this 24th day of May, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-16823 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1002]

St. Louis Union Trust Co.; Proposed Exemption for Certain Transactions

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) 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 purchase by the St. Louis Union Trust Company (Applicant or Trustee) of certain assets from a collective employee benefit trust fund of which it served as trustee. The proposed exemption, if granted, would affect participants and beneficiaries of certain employee benefit plans, the Applicant, and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before June 29, 1979.

Effective date: If the proposed exemption is granted, the exemption will be effective August 25, 1977.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to: 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–1002. The application for exemption and the comments received will be available for public inspection in 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.

FOR FURTHER INFORMATION CONTACT: Frederic G. Burke of the Department of Labor, (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a) and section 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 Trustee, 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). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor.

Therefore, this notice of pendency is issued solely by the Department.

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 Department for the complete representations of the applicants.

1. The Collective Employee Benefit Trust Fund F of St. Louis Union Trust Company (F Fund) is a vehicle for the collective investment of the assets of 196 pension trusts qualified under Section 501(a) of the Code.

2. The F Segregated Account (the Account) of the F Fund was an account established to hold securities of the F Fund which were in default or in danger of default. The Account held these securities for payment and thereafter for pro rata distribution to the qualified pension trusts which held units of the F Fund at the time of segregation.

3. A GSC Leasing Corporation obligation was placed in the F Fund. GSC Leasing Corporation was owned 50% by General Steel Industries and 50% by Pennsylvania Railroad Company (Penn). In February of 1974, Penn defaulted on an obligation not related to this transaction, and shortly thereafter Penn's financial position was generally known to be precarious. Due to the above factors, the GSC Leasing Corporation obligation was placed in the Account on April 2, 1974.

4. The GSC Leasing Corporation note was judged to be non-marketable by the Bond Department of the applicant. The note was considered unmarketable because of its small size and because of its small size and because it was a private placement. Kidder Peabody, an independent authority in the secondary placement market, represented that it could not have marketed the GSC Leasing Company note because of the small size of the remaining payments and the credit uncertainties of GSC Leasing Company.

5. On August 26, 1977, the Trustee purchased from the Account the balance of bonus payments receivable[1] on the GSC Leasing Corporation private placement note which had matured August 1, 1975 and which was considered at that time to be in danger of default. The bonus payments were to be payable in ten semiannual payments of $2,580.32 and began August 1975. In August 1977, the balance of five semiannual payments totalled $12,901.60. The Trustee purchased the receivable at its face value less a 5% discount for immediate payment. It paid $11,987.72 and received no fee or commission on the transaction. The 5% discount rate was determined by means of comparison with the August 1977, United States Treasury Bill rate of 5.16%—taken as the riskless rate of return. Kidder Peabody represented that the procedure followed by the Trustee for establishing the present value of the future payments was at least as beneficial to the seller, if not more so, than would have transpired if the Trustee had chosen to liquidate through normal brokerage channels.

6. The Trustee purchased the right to receive the bonus payments on the GSC Leasing Company note from the Account in order to permit withdrawal from the F Fund of certain trusts investment in such fund which were being terminated in reaction to the passage of the Act. Absent such purchase by the Trustee, no final determination could be made of the value of the assets to be distributed to withdrawing trusts.

7. In summary, the Applicant represents that the transaction meets the statutory criteria of Act section 408(a) because,

1. it was a one-time transaction for cash;

2. the Account was able to dispose of an otherwise unmarketable obligation;

3. Kidder Peabody, an independent authority in the secondary placement market, determined that the size of the remaining payments and the credit uncertainties of GSC Leasing Company would have made it impossible for it to have marketed the issue to an independent party and that the procedure followed by the Trustee for establishing the present value of the future payments was at at least as beneficial to the Account, if not more so, than what the Account would have received if it had sold through normal brokerage channels.

4. it enabled the Trustee to provide to the affected plans the ability to terminate their respective interests in the F Fund and realize the value of their interest immediately and in full.

Notice to Interested Parties

All 196 plan administrators representing the Trusts which participated in the Account will be notified with a letter which will include a copy of the notice of proposed exemption as published in the **Federal Register** which will advise them of their rights to comment and/or to request a hearing within the period of time specified in the notice. Notification will be given within ten days after filing in the **Federal Register** of the notice of proposed exemption.

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 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 Department 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.

Written Comments and Hearing Requests

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 a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in

[1] Included in the terms of the GSC Leasing Corporation private placement note was a provision for the payment of additional interest to holders of the notes. It is the installment payments of this "additional interest" which constitute the bonus payments.

the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption.

Based on the facts and representations set forth in the application, the Department is 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 the 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 section 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 purchase by the Applicant of certain GSC Leasing Corporation notes from Fund F, a collective employee benefit fund which it served as trustee, provided that the purchase price was not less than fair market value at the time of the purchase. 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.

Signed at Washington, D.C. this 29th day of May 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S.Department of Labor.

[FR Doc. 79–16825 Filed 5–31–79; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79–57]

Space and Terrestrial Applications Steering Committee (STASC) Proposal Evaluation Advisory Subcommittee Meeting

The Earth Radiation Budget Statellite (ERBS) Panel of the STASC, Proposal Evaluation Advisory Subcommittee will meet at the Langley Research Center, Hampton, Virginia 23665, on June 18 through 29, 1979, Excluding June 23 and 24, 1979. The meeting will be held in Room 119, Building 1250, from 8:30 a.m. to 5:30 p.m. on each day. The Subcommittee will discuss, evaluate, and categorize the proposals submitted to NASA in response to the Announcement of Opportunity for data use investigations and science support for the Earth Radiation Budget Experiment (ERBE), Stratospheric Aerosol and Gas Experiment II (SAGE II) and Halogen Occultation Experiment (HALOE). Public discussion of the professional qualifications of the proposers and their potential scientific contributions to the ERBS Program would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b (c) (6), as described above, it has been determined that the sessions should be closed to the public.

For further information, Please contact Mr. James L. Raper, Langley Research Center, Hampton, Virginia 23665, telephone number 804/827–3431.

Dated: May 24, 1979.

Russell F. Ritchie,

Acting Associate Administrator for External Relations.

[FR Doc. 79–17000 Filed 5–31–79; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The fifteenth meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Benson Hotel, Portland, Oregon in the Crystal Ballroom on July 26, 27, 28. The meeting will begin at 8:30 a.m. and conclude at 5:30 p.m. each day.

Requests for presenting testimony must be submitted 30 days prior to the meeting date and must indicate the topics to be discussed. Individuals and organizations requesting time must limit oral testimony to not more than ten minutes. Forty copies of written testimony must be submitted, but oral testimony should summarize any written testimony. Depending upon the number of persons and organizations requesting the opportunity to testify at a meeting, and the topics to be discussed, individuals and organizations will be notified of time and place allocated for testimony. Whenever feasible, individuals and organizations presenting similar views will be grouped together and will be handled as a panel in order to enable discussion, questioning, and responses to be developed with a view to assisting the Commission to deal with the mandate established by the Congress.

Telephone inquiries and communications concerning this meeting should be directed to: Roger Webb, Deputy Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Room 440, Rosslyn, Virginia 22209, (702) 235–2782.

Signed at Washington, D.C., this 24th day of May, 1979.

Roger Webb,

Deputy Executive Director, National Commission on Unemployment Compensation.

[FR. Doc. 79–17109 Filed 5–31–79; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL SCIENCE FOUNDATION

Advisory Council Task Group No. 8; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Task Group No. 8 of the NSF Advisory Council.

Place: Cronkite Graduate Center, Radcliffe College, 10 Garden Street, Cambridge, Massachusetts 02138.

Date: June 18, 1979.

Time: 9:00 a.m. until 5:30 p.m.

Type of Meeting: Open.

Contact Person: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, NW, Washington, D.C. 20550. Telephone: 202–632–4368.

Purpose of Task Group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary Minutes: May be obtained from the Committee Management Coordinator Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street, NW, Washington, D.C. 20550.

Agenda: To consider alternative support mechanisms for university research.

Dated: May 29, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79–17030 Filed 5–31–79; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR–51, issued to

Arkansas Power and Light Company, which revised Technical Specifications for operation of the Arkansas Nuclear One, Unit No. 1 (the facility) located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to reflect plant operating limits for the fuel loading to be used during Cycle 4 and adds additional smoke/heat detectors and fire suppression systems in appropriate tables. The amendment does not authorize operation of the facility. Operation of the facility will be authorized only after the Director of Nuclear Reactor Regulation has confirmed satisfactory completion by the Licensee of certain actions set forth in the Commission's Order of May 17, 1979 (44 FR 29997, May 23, 1979).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendments dated November 9, 1978 (as supplemented February 27 and April 26, 1979), and February 23, 1979 (as supplemented March 19, 20 and 30, 1979), (2) Amendment No. 43 to License No. DPR–51, (3) the Commission's related Safety Evaluation, and (4) Supplement No. 1 to the Fire Protection Safety Evaluation for ANO–1. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23rd day of May 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79–17084 Filed 5–31–79; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–269, 50–270, and 50–287]

Duke Power Co.; Authorization To Resume Operation

The United States Nuclear Regulatory Commission issued an Order on May 7, 1979 (44 FR 27776, May 11, 1979), to Duke Power Company (the licensee), holder of Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55 for Oconee Nuclear Station, Units Nos. 1, 2 and 3, confirming that the licensee accomplish a series of actions, both immediate and long term, to increase the capability and reliability of Oconee Units Nos. 1, 2 and 3 to respond to various transient events. In addition, the order confirmed that the licensee would shut down Oconee 3 on April 28, 1979, an additional Oconee unit on May 12, 1979, and remaining unit on May 19, 1979, unless, with respect to the latter two units, the following actions had been accomplished prior to the prescribed dates:

(a) Install automatic starting of the interconnected emergency feedwater system so that all three pumps will receive a start signal from any affected unit, and test the system for stability. the emergency feedwater pump discharge flow will be connected to the interconnection headers such that each or all of the emergency feedwater pumps can supply water to any unit. Until these modifications and tests are completed, operating personnel will be stationed at each emergency feedwater pump with a direct communication link to that unit's control room. In addition, the following procedural changes, put into effect on April 25, 1979 to enhance the reliability of the emergency feedwater system, will remain in force:

(1) The discharges of these pumps have been tied together by alignment of manual valves such that each and all of the pumps can supply emergency feedwater to any Oconee Unit requiring it.

(2) Administrative controls have been established so that in the event of loss of both main feedwater pumps on an affected unit, that unit's emergency feedwater pump will start automatically, backed up by remote manual start from the control room. If the pump fails to start automatically, the operator stationed at that pump will start the pump locally, and has been trained to do so. In addition, the other two available emergency feedwater pumps will be started remotely from their unit's control room or locally if required to provide two more sources of feedwater to the affected unit.

(3) Emergency feedwater flow to the steam generators will be assured by the control room operator who has been trained to maintain the necessary level.

(b) Develop and implement operating procedures for initiating and controlling emergency feedwater independent of Integrated Control System control.

(c) Implement a hard-wired control-grade reactor trip on loss of main feedwater and/or turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) All licensed reactor operators and senior reactor operators assigned to the Oconee Control rooms will have completed the Three Mile Island Unit No. 2 simulator training at Babcock & Wilcox.

By submittal of May 7, 1979, as supplemented by two letters dated May 9, 1979, the licensee has documented the actions taken in response to the May 7 Order. Notice is hereby given that the Director of Nuclear Reactor Regulation (the Director) has reviewed this submittal and has concluded that the licensee has satisfactorily completed the actions prescribed in items (a) through (e) of paragraph (1) of Section IV of the Order, that the specified analyses are acceptable and the specified implementing procedures are appropriate. Accordingly, by letter dated May 18, 1979, the director has authorized the licensee to resume or continue operation of Oconee Units 1, 2 and 3. The bases for the Director's conclusions are more fully set forth in a Safety Evaluation dated May 18, 1979.

Copies of (1) the licensee's letter dated May 7, 1979, and two letters dated May 9, 1979, (2) the Director's letter dated May 18, 1979 and (3) the Safety Evaluation dated May 18, 1979 are available for inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555, and are being placed in the Commission's local public document room at the Oconee County Library, 201 South Spring, Walhalla, South Carolina 29691. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Divsion of Operating Reactors.

Dated at Bethesda, Maryland this 18th day of May 1979.

For the Nuclear Reactor Regulation.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79–17085 Filed 5–31–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Termination of Order To Show Cause

I. The Maine Yankee Atomic Power Company (the licensee) is the holder of Facility Operating License No. DPR-36 which authorizes operation the Maine Yankee Atomic Power Station (the facility) at power levels up to 2630 megawatts thermal (rated power). The facility, which is located at the licensee's site in Lincoln County, Maine, is a pressurized water reactor used for the commercial generation of electricity.

II. Because certain safety related piping systems at the facility had been designed and analyzed with a computer code which incorrectly summed earthquake loads algebraically, the potential existed for compromising the basic defense in depth provided by redundant safety systems in the event of an earthquake. This compromising resulted from the possibility that an earthquake of the type that the plant must be designed for, could cause a pipe rupture as well as degrade emergency cooling systems designed to mitigate such an accident. Therefore, by Order of the Director of Nuclear Reactor Regulation (the Director) for the Nuclear Regulatory Commission (NRC), dated March 13, 1979 (44 FR 16506, March 19, 1979), the licensee was ordered to show cause:

(1) Why the licensee should not reanalyze the facility piping systems for seismic loads on all potentially affected safety systems using an appropriate piping analysis computer code which does not combine loads algebraically;

(2) Why the licensee should not make any modifications to the facility piping systems indicated by such reanalysis to be necessary; and

(3) Why facility operation should not be suspended pending such reanalysis and completion of any required modifications.

In view of the importance to safety of this matter, the Order was made immediately effective and the facility was required to be placed in the cold shutdown condition and remain in that mode until further order of the Commission.

III. The facility is currently in the cold shutdown condition. Pursuant to the March 13, 1979 Order, the licensee filed a written answer to the Order by letter dated April 2, 1979. In this response the licensee stated that it has reanalyzed all potentially affected safety systems for seismic loads using an appropriate method which does not sum loads algebraically and these reanalyses indicate that two piping restraints needed to be modified to account for base plate flexibility. These modifications have been completed. Technical support for these conclusions was provided in the "interim Report by Stone & Webster, April 1, 1979", "Containment Spray Piping Analysis of Pipe Supports H-51 and H-53, April 2, 1979", and the licensee's submittals dated April 3, 12, 13, 19, 27 and May 2, 4, 5, 15 and 18, 1979. Based on the above, the licensee concludes there is no basis for continued suspension of facility operation as contemplated by the Order, and proposes:

(1) That the Director modify or rescind so much of his Order of March 13, 1979, as requires the continued shutdown of the facility.

(2) That the Director grant to the licensee such other and further relief as is proper in the circumstances.

The NRC staff has reviewed the licensee's submittals. This review included an evaluation of the codes which compute pipe stresses resulting from the facility's response to an earthquake. The means by which piping responses are combined in the codes that are currently a basis for the facility design are summarized below:

NUPIPE-SW

This code combines intramodal [1] responses by the square root of the sum of the squares (SRSS) and combines intermodal [1] responses by SRSS or absolute sum for closely spaced modes.

PSTRESS/Shock 3

In this code the intramodal responses are calculated by adding the absolute value of the responses due to the vertical earthquake component to the root-mean-square of the responses due to the two horizontal earthquake components. The intermodal components are calculated by the root-mean-square method.

PSTRESS/Shock 1

One of four versions of this code was reviewed. In this version the largest modal response is added (absolute sum) to the root-mean-square value of all other modal responses. Intramodal responses due to multi-directional earthquake excitation were not calculated since the code only produced responses parallel to a given earthquake component excitation.

[1] Modes are defined as dynamic piping deflections at a given frequency. Intramodal responses are the components of force, moment and deflection within a mode. Intermodal responses are the components of force, moment and deflection for all modes.

Because this code is not equivalent to current practice, the NRC staff requested that the licensee demonstrate the conservatism of pipe stress as determined by this code. This was done by reanalysis of certain piping systems using currently acceptable methods.

STRUDL-Shake

This code combines intramodal responses by absolute sum and the intermodal responses by SRSS.

The NRC staff has determined that an algebraic summation of responses was not incorporated into any of the above listed codes. The NRC staff has further concluded that these codes provide an acceptable basis for the facility piping design.

Modifications of two piping supports (H-51, H-53) for the containment spray system were determined to be necessary as a result of the reanalysis. The modifications consisted of welding two stiffners to each support base plate to reduce the base plate flexibility. The modifications were completed in accordance with the Yankee Operational Quality Assurance Program (YOQAD-1A) and are acceptable.

Based on the NRC staff's Safety Evaluation dated May 24, 1979, the staff finds that, in accordance with the Order of March 13, 1979, the licensee has reanalyzed all potentially affected safety systems using an appropriate piping analysis which does not combine loads algebraically and has made those modifications to the facility piping systems indicated by such reanalysis to be necessary.

The licensee's answer to the Order did not request a hearing. The New Hampshire Legislative Utility Consumers' Council petitioned on April 2, 1979, to be permitted to intervene in any proceeding which might arise from the Show Cause Order, but did not request a hearing. No other person requested a hearing.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is determined that: The public health, interest or safety does not require the continued shutdown of the facility, and it is hereby ordered that:

Effective this date the Order to Show Cause of March 13, 1979, and the proceeding thereon are terminated.

Dated at Bethesda, Maryland this 24th day of May 1979.

For the Nuclear Regulatory Commission.

Harold R. Denton, Director,

Office of Nuclear Reactor Regulation.

[FR Doc. 79-17088 Filed 5-31-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District: Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. DPR-46, issued to Nebraska Public Power District, which revised the Technical Specifications for Operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of the date of its issuance.

The amendment revised the Technical Specifications to permit operation up to 1% of related thermal power while performing training startups with the RHR pumps in the shutdown cooling mode. The amendment also revised the Technical Specifications to include administrative changes.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated November 29, 1978 and January 30, 1979, (2) Amendment No. 57 to License No. DPR-46, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Auburn Public Library, 118-15th Street, Auburn, Nebraska 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23d day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-17087 Filed 5-31-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al.; Granting of Relief From ASME Section XI Inservice Inspection and Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Northeast Nuclear Energy Company. The relief relates to the inservice inspection and testing program for the Millstone Nuclear Power Station, Unit No. 2 (the facility) located in Waterford, Connecticut. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

Relief is granted, on an interim basis, pending completion of a more detailed review, from compliance with certain inservice inspection and testing requirements determined to be impractical for the facility because compliance would result in hardships and unusual difficulties without a compensating increase in the the level or quality of safety.

The request for relief 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 letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration

The Commission has determined that the granting of this relief 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 this action.

For further details with respect to this action, see (1) the licensee's proposed Technical Specifications dated October 26, 1978, (2) the program description and request for relief dated January 25, 1979, and (3) the Commission's letter to the licensee dated May 11, 1979

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of item (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of May 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors

[FR Doc. 79-17088 Filed 5-31-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-277 and 50-278]

Philadelphia Electric Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 53 and 53 to Facility Operating Licenses Nos. DPR-44 and DPR-56 to Philadelphia Electric Company, Public Service Electric & Gas Company, Delmarva Power & Light Company, and Atlantic City Electric Company, (the licensees), which revised the licenses for operation of the Peach Bottom Atomic Power Station, Units 2 and 3 (the facilities), located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments add a license condition relating to the completion of facility modifications to improve the fire protection program.

The licensee's submittals comply with the standards and requirements of the Atomic Energe 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 amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments 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 the amendment.

For further details with respect to this action, see (1) the licensee's submittals dated October 21, 1976, April 14, 1977, August 12, 1977, September 15, 1977, February 22, 1978, August 11, 1978 and December 20, 1978, (2) Amendment Nos. 53 and 53 to Licenses Nos. DPR–44 and DPR–56 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23rd day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79–17089 Filed 5–31–79; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Invitation for Comments on Administration of the Employee Retirement Income Security Act (ERISA)

Reorganization Plan No. 4 of 1978 changed the jurisdictions of the Departments of Labor and Treasury for administration of ERISA to significantly reduce the overlapping and dual jurisdictional authorities of the two agencies.

The Plan also requires the President to submit to the Congress, by January 31, 1980, ". . . an evaluation of the extent to which this Reorganization Plan has alleviated the problems associated with the present administrative structure under ERISA, accompanied by specific legislative recommendations for a long-term administrative structure under ERISA."

The Office of Management and Budget (OMB) is conducting a study to meet this requirement. As a part of that effort, OMB invites written comments from interested parties concerning (1) changes noted in the administration of ERISA as a result of Reorganization Plan No. 4, and (2) specific proposals for organizational changes to improve the long-term administrative structure of ERISA, with explanatory rationale.

Comments should be submitted no later than July 15, 1979, to John L. McGruder, Office of Management and Budget, Room 10235, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20503.

Harrison Wellford,

Executive Associate Director for Reorganization and Management.

[FR Doc. 79–16993 Filed 5–31–79; 8:45 am]

BILLING CODE 3110–01–M

OHIO RIVER BASIN COMMISSION

Availability of Adopted Regional Plan Summary: The Ohio River Basin; the Regional Water and Land Resources Plan and Environmental Impact Statement

Pursuant to Section 204(3) of the Water Resources Planning Act of 1965 (PL 89–80), the Ohio River Basin Commission has adopted a document summarizing the Comprehensive Coordinated Joint Plan for the Ohio River Basin entitled, "The Ohio River Basin—The Regional Water and Land Resources Plan and Environmental, Economic, and Social Impact Statements" for transmittal to the President and the Congress through the Water Resources Council.

Copies are available on request from the Ohio River Basin Commission, 36 E. Fourth Street, Cincinnati, Ohio 45202.

Fred J. Krumholtz,

Chairman.

[FR Doc. 79–17090 Filed 5–31–79; 8:45 am]

BILLING CODE 8410–01–M

POSTAL SERVICE

Privacy of Information; New System of Records

AGENCY: U.S. Postal Service.

ACTION: Final Notice of a New System of Records.

SUMMARY: This document makes final a previously published notice of establishment of a new system of records. The new system is USPS 120.180, Personnel Records—Skills Bank (Human Resources Records). The records in this system will relate to job placement and career planning for Postal Service employees. The new system will be used by the Postal Service to place employees in new positions; to assist in career planning and training in general; and to provide statistics for management of personnel. It is expected that the new system will be of particular use in implementing the Postal Career Executive Service program, a new employment program for high-level postal employees.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Hinton, (202) 245–5568.

SUPPLEMENTARY INFORMATION: On April 19, 1979, the Postal Service published for comment in the **Federal Register** (44 FR 23396) a proposal to establish USPS 120.180, Personnel Records—Skills Bank (Human Resources Records). No comments were received on the proposed new system of records. Accordingly, after a review of the proposed text, the Postal Service has determined to give final notice of the establishment of the new system of records. The complete description of the new system of records appears below.

W. Allen Sanders,

Acting Deputy General Counsel.

USPS 120.180

SYSTEM NAME:

Personnel Records—Skills Bank (Human Resorces Records), 120.180

SYSTEM LOCATION:

Maintained by various postal facilities as determined by management.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Empoyee name, social security number, address, job position, sex, educational background, work history, salary history, skills, licences, language, career preferences, geographical preferences, special achievements, merit awards, project assignments, benefits, and other personal information. (The various systems in existence may contain more or less information than specified herein.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 92–261, 39 USC 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Used by USPS management to place employees in new positions, and to assist in career planning and training in general; also used by management to provide statistics for management of personnel.

Use—1. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Preprinted forms, magnetic tape and disk files, computer reports, and microfiche.

RETRIEVABILITY:

Name and social security number.

SAFEGUARDS:

Locked file cabinets, controlled access, computer password authentication, magnetic tape library, physical security.

RETENTION AND DISPOSAL:

Paper records will be destroyed one year after information is successfully entered into the system by shredding or burning. Individual names will be deleted from the system during periodic updates.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether such a system exists at their place of employment or whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name, social security number, and place of employment.

RECORD ACCESS PROCEDURES:

See Notification Procedures above.

CONTESTING RECORD PROCEDURES:

See Notification Procedures above.

RECORD SOURCE CATEGORIES:

Information is obtained directly from employee, and USPS personnel forms.

[FR Doc. 79-17156 Filed 5-31-79; 8:45 am]

BILLING CODE 7710-12-M

RAILWAY ASSOCIATION

[Docket 211-21]

Consolidated Rail Corp.; Application for a Loan

Subsection (h) of Section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. section 721) (the Act), authorizes the United States Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corporation (Conrail), the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transfered or conveyed pursuant to Section 303(b)(1) of the Act under conditions and for purposes set forth in this Subsection. Subsection (b) of Section 211 requires that the Association publish notice of the receipt of any application thereunder in the Federal Register and afford interested parties an opportunity to comment thereon.

On September 28, 1977, the Board of Directors of the Association approved $4,164,403.00 and $4,077,000.00 in response to the request of Conrail for section 211(h) loans for suppliers and shippers claims, respectively, of the Penn Central Transportation Company estate. Conrail has not borrowed the full amount of these approved funds.

On May 23, 1979, Conrail submitted a new Borrowing Application (Borrowing Application) requesting (1) $1,474,742.27 of the funds approved for suppliers and $25,465.26 of the funds approved for shippers on September 28, 1977 and (2) uncommitted section 211(h) funds of $499,792.47. Conrail states that it will use these funds to pay federal employers' liability act claims of $2 million of the Penn Central Transportation Company.

The Borrowing Application includes the certification and exhibits required by the Loan Procedures.

Interested parties are invited to submit written comments relevant to this application. Any such submissions must identify, by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel, United States Railway Association, 955 L'Enfant Plaza North, S.W., Washington, D.C. 20595, on or before June 11, 1979, to enable timely consideration by USRA. The docket containing the original application shall be available for public inspection at that address Monday through Friday (holidays excepted) between 8:30 a.m. and 5:00 p.m.

Dated at Washington, D.C. this 29th day of May, 1979.

Peter J. Gallagher,

Assistant Secretary, United States Railway Association.

[FR Doc. 79-17026 Filed 5-31-79; 8:45 am]

BILLING CODE 8240-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 666; Delegation of Authority No. 144]

Redelegation of Personnel Authorities Relating to the Senior Executive Service (SES)

By virtue of the authority vested in me as Secretary of State, including section 4 of the Act of May 26, 1949, (63 Stat. 111; 22 U.S.C. 2658, as amended) I hereby redelegate the following functions. These functions are delegated to me under the Memorandum for Heads of Departments and Agencies dated April 10, 1979, from the Director of the Office of Personnel Management, as governed by 92 Stat. 1177, Pub. L. 95–454, Title IV, section 414 (hereinafter referred to as the Memorandum). I have accepted these authorities in an Executive Personnel Delegation Performance Agreement (hereinafter referred to as the Agreement).

1. To the Deputy Secretary of State, the function of approving non-managerial qualifications of additional or new non-career appointees to positions designated for the Senior Executive Service (SES).

2. To the Under Secretary of State for Management, those functions with respect to additional or new super-grade level positions within the ceiling approved by the Office of Personnel Management (OPM) for Senior Executive Service positions in the Department of State which may not be redelegated below the Under Secretary or equivalent level under the Memorandum and Agreement.

3. To the Director General of the Foreign Service and Director of Personnel, those functions under the Memorandum and Agreement which relate to the final classification,

recruitment and appointing authority responsibilities. Any redelegation of this authority must be approved by the Director, Office of Personnel Management.

4. This Delegation of Authority is effective immediately.

Dated: May 16, 1979.

Cyrus R. Vance,

Secretary of State.

[FR Doc. 79-16989 Filed 5-31-79; 8:45 am]

BILLING CODE 4710-15-M

[CM-8/202]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 1:30 p.m. on June 21, 1979, in Room 8442 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the Twenty-first Session of the Subcommittee on Radio-communications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London in January, 1980. In particular, the working group will discuss the following topics:

—survival craft radio equipment,
—operational requirements for future EPIRBs,
—operational standards for shipboard radio equipment,
—maritime distress system.

Requests for further information should be directed to Lieutenant R. F. Carlson, U.S. Coast Guard (G-MTM/74), Washington, D.C. 20590, telephone (202) 426-1345.

The Chairman will entertain comments from the public as time permits.

Dated: May 23, 1979.

John Lloyd, III,

Acting Director, Office of Maritime Affairs.

[FR Doc. 79-17091 Filed 5-31-79; 8:45 am]

BILLING CODE 4710-01-M

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; Proposed Revised System of Records

AGENCY: Office of the Secretary, Department of the Treasury.

ACTION: Proposed Revised System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Department of the Treasury gives notice of the proposed revised system of records entitled, Treasury Emergency Preparedness Information Program (Treasury/OS 00.053).

A revised 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 July 3, 1979. This system will become effective on July 3, 1979 if no public comments are received and the Office of Management and Budget grant the 60 day waiver.

ADDRESSES: Director, Preparedness and Physical Security Division, 732 Washington Building, 1435 G Street, NW., c/o Main Treasury, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Merchant, Director, Preparedness and Physical Security Division, 732 Washington Building, 1435 G Street, NW., c/o Main Treasury, Washington, D.C. 20220.

Dated: May 23, 1979.

Walter J. McDonald,

Acting Assistant Secretary (Administration).

TREASURY/OS 00.053

SYSTEM NAME:

Treasury Emergency Preparedness Information Program—Treasury/OS.

SYSTEM LOCATION:

Preparedness and Physical Security Division (PPSD), Room 732 Washington Building, 1435 G Street, NW., c/o Main Treasury, Washington, D.C. 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Treasury Emergency Executive Team Members (Teams Alpha, Bravo and Charlie), (2) Key Treasury Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Emergency Executive Team Member Lists (by Office of the Secretary and by Treasury Bureau listing); Name, Position Title, Office/Agency. (2) Key Treasury Personnel Alert Notification Lists; Name, Telephone Numbers (Office and Home), Office/Agency. (3) Information by individual application for Permanent Badge for FPA Special Facility; Name, Date of Birth, Physical Identification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Treasury Emergency Planning Circular (EPC) No. 2 (Rev.) March 14, 1973; Office of Emergency Preparedness (OEP) Circular 9100.2, April 12, 1972; Executive Order 11490; Request for Permanent Badge for FPA Special Facility, General Services Administration (GSA) Form 9033 (Rev.) August 1975, Federal Preparedness Agency (WVOO) Order 604.1 dated August 15, 1975.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Emergency Executive Team Lists: Assigns key Treasury personnel (who are essential to the performance of essential emergency functions) to Teams Alpha, Bravo and Charlie. See EPC No. 2. Forms the basis for issuance of FPA Special Facility Badges. Forms the basis for the personnel on the Alert Notification Lists who are to be notified during an emergency situation and when Civil Readiness Levels are established or changed. See Department of the Treasury Directives Manual, Chapter 10-05. (2) Key Treasury Personnel Alert Notification Lists: Used by Treasury Telecommunications Center personnel and Emergency Planning officials in alerting key Treasury personnel and Emergency Executive Team Members during an emergency and the setting of Civil Readiness Levels. (3) FPA Special Facility Badge: Permits admission to Federal Preparedness Agency (FPA/GSA Special Facility, which is the emergency operating facility to which Team Bravo members are assigned. (4) For additional routine uses see Appendix AA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

(1) magnetic tapes, punch cards and reports. Emergency Executive Team Lists and Alert Notification Lists: Master copies maintained in P&PSD office. Copies are prepositioned within the Office of the Secretary, Telecommunications Center, Treasury Emergency Operating Facilities (TARS and FPA/GSA/SF). (2) Request for permanent badge for FPA Special Facility: original filed within Federal Preparedness Agency (FPA/GSA). Copy filed in P&PSD office.

RETRIEVABILITY:

All mentioned records are indexed by name.

SAFEGUARDS:

Treasury Master Records are stored in lockable cabinets or secure rooms; access is limited to officials who have a need for the information; employees are trained to make only authorized disclosures.

RETENTION AND DISPOSAL:

(1) Emergency Executive Team Member List, and (2) Key Treasury Personnel Alert Notification Lists are updated upon resignation, retirement or transfer of assigned employee. Obsolete lists are destroyed by shredding or erasure. (3) Badges are retrieved and returned to FPA for accountability and destruction when employee no longer has official need for pass.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Preparedness and Physical Security Division, Room 732 Washington Building, 1435 G Street, NW., c/o Main Treasury, Washington, D.C. 20220.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought, and (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

RECORD ACCESS PROCEDURES:

The Departmental Disclosure Office, Room 1322, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220.

CONTESTING RECORD PROCEDURES:

Submit requests to the Departmental Disclosure Officer at the above address.

RECORD SOURCE CATEGORIES:

The information in these records was provided by or verified by the subject of the record, employers, co-workers.

[FR Doc. 79-16080 Filed 5-31-79; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Indiantown Gap National Cemetery, Pennsylvania; Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement, Proposed National Cemetery, Indiantown Gap, Pennsylvania" dated April 1979, has been prepared as required by the National Environmental Policy Act of 1969.

The proposed 676 acre cemetery site is located on the south perimeter of the Fort Indiantown Gap Military Reservation in Lebanon County, 22 miles northeast of Harrisburg, Pennsylvania. The development will provide approximately 313,000 gravesites, 12,000 columbaria spaces, an administration building, maintenance complex, memorial center, committal service buildings and other associated cemetery facilities. Projected opening date for the cemetery is late 1982. Interment projections indicate a grave usage of approximately 24% by the end of the year 2000.

This final statement discusses the environmental impact of the proposed development. The document is being placed for public examination in the Veterans Administration office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C., (202-389-2526).

Single copies of the Final Statement may be obtained on request to: Director, Environmental Affairs Office (004A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 24, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-17025 Filed 5-31-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 241, Rule 19, 62nd Revised Exemption No. 90]

Aberdeen & Rockfish Railroad Co., et al.; Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named below own numerous 50-ft. plain box cars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410-A, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules, 1, 2(a), and 2(b).

Aberdeen and Rockfish Railroad Company Report Marks: AR
Bath and Hammondsport Railroad Company Reporting Marks: BH
Camino, Placerville & Lake Tahoe Railroad Company Reporting Marks: CPLT
City of Prineville Reporting Marks: COP
Duluth, Missabe and Iron Range Railway Company reporting Marks: DMIR
East Camden & Highland Railroad Company Reporting Marks: EACH
Genessee and Wyoming Railway Company Reporting Marks: GNWR
Greenville and Northern Railway Company Reporting Marks: GRN
The Hutchinson and Northern Railway Company Reporting Marks: HN
Indiana Eastern Railroad and Transportation, Inc.[1] d.b.a The Hoosier Connection Reporting Marks: HOSC
Lake Superior & Ishpeming Railroad Company Reporting Marks: LSI
Lenawee County Railroad Company, Inc. Reporting Marks: LCRC
Louisiana Midland Railway Company Reporting Marks: LOAM
Louisville and Wadley Railway Company Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company Reporting Marks: LNAC
Manufacturers Railway Company Reporting Marks: MRS
Middletown and New Jersey Railway Company, Inc. Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad company Reporting Marks: MKT-BKTY
New Orleans Public Belt Railroad Reporting Marks: NOPB
Pearl River Valley Railroad Company Reporting Marks: PRV
Peninsula Terminal Company Reporting Marks: PT
Raritan River Rail Road Company Reporting Marks: RR
Sacramento Northern Railway Reporting Marks: SN
St. Lawrence Railroad Reporting Marks: NSL
Savannah State Docks Railroad Company Reporting Marks: SSDK
Sierra Railroad Company Reporting Marks: SERA
Terminal Railway, Alabama State Docks Reporting Marks: TASD
The Texas Mexican Railway Company Reporting Marks: TM
Tidewater Southern Railway Company Reporting Marks: TS
Toledo, Peoria & Western Railroad Company Reporting Marks: TPW
Vermont Railway, Inc. Reporting Marks: VTR
WCTU Railway Company Reporting Marks: WCTR
Youngstown & Southern Railway Company Reporting Marks: YS

[1] Addition.

Yreka Western Railroad Company Reporting Marks: YW

Effective May 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., May 11, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

FR Doc. 79-17101 Filed 5-31-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 361]

Exemption of Certain Designated Operators From Section 11343 (Formerly Section 5(2) of the Interstate Commerce Act)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts companies operating exclusively as Designated Operators under section 304(d) of the Regional Rail Reorganization Act of 1973 from the requirements of 49 U.S.C. 11343 (formerly section 5(2) of the Interstate Commerce Act). In addition, officers and directors of these companies are exempted from the provisions of 49 U.S.C. 11322(a) (formerly section 20a(12) of the Interstate Commerce Act).

DATES: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202) 275-7546.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking in Ex Parte No. 361, Exemption of certain Designated Operators from section 11343 (formerly section 5(2) of the Interstate Commerce Act), published in the **Federal Register** on January 17, 1979, at 44 FR 3531, we instituted this proceeding on our own motion and invited interested parties to comment on the proposed exemption. Comments in support of the proposed rulemaking were received from the Hillsdale County Railway Company, Inc. (Hillsdale), The Virginia and Maryland Railroad Company, and the Maryland and Delaware Railroad Company. Comments in opposition to the proposed rulemaking were filed by Mr. John W. McGinness on behalf of the Illinois Legislative Board of the United Transportation Union.

Rail Exemption Authority. 49 U.S.C. 10505 specifically provides that in any matter related to a rail carrier subject to our jurisdiction, this Commission has jurisdiction to exempt from our regulation a class of persons, or a transaction or service "because of the limited scope of the transaction or service", when we find that such regulation:

(1) Is not necessary to carry out the transportation policy of section 10101 . . .;

(2) Would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) Would serve little or no useful public purpose.

In Ex Parte No. 346, *Rail General Exemption Authority,* served May 31, 1978, we decided that rules to implement the provisions of the rail exemption authority were not needed. Section 10505 provides adequate substantive and procedural requirements under which exemptions may be granted or revoked.

Exemption of Designated Operators

The issue presented here is whether we should subject companies operating exclusively as "Designated Operators" to the requirements of 49 U.S.C. 11343 (formerly section 5(2) of the Interstate Commerce Act) in transactions between themselves, and the requirements of 49 U.S.C. 11322(a) (formerly section 20a(12) of the act). We find that these exemptions are appropriate, for reasons discussed below.

The term "Designated Operator" refers to any company conducting operations pursuant to section 304(d) of the Regional Rail Reorganization Act of 1973 (3R Act) (45 U.S.C. 744), as amended by the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210 (45 U.S.C. 801). In the 3R Act, Congress directed the maintenance of adequate and efficient rail services in the Northeast. Under this Act, the United States Railway Association (USRA) determined which of the bankrupt carriers' lines should be continued by Conrail as part of the Final System Plan. Those lines not included in the Final System Plan were subject to automatic discontinuance or abandonment. However, service over those lines could be retained under section 304(d) of the 3R Act, of a subsidizer guaranteed payment of any difference between the attributable revenues and avoidable costs, together with a reasonable management fee, to a Designated Operator.

In implementing the 3R Act, we concluded that operators designated under section 304(d) need not obtain a certificate of public convenience and necessity under section 1(18) of the Interstate Commerce Act (recodified at 49 U.S.C. 10901) in order to conduct the designated operations. Instead, we established a procedure for issuing a "Certificate of Designated Operator" authorizing the operations. See Notice titled *Information Concerning the Implementation of Section 304(c) and (d) of Regional Rail Reorganization Act of 1973 (45 U.S.C. 744), as Amended by the Railroad Revitalization and Regulatory Reform Act of 1976, P.L. 94-210 (45 U.S.C. 801), Enacted February 15, 1976. (Continuation of Rail Service Under Subsidy by Designated Operator),* served March 8, 1976, and published at 41 FR 10,526 (1976). We stated in that notice that:

> Although the Designated Operator will not be required to seek and obtain authority from the Commission pursuant to section 1a and 1(18) of the Act, as amended, for either commencement or termination of operations, the Designated Operator will be subject to all other provisions of the Act, as amended, as a common carrier by railroad.

Scope of the Exemption

Several comments presented questions related to the scope of the proposed exemption. A major concern is whether companies operating exclusively as Designated Operators must seek Commission approval of section 11343 transaction with carriers not operating exclusively as Designated Operators. We emphasize that the exemption does not reach, and prior Commission approval is required for, all section 11343 transactions between companies operating exclusively as Designated Operators and any other carrier or carriers subject to our jurisdiction. This incudes transactions between (a) a company operating exclusively as a Designated Operator and (b) a motor carrier, water carrier, or a rail carrier holding a certificate of public convenience and necessity under 49 U.S.C. 10901 (formerly section 1(18) of the act) (including a Designated Operator which does not operate exclusively as a Designated Operator). Accordingly, a company operating exclusively as a Designated Operator may not extend its lines by means of a trackage right or purchase agreement with any carrier not operating exclusively as a Designated Operator, nor engage in any other section 11343 transaction with these companies, without our prior approval.[1]

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[1] Thus, the general exemption would not apply to the transaction described by Hillsdale in its comments. Hillsdale refers to the application in Finance Docket No. 28718, in which Designated Operator Lenawee County Railroad Company, Inc. (Lenawee) sought approval to acquire a 3.2 mile portion of track from the Detroit, Toledo and Ironton Railroad Company (DT&I). That applicaton consisted of more than 80 pages (with 20 copies to meet notice and distribution requirements), and took several weeks to prepare. Hillsdale argues that the excessive amount of time and money expended to meet the requirements of a section 11343

Footnotes continued on next page

In short, the proposed exemption embraces all section 11343 transactions, including control of more than one carrier, the purchase of the property of another carrier, the acquisition of trackage rights, merger, etc., provided each carrier to the transaction operates exclusively as a Designated Operator.

Companies operating exclusively as Designated Operators are generally small financially, and have no major impact, singly or in combination, on the competitive situation of other common carriers by railroad. In addition, the terms of the operating agreement with the subsidizer dictate the operations of the Designated Operator. Moreover, these companies preserve a service which would otherwise by discontinued. Accordingly, the time, expense, and effort required to prepare and process a section 11343 application constitute an undue burden on these Designated Operators, and the administrative paperwork serves little useful purpose.

49 U.S.C. 11322(a) prohibits a person from holding the position of officer or director of more than one carrier without Commission authorization. Our regulations provide, at 49 C.F.R. 1112.9, that no authority is needed to hold the position of officer or director of more than one carrier when the carriers involved are commonly controlled "pursuant to approval and authority of the Commission granted under section 5 of the act" (now section 11343). We have considered whether the exemption of companies operating exclusively as Designated Operators from the requirements of section 11343 should or would serve to exempt those companies from the requirement of obtaining authority under section 11322(a) as well. We conclude that, for the same reasons that exemption of Designated Operators from section 11343 is warranted, exemption from section 11322(a) is appropriate.

Mr. McGinness urges against adoption of the exemptions here, arguing that the applications serve an important informational function. In support, he cites a judicial review of an I.C.C. action involving a "short-line" operator seeking Designated Operator status. No. 78–1129 (7th Cir.), *Chicago & Western Indiana Railroad Company* v. *I.C.C.* The litigation allegedly revealed interrelationships with I.C.C. personnel.

It is important to know the various interrelationships between affiliated carriers, including those between companies operating exclusively as Designated Operators. However, we do not believe that this purpose justifies the burden of regulation on the Designated Operators in this context. In the letter of intent required to be filed with the Commission in order to obtain a Certificate of Designated Operator, the prospective Designated Operator must include the names and addresses of all officers and directors, with a statement from each which indicates any present affiliation with another railroad, including other Designated Operators. Thus, we receive this information before issuing a Certificate of Designated Operator. Although we will not be notified of subsequent changes in affiliation with this exemption, the subsidizers of the designated operations will have oversight over such matters and can protect against potentially injurious affiliations.

Labor Protection

Labor protection is one of the requirements of former section 5(2) and has been recodified at 49 U.S.C. 11347. Our exemption discontinues this requirement in section 11343 transactions between companies operating exclusively as Designated Operators.

Designated Operators are not required to obtain authority pursuant to 49 U.S.C. 10903 (formerly section 1a of the Act) for termination of operations. Thus, labor protection is not presently afforded employees of companies operating exclusively as Designated Operations in those circumstances. Section 11343 transactions between these exclusively Designated Operator companies need not be treated differently.

As mentioned previously, the terms of the operating agreement with the subsidizer dictate the operations of the Designated Operator. Section 304(d) of the 3R Act entitles the Designated Operator to receive as a subsidy payment from the subsidizer the difference between the revenue accruing to the Designated Operator attributable to its rail service operations and the avoidable costs of providing the service, together with a reasonable management fee. These statutes include labor costs as part of the avoidable cost but do not specify labor protection as part of such costs. Since these statutes do not include labor protection within the avoidable costs figure, it seems clear that Congress did not intend for section 11347 labor protection provisions in section 11343 transactions between companies operating exclusively as Designated Operators. Moreover, the intent of the 3R Act is to encourage continued rail service over lines which would otherwise be discontinued or abandoned; imposition of labor protection in section 11343 transactions might encourage these Designated Operators and their corresponding subsidizers to discontinue inefficient and costly Designated Operator operations rather than to use section 11343 transations to achieve a more efficient and less costly continued operation. We conclude that labor protection need not be imposed.

Findings

We find that application of the requirements of section 11343 to companies operating exlusively as Designated Operators, and of section 11322(a) to the officers and directors of those companies, (1) is not necessary to carry out the transportation policy of section 10101, (2) would be an unreasonable burden, and (3) would serve little or no useful public purpose.

We will continue to monitor the development of companies operating exclusively as Designated Operators. If any of these companies become functionally equivalent to regular common carriers by railroad, or if any other appropriate reason is present, we will consider revocation of the present exemptions if necessary (1) to carry out the transportation policy, (2) to achieve effective regulation by this Commission, and (3) to serve a useful public purpose.

Dated: May 25, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian. Commissioner Christian absent and not participating.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-17097 Filed 5-31-79; 8:45 am]

BILLING CODE 7035-01-M

Footnotes continued from last page

application are unduly burdensome in the context of that transaction. Although this type of transaction is not within the scope of the *general* exemption proposed here, since DT&I does not operate exclusively as a Designated Operator, parties contemplating transactions of this sort may seek an exemption for the *individual* transaction under section 10505.

[Notice No. 81]

Motor Carrier Temporary Authority Applications

May 17, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application

is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2754 (Sub-32TA), filed March 30, 1979. Applicant: NEUENDORF TRANSPORTATION CO., 121 S. Stoughton Rd., Madison, WI 53714. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. Common carrier; regular routes; *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the facilities of Carnation Co. at or near Rochelle, IL as an off-route point in connection with carrier's otherwise authorized regular route operations between Rockford, IL and Madison, WI, for 180 days. An underlying ETA seeks 90 days authority. Applicant requests authority to interline at any common point on its service routes, including but not limited to, Chicago and Rockford, IL; Eau Claire, Janesville, Madison, Marshfield, Medford, Milwaukee, Portage, Richland Center, Spring Green, Stevens Point and Wausau, WI; as well as St. Paul, MN and to tack this authority with existing regular route authority. Supporting shipper(s): Carnation Co., 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 14314 (Sub-29TA), filed March 29, 1979. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Broadway & Vine Streets, Lima, OH 45802. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. *General commodities, except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment*, serving the facilities of Honda of America Manufacturing, Inc., plant site (located on U.S. Highway 33, 7 miles northwest of Marysville, OH, Union County) as an off-route point in connection with carrier's regular route operation, for 180 days. An underlying ETA seeks 90 days authority. Common carrier—regular routes. Applicant requests authority to interline at Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Lima, Mansfield and Toledo, OH; Detroit and Pontiac, MI; Evansville, IN; Louisville, KY; and St. Louis, MO, and to tack this authority with authority it presently holds in No. MC–14314. Supporting shipper(s): Honda of America Manufacturing, Inc., 6600 Busch Blvd., Suite 201, Columbus, OH 43229. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 19105 (Sub-55TA), filed April 10, 1979. Applicant: FORBES TRANSFER COMPANY, INC., P.O. Box 3544, Wilson, NC 27893. Representative: Vance T. Forbes (same address as applicant). *Cast iron pipe, pipe fittings and related articles; plastic pipe, pipe fittings and related articles* from the facilities of Charlotte Pipe & Foundry Company at Charlotte and Bakers, NC to points in VA on and east of U.S. Hwy 29 for 180 days. Supporting shipper(s): Charlotte Pipe & Foundry Company, P.O. Box 4430, Charlotte, NC 28204. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 26825 (Sub-34TA), filed April 18, 1979. Applicant: ANDREWS VAN LINES, INC., Seventh & Park Ave., Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. *Aluminum furniture*, from the facilities of Keller Industries, Inc., located at or near Linton, IN; Williamsburg, KY; McKenney, VA; Waynesboro, GA; and Caldwell, TX to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keller Industries, 1800 State Road 9, Miami, FL 33162. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 26825 (Sub-35TA), filed April 18, 1979. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. *Such merchandise as is dealt in by retail and discount stores (except household goods, foodstuffs, commodities in bulk or those which by reason of size or weight require the use of special equipment)*, from Seattle, WA; Los Angeles and San Francisco, CA to Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pamida, Inc., 8800 F St., Omaha, NE 68127. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 30114 (Sub-8TA), filed April 17, 1979. Applicant: MOLA TRUCKING, INC., d.b.a. MITCHKO TRUCKING, 650 Myrtle Avenue, Boonton, NJ 07005. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Plastic bottles, containers and articles, and equipment, machinery* and *supplies* used in the manufacture and sale of plastic bottles, containers and articles, between the facilities of IMCO Container Co. located at or near Belvidere, Rockaway, and Plainfield, NJ; Lewistown, PA; Harrisonburg, VA and Pittsfield, MA on the other hand, and, on the other, points in NJ, NY, PA, CT, DE, MD, MA, VA, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): IMCO Container Company, 75th & Cleveland St., Kansas City, MO 64132. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Newark, NJ 07102.

MC 30844 (Sub-643TA), filed April 20, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50702. Representative: John P. Rhodes (same as applicant). *Canned and preserved foodstuffs* from the facilities of Heinz USA at or near Grand Prairie, TX destined to OK. Restricted to traffic originating at the named origin and destined to the named state, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 30844 (Sub-644TA), filed April 18, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125

Commercial St., P.O. Box 5000, Waterloo, IA 50702. Representative: John P. Rhodes (same as applicant). *Prepared foodstuffs* from Williamson and Hamlin, NY to points in IL, MI and WI for 180 days. Supporting shipper(s): Duffy-Mott Co., Inc., 370 Lexington Ave., New York, NY 10017. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 41635 (Sub-51TA), filed April 13, 1979. Applicant: DEALERS TRANSPORT COMPANY, 1368 Riverside Blvd., Memphis, TN 38109. Representative: John A. Crawford, P.O. Box 22567, 17th Floor, Deposit Guaranty Plaza, Jackson, MS 39205. *Automobiles and trucks*, new and used, in secondary movements in truck-away service, from Memphis, TN to all points and places in KY, for 180 days. Applicant seeks authority to serve points in the commercial zones of points listed above. An underlying ETA seeks 90 days authority. Supporting shipper(s): Toyota Motor Sales, U.S.A., Inc., 2055 West 190th Street, Torrance, CA 90504. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 42405 (Sub-38TA), filed April 18, 1979. Applicant: MISTLETOE EXPRESS SERVICE, P.O. Box 25614, Oklahoma City, OK 73125. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Common carrier: regular route: *general commodities* (except classes A and B explosives), moving in express service, serving all intermediate points and serving all other points in Delaware County, OK, as off-route points in connection with applicant's existing regular routes; (1) between Afton, OK, and West Siloam Springs, OK: from Afton over US Hwy 59 to junction with OK Hwy 33, then over OK Hwy 33 to West Siloam Springs; and (2) between junction OK Hwy 82 with US Hwy 66 and Maysville, AR: from junction OK Hwy 82 to junction OK Hwy 20, then over OK Hwy 20–AR Hwy 72, to Maysville, AR; and return over these same routes, for 180 days. Note: Applicant seeks to tack this authority with existing regular route authority. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 11 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or at the field office named below. Send protests to: District Supervisor, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 52704 (Sub-219TA), filed April 5, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 220 Century Parkway, Atlantic, GA 30345. *Dry milk products* (except in bulk), from the facilities of DMI, Inc., located at or near Louisville, KY, to points in AL, FL, GA, LA, MS, NC, SC, TN, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DMI, Inc., P.O. Box 14288, Louisville, KY 40214. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-220 TA), filed April 10, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box (Drawer) "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *IPet foods, canned or in packages*, from the facilities of Mavar Shrimp & Oyster Co., at or near Biloxi, MS, to points in AL, GA, LA, SC, TN and VA, and (2) *Materials, equipment and supplies used in the manufacture or distribution of commodities* in (1) above (except in bulk), from points in the States named in (1) above, to the facilities of Mavar Shrimp & Oyster Co., at or near Biloxi, MS, for 180 days. Supporting shipper(s): Mavar Shrimp & Oyster Co., P.O. Box 208, Biloxi, MS 39533. Send protests to: Mable E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 53965 (Sub-152TA), filed March 5, 1979. Applicant: GRAVES TRUCK LINE, INC., P.O. Box 1387, Salina, KS 67401. Representative: Bruce A. Bullock, P.O. Box 1387, Salina, KS 67401. *Foodstuffs, Canned or preserved*, From Iowa City, IA, to points in KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Thomas P. O'hara, DS, ICC, 256 Federal Bldg., 444 S. E. Quincy, Topeka, KS 66683.

MC 65895 (Sub-9TA), filed April 10, 1979. Applicant: REDDAWAY'S TRUCK LINE, INC., 1721 N. W. Northrup, Portland, OR 97209. Representative: Lawrence V. Smart, Jr., 419 N. W. 23d Avenue, Portland, OR 97210. *General Commodities*, (except those of unusual value, Class A and B explosives, and those commodities injurious or contaminating to other ladings), in containers and trailers, having an immediately prior or subsequent movement by water between Portland, OR, and Tacoma, Seattle, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 1 Fred Meyer Inc., P.O. Box 42121, Portland, OR 97242; 2 Totem Ocean Trailer Express, Inc., P.O. Box 24908, Seattle, WA 98124. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 73165 (Sub-472 TA), filed April 12, 1979. Applicant: EAGLE MOTOR LINES, INC., 830 33rd Street, North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. *Iron and steel articles* from Perkasie, PA to points in OH, MI, IL, IN, CO, UT, KS, GA, CA, WA, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Warehouse Storage Systems, Hi-Line Drive, Perkasie, PA 18944. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 73165 (Sub-473 TA), filed April 20, 1979. Applicant: EAGLE MOTOR LINES, INC., 830 33rd Street, North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. *Tractors* (except truck tractors) from the facility of Ford Motor Company at Romeo, MI to points in AL, AR, FL, GA, LA, MS, NC, SC, TN and TX. For 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Ford Motor Company, 2500 East Maple Road, Troy, MI 48084. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 85934 (Sub-101 TA), filed April 2, 1979. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming Avenue, P.O. Box 248, Dearborn, MI 48121. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 248, Northville, MI 48167. *Roofing and roofing materials* from the facility of Celotex Corporation at Wilmington, IL to points in Michigan; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Celotex Corporation, P.O. Box 22602, Tampa, FL 33622. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 89684 (Sub-108 TA), filed March 7, 1979. Applicant: WYCOFF COMPANY, INCORPORATED, 560 South 300 West, Salt Lake City, UT 84110. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. (1) *Such commodities as are dealt in by mail-order houses and retail stores* (except commodities in bulk) and (2) equipment,

materials and supplies incidental to the conduct of mail-order houses and retail stores between Los Angeles, CA on the one hand, and, on the other, points in UT and NV, restricted to service at facilities operated by Sears, Roebuck and Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sears, Roebuck & Company, Post Office Box 3021, Terminal Annex, Los Angeles, CA 90051. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 96324 (Sub-34TA), filed April 17, 1979. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Harold G. Hernly, Jr., 110 S. Columbus St., Alexandria, VA 22314. *Containers, container ends and closures, commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers, and *material, equipment and supplies* used in the manufacture and distribution of containers, *container ends and closures,* between points in the United States in and east of MN, IA, MS, AR and LA, with the above authority is restricted (1) against the transportation of commodities in bulk, in tank vehicles, and (2) to apply only on shipments originated at or destined to a Brockway Glass Company, Inc. facility, for 180 days. Supporting Shipper(s): Brockway Glass Company, Inc., McCullough Ave., Brockway, PA 15824. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 98614 (Sub-7TA), filed April 6, 1979. Applicant: ARKANSAS TRANSPORT COMPANY, INC., 100 West Emily, North Little Rock, AR 72114. Representative: J. E. Siegler, P.O. Box 702, Little Rock, AR 72203. *Petroleum and pertroleum products* in bulk in tank trucks From North Little Rock, AR to Poplar Bluff, MO for 180 days. An underlying ETA seeks 90 day authority. Supporting Shipper(s): F & S Petroleum, P.O. Box 3203, Little Rock, AR 72203. Send protests to:William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 99234 (Sub-13TA), filed April 10, 1979. Applicant: WESTWAY MOTOR FREIGHT, INC., 5231 Monroe St., Denver, CO 80216. Representative: Leslie R. Kehl, Suite 1600, Lincoln Center, 1660 Lincoln St., Denver, CO 80264. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* from Greeley and Denver, CO to points in AZ, CA and NV for 180 days. An underlying ETA seeks 90 days authority.Supporting Shipper: 5 shippers support. Information available at field office. Send protests to: D/S Roger L. Buchanan, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

Note.—Applicant intends to tack this authority with its authority it presently holds in No. MC–99234 Sub 2.

MC 99455 (Sub-2TA), filed April 13, 1979. Applicant: M.H. Hillery, Inc., 100 Western Ave., Allston, MA 02134. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, N.W., Washington, DC 20036. Common carrier, irregular routes, *General commodities* (except class A and B explosives, household goods, commodities in bulk, and those requiring special equipment between the facilities utilized by Seacoast Shippers Association, Inc. at or near Boston, MA on the one hand, and , on the other, Chicago, IL. for 180 days. An underlying ETA seeks 90 day authority. Supporting Shipper(s): Seacoast Shippers Association, Inc., 100 Western Ave., Allston, MA 02134. Send protests to: Glenn Eady, T/S, Interstate Commerce Commission, 150 Causeway street, Boston, MA 02114.

MC 99775 (Sub-3TA), filed April 9, 1979. Applicant: TRIANGLE EXPRESS, INC., 1015 S. W. 2nd St., Oklahoma City, OK 73109. Representative: Marjorie A. Rosengrant (same address as applicant). Common carrier: Regular route: *General commodities,* (a) between Guthrie, OK and Perry, OK, serving all intermediate points: From Guthrie over I.H. 35, and US Hwy 77 to Perry, and return over the same routes; (b) between Perry, OK and Lucien, OK: From Perry over OK hwy 164 to Lucien, and return over the same route; (c) between Perry, OK and junction US hwy 64 and OK hwy 99, serving all intermediate points, and the off-route point of Maramec, OK: from Perry over US hwy 64 to junction OK hwy 99, and return over the same routes; (d) between junction US hwy 64 and OK hwy 99 and Drumright, OK, serving all intermediate points: from Junction US hwy 64 and OK hwy 99 over OK hwy 99 to Drumright, and return over the same route; (e) between Drumright, OK and Guthrie, OK serving all intermediate points and the off-route point of Ripley, OK: from Drumright over OK hwy 33 to Guthrie, and return over the same route; (f) between junction IH 40 and US hwy 177 and junction US hwy 177 and US hwy 64, serving all intermediate points and the off-route points of Carney and Tryon, OK: from junction US hwy 177 and IH 40 over US hwy 177 to junction US hwy 64, and return over the same route; (g) between junction IH 35 and OK hwy 51 and junction OK hwy 51 and OK hwy 99, serving all intermediate points and the off-route point of Glencoe, OK: from junction IH 35 and OK hwy 51 over OK hwy 51 and OK hwy 99, and return over the same route; and (h) between Aydelotte, OK and junction OK hwy 18 and US hwy 64, serving all intermediate points, except Meeker and Chandler, OK: from Aydelotte over OK hwy 18 to junction US hwy 64, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant request authority to interline at Oklahoma City, OK and to tack this authority with existing regular route authority. Supporting shipper(s): Vassar Company, P.O. Box 609, Perkins, OK 74059; Spears Furniture, 641 Harrison, Pawnee, OK 74058; Garrison Motor Freight, Inc., P.O. Box 1278, Harrison, AR 72601; Interstate System, 134 Grandville Avenue SW., Grand Rapids, MI 49503. Send protests to: District Supervisor, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 100785 (Sub-3TA), filed April 17, 1979. Applicant: LAWRENCE E. BULT d.b.a. L. BULT CARTAGE, 123 North Williams, Thornton, IL 60476. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. *Dead burned dolomite,* in bulk: from Hammond, IN to Wilton, IA for 180 days. An underlying ETA was granted 90 days authority. Supporting shipper(s): Basic, Inc., 854 Hanna Building, Cleveland, OH 44145. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 105045 (Sub-105TA), filed March 19, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Avenue, Evansville, IN 47731. Representative: George Veech (address same as applicant). *Iron and steel articles,* from the facilities of Tennessee Forging & Steel Corp. at or near Newport, AR, to AL, MS, LA, GA, FL, TX, OK, KS, MO, TN, VA, WV, DE, DC, PA, NJ, NY, CT, VT, NH, RI, ME, MI, IL, IN, KY, OH, WI, MN, NE, IA and CO, for 180 days. Supporting shipper: Tennessee Forging & Steel Corp., P.O. Box 310, Newport, AR 72112. Send protests to: Beverly J. Williams, Transportation Assistant, I.C.C. 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 106074 (Sub-103TA), filed April 18, 1979. Applicant: B AND P MOTOR LINES, INC., Oakland Rd and U.S. Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd., NE.,

Atlanta, GA, 30342. *Plastic containers and plastic container lids* from the facilities of Genpak Corp. at Forest City, NC to all points in IA, IL, IN, KS, MI, MN, MO, NE, OH, OK, SD and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Genpak Corp., P.O. Box 727 Glens Falls, NY 12801. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 106074 (Sub-104TA), filed April 10, 1979. Applicant: B AND P MOTOR LINES, INC., Oakland Rd. and US Highway 221 South, Forest City NC 28043. Representative: John J. Capo, Suite 212, 5299 Roswell Rd, NE, Atlanta, GA 30342. *Hand tools and saw blades* from Lincolnton, NC to Sparks, NV and Benicia, CA, for 180 days. An underlying ETA seeks 90 days Authority. Supporting shipper(s): Vermont America Corporation, Hardware Tool Div., PO Box 340, Lincolnton, NC 28092. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Buildings, Charlotte, NC 28205.

MC 106674 (Sub-386TA), filed March 19, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Hwy 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (address same as applicant). *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials, glass fibre rovings, yarn and strands, glass fibre mats and mattings, flexible air duct,* (except commodities in bulk), from the facilities of Certain Teed Corp. at or near Kansas City and Pauline, KS, to points in the states of AR, KY, LA, TN, IL and IN, and the facilities at or near Mountaintop, PA to points in the states of KY, TN, MO, IL and IN, for 180 days. SUPPORTING SHIPPER: Certainteed Corporation-Insulation Group, P.O. Box 860, Valley Forge, PA 19482. SEND PROTESTS TO: Beverly J. Williams, Transportation Assistant, I.C.C. 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 106674 (Sub-387TA), filed March 12, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Hwy 24 West, Remington, IN 47977. Representative: Jerry L. Johnson, (address same as applicant's). *Liquid fertilizer,* in bulk in tank vehicles, from Bourbon and Watseka, IL, to points in IN, for 180 days. SUPPORTING SHIPPER: Allied Chemical Corporation, P.O. Box 2120, Houston, TX 77001. SEND PROTESTS TO: Beverly J. Williams, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 107295 (Sub-915TA), filed March 4, 1979. Applicant: Pre-Fab Transit Company, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr, P.O. Box 146, Farmer City, IL 61842. *Iron and steel articles* from the facilities of Inland Steel Company at East Chicago, Indiana to points in IL, KY, MN, MS, MO, TN, and WI. Supporting shipper(s): Inland Steel Company, 30 West Monroe Street, Chicago, IL 60603. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, Illinois 62701.

MC 107295 (Sub-918TA), filed April 10, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Represntative: Duane Zehr, P.O. Box 146, Farmer City, IL 61842. Materials, accessories and supplies used in the manufacture of trays, channels, nuts, bolts, washers, and fittings and accessories therefore, and juction boxes, wire ways, fabricated metal panels and component parts thereof (except commodities in bulk) from all points in Ohio, Alabama, Texas, Indiana and Pennsylvania to Highland and Troy, IL. Supporting shipping(s): B-Line Manufacturing Co., 509 Monroe St., Highland, IL 62249. Send protests to: Charles D. Little, DS, Interestate Commerce Commission, 414 Leland Office Buidling, Springfield, IL 62701.

MC 107515 (Sub-1221TA), filed February 13, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Georgia 30050. Representativc: Alan E. Serby & Richard M. Tettelbaum, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers, South, 3390 Peachtree Road, N.E., Atlanta, Georgia 30326. Meat, meat products and meat bypoducts (except in bulk), in vehicles equipped with mechinical refrigeration, from the facilities of Land O' Frost at or near Searcy, AR, to points in AL, FL, GA, KY, LA, MS, NC, SC, TN and VA. Supporting shipper(s): Land O' Frost Meat Specialties, Lansing, IL 60438. Send protests to: Sara K. Davis, Transportation Assistant, ICC, Room 300, 1252 West Peachtree Street, N.W, Atlanta, Georgia 30309.

MC 107515 (Sub-1222TA), filed February 26, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N. E., Atlanta, GA 30326. *Frozen foods* from the facilities of the Southland Corporation at or near Falmouth, VA to Nashua, NH for 180 days. Dual operations and/or common control may be involved. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Southland Corporation, 2828 N. Haskell Ave., Dallas, TX 75221. Send protests to: Sara K. Davix, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1226TA), filed April 5, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Richard M. Tettelbaum and Alan E. Serby, Serby & Mitchell, P.C., 3390 Peachtree Rd., Atlanta, GA 30326. *Molded plastic cabinetry and parts* from facilities of Kyowa America Corporation, Fulton County, GA, and from Swainsboro, GA to San Diego, CA for 180 days. An underlying ETA seeks 90 days Authority. Supporting shipper(s): Kyowa America Corporation, P.O. Drawer 43205, Atlanta, GA 30336. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 107515 (Sub-1227TA), filed April 12, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: ALan E. Serby & Richard M. Tettlebaum, Serby & Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. *Adhesives and adhesive products (except in bulk), in vehicles equipped with mechanical refrigeration,* from Danielson, CT, to points in FL, GA and OK for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): McCann Manufacturing, 26 High St., Danielson, CT 06239. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St, NW, Room 300, Atlanta, Ga 30309.

MC 109124 (Sub-78TA), filed April 16, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. *Iron and steel articles,* between the facilities of Crucible Inc. division of Colt Industries at Midland, PA, on the one hand, and, on the other, points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Colt Industries, Crucible, Inc., Alloy & Stainless Steel Div., P.O. Box 226, Midland, PA 15059. Send protests to: P. J. Crawford, TCS, 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 109515 (Sub-14TA), filed April 17, 1979. Applicant: OZELLA HARRINGTON, P.O. Box 604, Benson,

AZ 85602. Representative: Earl H. Carroll, 363 N. 1st Ave., Phoenix, AZ 85003. *Ammonium nitrate solution and prilled ammonium nitrate,* in bulk, from Carlsbad, NM to Curtiss, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Apache Powder Co., P.O. Box 700, Benson, AZ 85602. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N 1st Ave., Phoenix, AZ 85025.

MC 109584 (Sub-195TA), filed April 13, 1979. Applicant: ARIZONA PACIFIC TANK LINES, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same as applicant address). *Sodium Hydrosulfide, in bulk, in tank vehicles,* from Los Angeles and Orange Counties, CA to Sahuarita, AZ for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper: Kerley Industries, 2801 W. Osborn Rd., Phoenix, AZ 85017. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 110525 (Sub-1300 TA), filed March 16, 1979 Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as applicant). *Liquid cleaining compounds, containing hydrofluroic acid,* in bulk, in tank vehicles, from Dallas, TX to Fort Scott, KS, for 180 days. Supporting Shipper(s): DUBOIS CHEMICALS, 8770 S. Central Expressway, Dallas, TX 75239. Send protests to: T.M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Phila., PA 19106.

MC 111375 (Sub-106 TA), filed February 21, 1979. Applicant: PRIKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Warren W. Wallin, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Chemicals, toilet preparations, personal care items, buffing and polishing compounds,* between Melrose Park, IL on the one hand, and, on the other, Sparks, NV, for 180 days. Supporting Shipper(s): Alberto Culver Co., 2525 Armitage Ave., Melrose Park, IL 60160. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 111375 (Sub-107 TA), filed March 9, 1979. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: H. Barney Firestone, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Wrapping paper* from DePere, WI to points in CA, WA & OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Phillip Morris Industrial, Inc., 4200 N. Holston St., Milwaukee, WI 53212. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 111545 (Sub-279TA), filed April 2, 1979. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Rd., SE., Marietta, GA 30067. Representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, GA 30065. *Lift trucks, aerial or scissor type and parts thereof; platforms hydraulic working lifts and parts thereof,* from Santa Fe Springs, CA to points in and east of MN, IA, NE, KS, OK, and TX, for 180 days. Supporting Shipper(s): Calavar Corporation, 9200 S. Sorenson Ave., Santa Fe Springs, CA 90670. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, Ga 30309.

MC 113325 (Sub-159TA), filed April 10, 1979. Applicant: SLAY TRANSPORTATION CO., INC., 2001 S. 7th St., St. Louis, MO 63104. Representative: T. M. Tahan (address same as above). *Materials and supplies used in the production and distribution of sweeteners* from points in MO, IN, KY, AR, IA, IL, OH, TN, KS, to the plant site and storage facilities of Industrial Sugars, Inc., subsidiary of Borden, Inc., at or near St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Industrial Sugars, Inc., 180 E. Broad St., Columbus, OH 43215. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 113784 (Sub-81TA), filed April 4, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario L8L 4M1. Representative: Douglas R. Gowland (same address as above). *Tubing and Pipe, iron or steel,* from Butler, PA to ports of entry on the Canadian-U.S. boundary located on the Niagara and Detroit Rivers, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Marmon/Keystone, P.O. Box 992, Butler, PA 16001. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

Note.—Applicant will tack this authority with its existing authority in MC–113784.

MC 113784 (Sub-83TA), filed April 18, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario L8L 4M1. Representative: Douglas R. Gowland (same address as above). *Lime in bulk in pneumatic tankers,* from ports of entry on the International boundary between the United States and Canada located at the Detroit and Niagara Rivers to points in OH and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Beachvilime Limited, P.O. Box 190, Ingersoll, Ontario N5C 3K5. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

Note.—Applicant intends to tack this authority with its authority it presently holds in No. MC–113784.

MC 114334 (Sub-52TA), filed April 6, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel and iron and steel articles* from Memphis, TN to all points in IL and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Primary Steel, Inc., 2672 Channel Ave., Memphis, TN 38113, (2) Island Terminal Company, 1836 Dock St., P.O. Box 148, Memphis, TN 38101, and (3) Zelrich Steel Company, 1495 Harbor, Memphis, TN 3811. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Building, Suite 2006, Memphis, TN 38103.

MC 114334 (Sub-53TA), filed April 17, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel and iron and steel articles,* from Hennepin, IL to all points in MO, AR, TN, MS and Kansas City Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corp., Hennepin, IL 61527. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 114604 (Sub-72TA), filed April 10, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Foodstuffs* from the facilities of Golden States Foods Corp. in Rockdale County, GA to points in FL for 180 days. An underlying

ETA seeks 90 days authority. Supporting shipper(s): Golden States Foods Corp., 1525 Old Covington Hwy., NE., Conyers, GA 30207. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 114725 (Sub-98TA), filed April 3, 1979. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th St., Omaha, NE 68110. Representative: D. F. Swerczek (same address as applicant). *Phosphoric Acid, in bulk, in tank vehicles,* from Omaha and Weeping Water, NE to points in IA, SC, MO, and MN, for 180 days. Supporting shipper(s): Standard Chemical Mfg. Co., 701 So. 42nd St., Omaha, NE 68102. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 115654 (Sub-140TA), filed April 5, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St. N.W., Washington, DC 20004. *Usual meat description, in vehicles equipped with mechanical refrigeration,* from the facilities utilized by Armour Food Company at or near Louisville, KY, to points in AL, GA, MS, and TN (including the commercial zone of Bristol and Memphis, TN), for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Armour Processed Meats Company, P.O. Box 32090, Louisville, KY 40232. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115654 (Sub-141TA), filed March 30, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St. NW., Washington, DC 20004. *Foodstuffs (except in bulk), moving in mechanically refrigerated equipment,* from the facilities utilized by Welch Foods, Inc. at or near Atlanta, GA and Nashville, TN to points in AL, for 180 days. Supporting shipper(s): Welch Foods, Inc., No. 2 South Portage Street, Westfield, NY 14787. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

Note.—Applicant proposes to interline at Birmingham, AL. An underlying ETA seeks 90 days authority.

MC 115654 (Sub-142TA), filed April 16, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St. NW., Washington, DC 20004. *Dairy products, imitation cream and imitation fruit drinks, water ices, ice mixes, water ice bars, sherbet, frozen desserts, and delicatessen products (except commodities in bulk), in vehicles equipped with mechanical refrigeration,* from the facilities utilized by the Kroger Company at or near Nashville, TN, to the warehouse and retail outlets of The Company at points in SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 116254 (Sub-263TA), filed April 19, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same as address above). *Aluminum and aluminum articles;* from: Hanibal (Omal), OH; Madison and Murphysboro, IL; Jackson, TN; and Iuka, MS; To: AL, AR, FL, GA, IL, IN, IA, LA, MA, MI, MN, MS, MO, NY, NC, OK, PA, SC, TN, WI, OH, and TX. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Aluminum Corp., 11960 Westline Industrial Drive, St. Louis, MO 63141. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 116544 (Sub-173TA), filed April 25, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: R. G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Bananas and Agricultural Commodities* exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas, from the facilities of Del Monte Banana Company at Port Hueneme, CA to points in AZ, CO, NV, NM, OR, TX and WA. Restricted to the transportation of traffic having a prior movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Del Monte Banana Company, 1201 Brickell Ave., Miami, FL. Send protests to: District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 117765 (Sub-255TA), filed March 13, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Fabricated metal products,* from the facilities of United States Gypsum Co., at Franklin Park, IL, to IN, KS, KY, MO, OH, & OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Co., 101 S. Wacker Dr., Chicago, IL 60606. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 117765 (Sub-256TA), filed March 22, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Roofing material,* in containers, from Wynnewood, OK, to KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, OK 73125. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 117765 (Sub-257TA), filed March 29, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Composition Tile and adhesive material,* in containers, from the facilities of Armstrong Cork Co., at Jackson, MS, to OK, restricted to traffic originating at named origin and destined to named destination state, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): William Volker & Company, 141 N.E. 31st, Oklahoma City, OK 73105. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 117765 (Sub-258TA), filed March 30, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Accustical tile & metal supports,* from Hazelhurst, GA, to OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Denman Company, Inc., 3023 North Oklahoma, Oklahoma City, OK 73105. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 117815 (Sub-316TA), filed April 5, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th St., Des Moines, IA 50317. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Frozen bakery goods* from the facilities of Tennessee Doughnut Corporation at Nashville, TN to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and WI,

restricted to the transportation of traffic originating at the named origin and destined to the named destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tennessee Doughnut Corporation, 2975 Armory Dr., Nashville, TN 37204. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 117975 (Sub-11TA), filed April 4, 1979. Applicant: MOTOR EXPRESS, INC., P.O. Box 604, Edinburg, TX 78539. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. (1) *Beverages* between Houston, TX and points in LA and (2) *pallets* from points in LA to Houston, TX, for 180 days. Supporting shipper(s): Shasta Beverage Company, 7333 Major St., Houston, TX 77061. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400 Federal Bldg., 727 E. Durango St., San Antonio, TX 78206.

MC 119634 (Sub-35TA), filed April 5, 1979. Applicant: DICK IRVIN, INC., P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole (same address as applicant). *Animal fodder* and *feed ingredients* from points in MT to ports of entry on the International Boundary line between the U.S. and Canada, for 180 days. Supporting shipper(s): C & C Grain, Inc., Sunburst, MT 59482. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 119765 (Sub-78TA), filed February 27, 1979. Applicant: EIGHT WAY XPRESS, INC., 5402 So. 27th St., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Coffee, tea, and non-alcoholic beverages,* (1) from Linden, NJ to St. Louis, MO and Houston, TX; and (2) from Houston, TX to Muncie and Anderson, IN, for 180 days. Service in (1) and (2) above includes to points in the respective commercial zones. An underlying ETA seeks 90 days authority. Supporting shipper(s): William Banning, Dana Brown, Private Brands, Inc., 4907 West Pine Blvd., St. Louis, MO 63108. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 119765 (Sub-79TA), filed April 3, 1979. Applicant: EIGHT WAY XPRESS, INC., 5402 So. 27th St., Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Packinghouse products (except commodities in bulk and hides),* from the plantsites of Farmland Foods, Inc., at or near Carroll, Dension and Iowa Falls, IA and Crete, NE, and storage facilites used by Farmland Foods, Inc. at or near Cherokee, Des Moines, Fort Dodge and Sioux City, IA and Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dean Wilson, Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 119894 (Sub-12TA), filed April 16, 1979. Applicant: BOWARD TRUCK LINE, INC., 104 Azar Bldg., Glen Burnie, MD 21061. Representative: M. Bruce Morgan, Esq., 104 Azar Bldg., Glen Burnie, MD 21061. *Paper, Paper Products and Waste Paper* (1) from Hartsville, SC to Greensboro, NC, Richmond and Chester, VA and (2) from Richmond and Chester, VA to points in NC and SC, for 90 days. An underlying ETA seeks 90 days ETA. Supporting shipper(s): Arthur L. Moon, Sonoco Products Company, P.O. Box 160, Hartsville, SC 29550. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 121664 (Sub-72TA), filed April 11, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35203. *Lumber and timbers,* from Cullman, AL to points in MS, LA, TN, KY, OH, GA, IN, IL, and FL. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Cullman Sawmill, Inc., PO Box 147, 64 Walnut Street NW., Cullman, AL 35055. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 123294 (Sub-65TA), filed March 22, 1979. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same as applicant). (1) *Aluminum scrap:* between points in IL, IN, OH, MI, MO, IA and KY; and (2) *Aluminum ingots and aluminum wire:* from Coldwater, MI and Toledo, OH, to points in IL, IN, OH, MI, MO, IA, and KY for 180 days. Supporting shipper(s): Alchem Aluminum, 4646 U.S. Highway 24 West, Fort Wayne, IN 46804. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123375 (Sub-15TA), filed April 16, 1979. Applicant: KIRK TRUCKING SERVICE, INC., 3100 Braun Avenue, Murrysville, PA 15668. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. *Iron and steel articles* between the facilities of Weirton Steel Div. of National Steel Corp. at or near Weirton, WV and Steubenville, OH, on the one hand, and, on the other, points in CT, MA, RI, and those in Nassau and Suffolk Counties, NY for 180 days. Supporting shipper(s): Weirton Steel Division, National Steel Corporation, Weirton, WV 26062. Send protests to: J. J England, DS, ICC 2111 Federal Bldg., Pittsburgh, PA 15222.

MC 126045 (Sub-27TA), filed April 10, 1979. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, P.O. Box 3122, Davenport, IA 52808. Representative: Kenneth F. Dudley, 611 Church St., Ottumwa, IA 52501. *Iron and steel articles* from the plantsite and storage facilities of North Star Steel Company located at or near St. Paul, MN to AR, CO, IA, KS, NE, OK and TX for 180 days. Supporting shipper(s): North Star Steel Company, P.O. Box 3189, St. Paul, MN 55165. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 127705 (Sub-80TA), filed February 21, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. (1) *Containers, container ends and closures;* (2) *commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers,* and (3) *material, equipment and supplies* used in the manufacture and distribution or containers, container ends and closures, between points in the U.S. in and east of MN, IA, MO, AR and LA. Restriction: The above authority is restricted (1) against the transportation of commodities in bulk, in tank vehicles, and (2) to apply only on shipments originated at or destined to a Brockway Glass Company, Inc., facility, for 180 days. Supporting shipper: Brockway Glass Company, Inc., McCullough Avenue, Brockway, PA 15824. Send protests to: Beverly J. Williams, Transportaiton Assistant, I.C.C., 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 133095 (Sub-250TA), filed April 16, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Marshall Kragen, 1835 K St. NW Suite 600, Washington, D.C. 20006. (1) *Chemicals, chemical coatings, paints and adhesives* (except commodities in bulk); and (2) *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture of the commodities described in (1) above. (1) From Euless, TX to points in the Unites States (except AK & HI); and (2) from points in the

United States (except AK & HI) to Euless, TX, for 180 days. Supporting shipper(s): Reliable Coatings, Inc., 13108 Euless Street, Euless, TX 76039. Send protests to: James H. Berry, ROD, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134134 (Sub-44TA), filed April 5, 1979. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Ave., Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. *Foodstuffs*, from the facilities of Douglas Foods Service, Inc., at Johnson City, NY to points in IL, IA, MI, MN, ND, OH, SD, and WI, for 180 days. Restricted to shipments originating at the named origin and destined to the named destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): George K. Hoffman, Douglas Foods Service, Inc., P.O. Box 71, Johnson City, NY 13790. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134235 (Sub-17TA), filed April 16, 1979. Applicant: KUHNLE BROTHERS, INC., P.O. Box 128, Chagrin Falls, OH 44022. Representative: Kenneth T. Johnson, Esq., Bankers Trust Bldg., Jamestown, NY 14701. *Salt*, in packages, from Silver Springs, NY, to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morton Salt Co., 110 N. Wacker Dr., Chicago, IL 60606. Send protests to: Mary A. Wehner, D/S, ICC, 731 Federal Bldg., Cleveland, OH 44199.

MC 135364 (Sub-34TA), filed March 12, 1979. Applicant: MORWALL TRUCKING, INC., Box 76C, R.D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Contract carrier: irregular routes: *such commodities as are manufactured, processed, sold, used, distributed, or dealt* in by manufacturers and converters of paper and paper products (except commodities in bulk), between the facilities of the Paper, Printing and Forms Group of Litton Business Systems, Inc., at Fitchburg, MA, on the one hand, and, on the other, Fresno and Los Angeles, CA; Atlanta and Tucker, GA; Charleston, Decatur, and Chicago, IL; Detroit, MI; St. Louis, MO; Riegelswood, Fletcher, and Hickory, NC; Sayreville, NJ; Cincinnati, Cleveland, and Obetz, OH; Hanover, Mountville, Philadelphia, Reading, and York, PA; Lexington, SC; and Arlington, Temple, Forth Worth, Dallas, and Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Paper, Printing and Forms Group of Litton Business Systems, Inc., 601 River Street, Fitchburg, MA 01420. Send protests to: ICC, William J. Green, Jr. Federal Bldg., 600 Arch Street, Philadelphia, PA 19106.

MC 135364 (Sub-37TA), filed April 2, 1979. Applicant: MORWALL TRUCKING, INC., Box 76–C, R.D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Contract carrier: irregular routes:* (1) *Artificial trees, wreaths, garlands and shrubbery*, between the facilities of American Technical Industries, Inc., located at or near Americus, GA, on the one hand, and, on the other, the facilities of American Technical Industries, Inc., located at or near Mira Loma, CA, Lexington, KY, Aurora, IL, and points in AL, FL, LA, MS, NC, SC, TN and VA; and (2) *equipment, materials and supplies* (except commodities in bulk) used in the manufacture and distribution of the commodities named in (1) above, from Hammond, IN, Springfield, ME, Irvington, and Piscataway, NJ, New York and Port Chester, NY, Sinking Springs, PA, El Paso, TX, and Middlebury, VT, to the facilities of American Technical Industries, Inc., at or near Americus, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Technical Industries, Inc., 29 Elm Ave., Mt. Vernon, NY 10550. Send protests to: ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch Street, Philadelphia, PA 19106.

MC 136464 (Sub-44TA), filed March 30, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. *Contract carrier:* irregular routes: *General commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between points in the US (except AK and HI) under continuing contract or contracts with E. I. du Pont de Nemours & Co. (Inc.) of Wilmington, DE, for 180 days. Supporting shipper(s): E. I. du Pont de Nemours & Co. (Inc.), 1007 Market St., Wilmington, DE 19898. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 136605 (Sub-100TA), filed March 5, 1979 Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Thomas J. Burke, Jr., Attorney at Law, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. *Wood products* from the facilities of Willamette Industries, Inc. at or near Albany, Bend or Millersburg, OR to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, SD and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Willamette Industries, Inc., P.O. Box 907, Albany, OR 97321. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 136605 (Sub-101TA), filed March 29, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). *Wooden overhead garage doors, fiberglass and aluminum overhead garage doors, garage door hardware, garage service doors* and *millwork*, from the facilities of Phenix Manufacturing Company, at or near Shawano, WI to MN, ND, SD, IA, NE, KS, MO, CO and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Phenix Manufacturing Company, Inc., P.O. Box 486, Shawano, WI 54166. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138875 (Sub-162TA), filed February 21, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh (same as above). *Materials and supplies used in the manufacture, assembly and distribution of mobile homes, recreational vehicles and campers (except commodities in bulk)* from Dayton, OH to points in Ada and Canyon Counties, ID, points in Multnomah, Clackamas, Yamhill, Marion, Polk, Benton, and Linn Counties, OR and points in Clark County, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Venture Mfg. Co., 3723 Inpark Circle, Dayton, OH 45414. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 138875 (Sub-163TA), filed February 21, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh (same as above). *Chemicals and prepared food and beverage mixes* (except commodities in bulk), from Groton, CT; North Claymont, DE; Burt, Brooklyn and Syracuse, NY; Warners, NJ; Willow Island, WV; Argo and Chicago, IL; Tampa, FL; Clinton, IA and Donaldsonville, LA to the facilities used by Foremost-McKesson, Inc. located at or near Portland, OR and Seattle, WA and their respective commercial zones. Restricted to traffic originating at and destined to named origins and destinations, for 180 days. An

underlying ETA seeks 90 days authority. Supporting Shipper(s): Foremost-McKesson, Inc., Crocker Plaza, One Post Street, San Francisco, CA 94104. Send protests to: Barney L. Hardin, D/S ICC, Suite 110, 1471 Shoreline Dr., Bosie, ID 83706.

MC 138875 (Sub-164TA), filed February 28, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh (same as above). (1) Frozen cookie dough and (2) frozen pizza (except commodities in bulk), from Lake City, PA to Greenville, MI and Plover, WI and (2) from Massillon, OH to Greenville, MI and Plover, WI, in common carriage, for 180 days. An underlying ETA application seeks 90 days authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 138875 (Sub-165TA), filed February 28, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh (same as above). Insulation board (except commodities in bulk), from Adrian, MI to points in ID & OR, in common carriage, for 180 days. An underlying ETA application seeks 90 days authority. Supporting shipper(s): Idaho Forest Industries, P.O. Box 7442, Boise, Idaho 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 138875 (Sub-166TA), filed March 1, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh (same as above). *Materials and supplies used in the manufacture of mobile homes, campers and recreational vehicles (except commodities in bulk),* from points in CA to points in OR and WA, in common carriage, for 180 days. Supporting shipper(s): Suppliers Warehouse, Inc., 415 So. 6th, Boise, ID 83706. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 138875 (Sub-167TA), filed March 1, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh (same as above). *Frozen foods and frozen dinners (except commodities in bulk),* from the facilities of Foodways National, Inc. at or near Hartford and Wethersfield, CT to points in IL, TX, and CA, for 180 days, in common carriage. An underlying ETA seeks 90 day authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 138875 (Sub-168TA), filed March 13, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh (same as above). *Materials and supplies used in the manufacture, distribution and installation of mobile homes, campers and recreational vehicles* (except in bulk), from points in CA to points in Ada and Canyon Counties, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Simco Associates, Inc., 1835 Commerce St., Boise, ID 83706. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 140294 (Sub-3TA), filed March 21, 1979. Applicant: GENERAL FREIGHT, INC., P.O. Box 1946, Middleburg Pike, Hagerstown, MD 21740. Representative: Edward N. Button, 1329 PennsyLvania Avenue, Hagerstown, MD 21740. *Business forms, computer tapes, lottery tickets, carbon paper, tissue paper, materials and supplies, (except in bulk) used in the manufacture thereof,* between the plantsites of Arnold Graphics, Inc. located at or near Chambersburg, PA and points in MD and DC and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Arnold Graphics, Inc., Hood and Commerce Streets, Chambersburg, PA 17201. Send protests to: Carol Rosen, TA, ICC, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 145094 (Sub-2TA), filed March 26, 1979. Applicant: BOBBY KITCHENS, INC., P.O. Box 6161, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Contract carrier:* irregular routes: *Wood products,* except in bulk, from the facilities of National Wood Industries, Inc. at or near Aumsville, OR to points in AR, LA, MS, MO, NC, OH, PA, TN, WI and VA, for the account of National Wood Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): National Wood Industries, Inc., P.O. Box 228, Aumsville, OR 97325. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 144804 (Sub-1TA), filed March 5, 1979. Applicant: FORTUNE EXPRESS, INC., 2930 Hansboro Drive, Dallas, TX 75245. Representative: D. Paul Stafford, Winkle and Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. Contract carrier, irregulr routes, *magazines, periodicals, paperback books, calenders, maps, and newpaper exempt from economic regulation under Section 203(b)(3) of the Interstate Commerce Act, when moving in loads with non-exempt commodities,* from Dallas, TX to El Dorado, Ft. Smith, Little Rock and Pine Bluff, AR; Baton Rouge, Crowley, New Orleans and Shreveport, LA; Albuquerque, Gallup and Tucumcari, Carlsbad, NM; Oklahoma City and Tulsa, OK; Amarillo, Austin, Corpus Christi, El Paso, Galveston, Houston, Lubbock, Lufkin, Midland, Paris, Temple, Tyler, Victoria, Wichita Falls, Beaumont, Bryan and San Antonio, TX for 180 days. An underlying ETA filed for 90 days. Supporting Shipper(s): Magazine and Book Shippers, Inc., 2930 Hansboro Drive, Dallas, TX. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 144855 (Sub-11TA), filed March 6, 1979. Applicant: TRANS CONTINENTAL CARRIERS, 169 East Liberty Avenue, Anaheim, California 92803. Representative: David P. Christianson, Knapp, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Frozen foodstuffs,* from Deerfield, IL to Mountain View, City of Commerce, Santa Fe Springs, Los Angeles, Stockton, Sacramento, Fresno, Compton, and La Habra, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, IL 60015. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 144855 (Sub-12TA), filed March 29, 1979. Applicant: TRANS CONTINENTAL CARRIERS, 169 East Liberty Avenue, Anaheim, California 92803. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Common:* Irregular: *Frozen fruits and vegetables.* From points in Santa Clara, San Benito, Monterey and Santa Cruz Counties, CA, to points in Selb County, TN; points in Alabama; points in Illinois; points in Waukesha and Milwaukee Counties, WI; points in Harriz, Tarrant and Dallas Counties, TX; points in Jefferson County, KY; points in Ramsey and Hennepin Counties, MN; points in Essex, Middlesex and Worcester Counties, MA; points in Nassa and Onondaga Counties, NY; points in Arapahoe and Jefferson Counties, CO;

points in Kind and Benton Counties, WA; Multnomah, Washington and Marion Counties, OR; points in Canyon and Minidoka Counties, ID; points in Pope County, AR; points in Albermarle County, VA; points in New Castle County, DE; points in Chester County, PA; points in Cauyahoga and Summit Counties, OH; points in Maricopa County, AZ; points in Lancaster County, NE; points in Lincoln, Jackson and Clay Counties, MO; Landover, MD; points in Albany County, WY; and points in Johnson and Wyandotte Counties, KS, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Golden West Foods, Inc., 1350 Pacheco Pass Highway, Gilroy, CA 95020. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 144855 (Sub-13TA), filed March 29, 1979. Applicant: TRANS CONTINENTAL CARRIERS, 169 East Liberty Avenue, Anaheim, California 92803. Representative: Elizabeth I. Abreu, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Common:* Irregular: (1) *Foods, foodstuffs, food-treating compounds; chemicals and additives (except in bulk),* and *advertising paraphernalia;* and *materials, equipment and supplies* used in the manufacture, preparation, sales and distribution of spices, extracts, convenience foods, confectionery products, food products, salad dressing, and foods (except in bulk); and (2) *Commodities,* the transportation of which is exempt from regulation under the provisions of Section 10526(a) of the Interstate Commerce Act, in mixed loads with commodities described in (1) above. From Salinas, CA, to Omaha, NE, Kansas City, KS and Lenexa, KS, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shippers(s): McCormick & Company, Inc., 1311 Schilling Place, Salinas, California 93901. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 145054 (Sub-15TA), filed March 2, 1979. Applicant: COORS TRANSPORTATION CO., 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. *Such commodities* as are dealt in by grocery and food business houses, discount stores, and drug stores (except frozen foods and commodities in bulk) from facilities of Clorox Co. Kansas City, MO to points in CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway, Oakland, CA 94612. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145274 (Sub-3TA), filed April 13, 1979. Applicant: SERVICEWAY MOTOR FREIGHT, INC., P.O. Box 243, Alcoa, TN 37701. Representative: John G. Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. *Containers, container ends, and materials and supplies used in the manufacture of containers,* between the facilities of National Can Corporation in Collierville, TN and points in AL, AR, GA, KY, LA, MS, NC and SC, for 180 days. Supporting shipper(s): National Can Corporation, 8101 W. Higgins Road, Chicago, IL 60631. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 145384 (Sub-33TA), filed April 3, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Metal castings* from Los Angeles, CA to the facilities of Power Transmission Equipment Co. at Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Power Transmission Equipment Co., 3839 Normal Avenue, Chicago, IL 60609. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145384 (Sub-34TA), filed April 18, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Lumber, lumber products and particleboard* (1) from Samoa, CA to points in IA, KS, MN, NE, OH, and WI, and (2) from Arcata, Carlotta, Big Lagoon, Healdsburg and Cloverdale, CA to points in IA, IL, IN, KS, MN, NE, OH, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Louisiana Pacific Corporation, P.O. Box 158, Samoa, CA 95564. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145384 (Sub-35TA), filed April 23, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Moldings and millwork* from the facilities of Diamond International Corporation at or near Chico, CA to points in IA, IL, IN, KY, OH, PA, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond International Corporation, 733 Third Ave., New York, NY 10017. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145454 (Sub-5TA), filed March 21,1979. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION COMPANY, INC., 2154 Green Valley Drive, Crown Point, IN 46307. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Lard, edible tallow, shortening, vegetable shortening, margarine and cooking oils,* from Bradley, IL to points in WI for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Swift & Company, 11 West Jackson Blvd., Chicago, IL 60604. Send protests to Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145455 (Sub-1TA), filed April 10, 1979. Applicant: BULK TRANSPORTATION, 415 Lemon Avenue, Walnut, CA 91789. Representative: Melvin G. Thurman (same address as applicant). *Contract:* irregular: *Animal feed preparations, supplements and additives, liquid, in bulk, in tank vehicles,* from points in CA to points in AZ, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Bert-Hawkins & Associates, 1280 West 12th Street, Long Beach, CA 90813. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 145664 (Sub-5TA), filed April 2, 1979. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluth, MN 55806. Representative: John M. LeFevre, James S. Holmes, Holmes, Kircher, Graven & Reyer, 4610 IDS Center, Minneapolis, MN 55402. *Rough timber and lumber* from the United States-Canada International Boundary Line at or near Grand Portage, MN and at or near International Falls, MN to points in MN, WI and the Upper Peninsula of MI, limited to traffic originating at facilities of International Wood Marketers, Inc. at or near Upsala and Sapawe, Ontario, Canada, for 180 days. Supporting shipper(s): International Wood Marketers, Inc., President, 5200 West 73rd Street, Minneapolis, MN 55435. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 145664 (Sub-6TA), filed April 10, 1979. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluth, MN 55806. Representative: John M. LeFevre, James S. Holmes, Holmes, Kircher, Graven & Reyer, 4610 IDS Center, Minneapolis, MN 55402. *Welded wire fabric, in rolls and sheets, coiled wire, and steel grinding balls* from the facilities of Hallett Wire Products located at or near Duluth, MN to points in MN, MT, WY, CO, ND, SD, KS, NE, IA, MO, WI, IL, KY, IN, MO and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hallett Wire Products, Plant Manager, P.O. Box 6447, Duluth, MN 55806. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 145875 (Sub-2TA), filed April 20, 1979. Applicant: SWAIN AND SONS TRANSPORTS, INC., 208 Poplar Avenue, Memphis, TN 38103. Representative: William R. Swain, Jr., Attorney (same as applicant). *Crude Synthetic Rubber* from Exxon Chemical Co., Inc. at Baton Rouge, LA and Uniroyal Chemical Co. at Geismar, LA to the facilities of Mohawk Rubber Co. in Helena, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Mohawk Rubber Co., P.O. Box 70, Helena, AR 72342. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145904 (Sub-9TA), filed April 16, 1979. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Stephen H. Loeb, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Salad dressings* from Grundy Center, IA to CA and IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Dressings, Inc., 7th St. and A Ave., Grundy Center, IA 50638. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145904 (Sub-10TA), filed April 23, 1979. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Stephen H. Loeb, Attorney at Law, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and skins and commodities in bulk), from the facilities of John Morrell & Co. at or near Sioux Falls, SD; Estherville and Sioux City, IA to points in IN, MI and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145904 (Sub-11TA), filed April 23, 1979. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Farmland Foods, Inc. at Carroll, Denison and Iowa Falls, IA and Crete, NE and points in the commercial zones of the respectively named cities to points in IL, RI, and WI and to Middletown, CT; Goshen and Indianapolis, IN; Hutchinson, Pittsburg and Wichita, KS; Boston, Fall River, S. Dartsmouth and Springfield, MA; Baltimore and Forestville, MD; Detroit, Hamtramck and Quincy, MI; Duluth, Minneapolis, Northfield, St. Cloud and Winona, MN; Springfield and St. Louis, MO; Buffalo, Fairport, Long Island, New York City and Syracuse, NY; Napoleon, OH; Harmony, Johnstown, Philadelphia, Reading and State College, PA, and to points in the commercial zones of the respectively named cities, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Farmland Foods, Inc., Industrial Dr., Denison, IA 51442. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146335 (Sub-1TA), filed March 6, 1979. Applicant: JACK ELLIOTT PROCTOR d.b.a. PROCTOR TRUCKING CO., 4717 Bethany Drive, Garland, TX 75040. Representative: William D. White, Jr., 4200 Republic National Bank Tower, Dallas, TX 75201. Contract carrier, irregular routes, *Zero-clearance, pre-fabricated sheet metal fireplaces and accompanying flue pipe used in the installation thereof in truckload quantities on shipper-owned trailers,* from plantsite of National Fireplace at Richardson, TX to points in TX, LA, MS, OK, and MO, under continuing contract(s) with National Fireplace Corporation for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): National Fireplace Corporation, 1260 International Parkway, Richardson, TX 75080. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 146504 (Sub-4TA), filed April 16, 1979. Applicant: LEO TRUCKING CO., INC., P.O. Drawer F, Poteau, OK 74953. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. *Coal,* in bulk, from the facilities of Shamrock Coal Co., Inc., at or near Porter, OK, to points in KS, MO and TX, for 180 days. Supporting shipper(s): Shamrock Coal Co., Inc., 7511 E. 26th Place, Tulsa, OK 74129. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146534 (Sub-1TA), filed March 30, 1979. Applicant: DEAN HUGHS, P.O. Box 98, New Berlin, IL 62670. Representative: Douglas G. Brown, INB Center—Suite SSS, Springfield, IL 62701. Contract, irregular: Coffee makers, parts and accessories used in the manufacture and supply thereof, between the plant site of Bunn-O-Matic in Springfield, IL and Bunn-O-Matic in Creston, IA. Supporting shipper(s): Bunn-O-Matic, 1400 Stevenson Drive, Springfield, IL 62703. Send protests to: Charles D. Little, DS, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 146574 (Sub-1TA), filed March 22, 1979. Applicant: ORIN GRAY TRUCKING CO., P.O. Box 223, Lake City, MI 49561. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Contract Carrier—Irregular routes—(1) *Raw forgings* from the facilities of Lake City Manufacturing Co., at or near Lake City, MI to Allentown, PA, Louisville, KY and Fort Wayne and Mishawaka, IN, (2) *Steel* from Cleveland and Canton, OH, Lackawanna and Buffalo, NY, Gary, IN and Johnstown, PA to the facilities of Lake City Manufacturing Co. at or near Lake City, MI; for 180 days. An underlying ETA for 90 days filed. Supporting shipper(s): Lake City Manufacturing Co., Box Y, Lake City, MI 49651. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 146654 (Sub-1TA), filed March 29, 1979. Applicant: COMMUNITY MOVING & STORAGE, INC., Route 2, Box 839, Shinnston, WV 26431. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Such merchandise as is dealt in by mail order houses and retail stores,* from Parkersburg, to points in Athens, Meigs, Monroe, Morgan, Noble and Washington

Counties, OH,for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sears, Roebuck and Co., 555 E. Lancaster Ave., St. Davids, PA 19087. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 146655 (Sub-1TA), filed March 28, 1979. Applicant: VICTOR M. PARSONS d.b.a. VIC'S TRUCKING COMPANY, 518–20th St., Dunbar, WV 25064. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Machines, Film, Chemicals, Medicines, Hospital and Physicians Equipment and Furnishings and Accessories,* requiring expedited service, between Charleston, WV and points in the Charleston, WV commercial zone as described by the Commission, on the one hand, and, on the other, points in Bell, Boyd, Carter, Floyd, Greenup, Harlan, Johnson, Knott, Lawrence, Leslie, Letcher, Lewis, Martin, Perry and Pike Counties, KY and Gallia, Lawrence and Meigs Counties, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Picker Corporation, #2 Wall St., Winfield, WV 25213. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 146664 (Sub-1TA), filed April 9, 1979. Applicant: FLINT ENGINEERING & CONSTRUCTION CO., 324 Petroleum Bldg., Billings, MT 59101. Representative: Coy C. Rowland (same address as Applicant). *Water,* in bulk, in tank vehicles, from Uinta County, WY to Summit County, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Standard Oil Co., P.O. Box 5910–A, 200 E. Randolph Drive, Chicago, IL 60680. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 146674 (Sub-1TA), filed April 10, 1979. Applicant: K.I.T. Motor Express, Inc., 1228 Highland Ave., Louisville, KY 40204. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, D.C. 20036. Authority sought to operate as a motor common carrier, over irregular routes, to transport electrical transformers, transformer parts, hardware and material and equipment, insulators, pole line construction material, iron and steel articles and supplies used in the manufacture, distribution and installation of the above described commodities (except commodities in bulk) between the facilities of McGraw Edison Company located at or near Vicksburg, MS, Zanesville, OH, Nicogdoches, TX and Visalia, CA, on the one hand and, on the other, all points in the United States, except AL and HI. Supporting Shipper(s): Gary Williamson, Manager, Power Systems Div., McGraw Edison Company, P.O. Box 440, Canonsburg, PA 15317. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

MC 146684 (Sub-2TA), filed April 12, 1979. Applicant: HOWARD S. DAVIS, d.b.a. HOWARD S. DAVIS & SON TRUCKING, 1800 Laurel Highway, Seaford, DE 19973. Representative: J. Michael May, 1447 Peachtree St., NE, Atlanta, GA 30309. *Contract carrier;* irregular routes: *Feed Ingredients,* in bulk, from the facilities of International Bakerage, Inc., at Carteret, NJ to points in DE, MD, NC, PA and VA, for the account of International Bakerage, Inc., Atlanta, GA, for 90 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Paul Enns, International Bakerage, Inc., Suite 1–M, 3300 Northeast Expressway, Atlanta, GA 30341. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 146724 (Sub-2TA), filed March 27, 1979. Applicant: DEAN RAPPLEYE, INC., P.O. Box 204, West Jordan, UT 84084. Representative: Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Bananas and agricultural commodities exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act* when transported in mixed loads with bananas, from the facilities of Del Monte Banana Co. at Port Hueneme, CA to points in AZ, CO, ID, MN, MT, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY, for 180 days. *RESTRICTION:* Restricted to the transportation of traffic having a prior movement by water. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Del Monte Banana Company, 1201 Brickell Avenue, Miami, Florida 33101. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 146725 (Sub-TA), filed April 4, 1979. Applicant: FREEPORT TRANSPORT, INC., P.O. Box 1275, Freeport Center, Clearfield, UT 84016. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Blasting and cleaning abrasives and slag products,* from Riddle, OR to points in Davis, Salt Lake, Utah and Weber Counties, UT for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Day Co., Freeport Center, Clearfield, UT, R. W. Taylor Steel Company, 226 W. 20th Street, Ogden, UT 84402. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 146764 (Sub-1TA), filed April 5, 1979. Applicant: S & T Truckload, Inc., 2527 N.E. 28th Street, Fort Worth, TX 76106 Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. *Contract carrier:* irregular routes: *Plastic articles and articles used in the manufacture and distribution of the foregoing commodities,* between the facilities of Thompson Industries, Inc., at Phoenix, AZ; Tinton Falls, NJ; Alexandria, VA; City of Industry, CA; Des Plaines, IL; Fort Worth, TX; Higginsville, MO; Milford, NH; Monroeville, OH; Mt. Sterling, OH; Renton, WA; Shreveport, LA; and Stone Mountain, GA; and between the facilities of Thompson Industries, Inc. at the above points in the U.S. except AK and HI, for the account of Thompson Industries, Inc., for 180 days. Applicant filed an underlying ETA seeking 90 days authority. Supporting Shipper(s): Thompson Industries, Inc., P.O. Box 20466, Phoenix, AZ 85034. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146765 (Sub-1TA), filed April 6, 1979. Applicant: DAYTON ENTERPRISES, INC., 110 First Avenue, Clarence, IA 52216. Representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. *Iron and steel articles and non-ferrous metal articles,* from Chicago, IL, to points in IA, MN, and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Steel and Wire Company, 3000 W. 51st St., Chicago, IL 60632. Send protests to: Johnnie H. Ratcliffe, T/A I.C.C., 518 Fed. Bldg., 210 Walnut St., Des Moines, IA 50309.

MC 123405 (Sub-62TA), filed January 5, 1979, and published in the Federal Register on February 15, 1979 republished in this issue. Applicant: FOOD TRANSPORT, INC., RD #1, Thomasville, PA 17364. Representative: Christian V. Graf, Esquire, 407 North Front Street, Harrisburg, PA 17101. The Motor Carrier Board granted authority in this proceeding on April 10, 1979, to operate as a common carrier by motor vehicle, over irregular routes, transporting: (1) *Petroleum, petroleum products, vehcile body sealer and/or sound deadener compounds,* (except in bulk, in tank vehicles), and *filters,* from points in Warren County, MS to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Massachusetts, New Jersey, New York, New Mexico, North Carolina, Ohio, Oklahoma,

Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia; and (2) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, materials, supplies, and equipment* as are used in the manufacture, sale, and distribution of the commodities named in part (1) above, (except in bulk in tank vehicles), from points in Alabama, Georgia, Kentucky, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Virginia, and West Virginia, to points in Warren County, MS, restricted in parts (1) and (2) above to shipments originating at or destined to the facilities of Quaker State Oil Refining Corporation located in Warren County, MS. This grant of Statewide authority in part (2) differs from the prior notice of February 15, 1979, to include New York in the origin territory. The grant of authority coincides with the evidence furnished by the supporting shipper. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. box 989, Oil City, PA 16301. Send protests to: Charles F. Myers, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-17098 Filed 5-31-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 82]

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 4267 (Sub-6TA), filed March 30, 1979. Applicant: C. L. JILLICH TRUCK LINE, INC., 16200 Dixie Highway, Markham, IL 60426. Representative: Anthony T. Thomas, 6017 Cermak Road, Cicero, IL 60650. *Iron and Steel Articles,* (1) From Chicago, IL and Gary, IN to points in OH and (2) From the facilities of Republic Steel Corp. at Canton, Cleveland, Massillom, Miles, Youngstown and Warren, OH to points in IL and IN located in the Chicago, IL Commercial Zone for 180 days. Supporting shipper(s): Republic Steel Corp., P.O. Box 6778, Cleveland, OH 44101. Send protests to: T/A, Annie Booker, Room 1386, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 15897 (Sub-14TA), filed May 1, 1979. Applicant: O.K. TRANSFER AND STORAGE CO., 207 S. Union Street, Shawnee, Oklahoma 74801. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, Oklahoma 73106. (1) *Cellular Expanded Foam,* a finished plastic product (Except in bulk). From the facilities of United Foam Corporation, at or near Shawnee, Oklahoma, to points in AR, KS, LA, OK, MO, and TX; and (2) *Materials, equipment and supplies* used in the manufacture and distribution of articles named in (1) above, for 180 days. Supporting shipper(s): United Foam Corporation, 301 N. Kennedy, Shawnee, Oklahoma 74801. Send protests to: Connie Stanley, TA, ICC, Room 240, Old Post Office Bldg., 215 N.W. Third Street, Oklahoma City, Oklahoma 73102.

MC 21866 (Sub-115TA), filed March 12, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Iron and steel articles,* (1) from the facilities of Wheeling-Pittsburgh Steel Corp. at points in OH and WV to points in CT, MD, NJ, NY, PA, and VA and (2) from the facilities of Wheeling-Pittsburgh Steel Corp. at points in PA to points in CT, MD, NJ, NY, and VA, for 180 days. An underlying ETS seeks 90 days authority. Supporting shipper(s): Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Send protests to: T.M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 27817 (Sub-156TA), filed March 5, 1979. Applicant: H. C. GABLER, INC., RD #3, PO Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. *Canned and preserved foodstuffs,* from the facilities of Heinz USA, Division of J.J. Heinz Co., at or near Greenville, SC to points in North Carolina, for 180 days. Supporting shipper(s): Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

MC 30657 (Sub-30TA), filed April 4, 1979. Applicant: DIXIE HAULING COMPANY, 340 Englewood Ave., SE., Atlanta, GA 30315. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Contract Carrier: irregular routes: Iron or steel articles,* from the facilities of Armco, Inc., Conyers, GA, to points in AR, KY, LA, VA, and WV, and from the facilities of Armco, Inc., Conyers, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armco, Inc., 703 Curtis St., Middletown, OH 45043. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 42487 (Sub-909TA), filed April 25, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common caarriers; regular routes;* General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Madison, GA and North Augusta, SC, serving the inermediate points of Augusta, GA and all points in the commercial zones of Augusta, GA and North Augustia, SC; form Madison over U.S. Highway 278 to Augusta, GA, then over U.S. Highway 25

to North Augusta, and return over the same route; Applicant intends to tack the proposed authority with its present authority at Madison, GA Docket MC 42487, Sub 744, and North Augusta, SC Docket MC—F—13199; Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States; for 180 days. Supporting shipper(s): 16 supporting shippers to this application. Send protests to: District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 51146 (Sub-687TA), filed April 11, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Such commodities as are dealt in, or used by, manufacturers and distributors of heating, cooling, ventilating, and air conditioning systems* between Philadelphia, PA on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, NE, OH, TN & WI, for 180 days. Supporting shipper(s): Southwark Metal Mfg. Co., Inc., 16th & Washington Ave., Philadelphia, PA 19146. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 79687 (Sub-28TA), filed April 26, 1979. Applicant: WARREN C. SAUERS COMPANY, INC., 200 Rochester Road, Zelienople, PA 16064. Representative: Henry M. Wick, Jr., Esq., David M. O'Boyle, Esq., Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Glass containers, materials, equipment and supplies used in the manufacture and distribution of glass containers* between: Olean, Elmira and Horseheads, NY, on the one hand, and, on the other, points in CT, DC, DE, IL, IN, ME, MD, MA, MI, NH, NJ, OH, PA, RI, VA, VT, and WV: and (2) Wharton, NJ, on the one hand, and, on the other, points in CT, IL, IN, ME, MA, MI, NH, NY, OH, PA, RI, VT and WV for 180 days. Restriction: The above authority is restricted to traffic originating at or destined to the facilities of Thatcher Glass Manufacturing Company, Division of Dart Industries, Inc. Supporting shipper(s): Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., P.O. Box 265, Elmira, NY 14902. Send protests to: J. J. England, DS, ICC, 2111 Federal Bldg., Pittsburgh, PA 15222.

MC 86247 (Sub-17TA), filed April 24, 1979. Applicant: I.C.I. INTERNATIONAL CARRIERS, LIMITED, 1333 College Avenue, Windsor, Ontario Canada N9C–3Y9. Representative: Joseph P. Allen, 7701 West Jefferson, Detroit, MI 48209. *Magnesite and High Temperature bonding mortar*, in bulk, in dump vehicles. From the facilities of the Harbison Walker Refractories, located at Ludington, MI, to the international boundary of the United States and Canada, at Detroit and Port Huron, MI; restricted to foreign traffic destined to points in Canada. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Refractories Limited, Smithville, Ontario, Canada. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 95876 (Sub-276TA), filed April 18, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. (1) *Agricultural machinery, implements, equipment parts and accessories therefor* from Kaukauna, WI to points in the U.S. in and east of MT, WY, CO and NM; and (2) *Materials, equipment and supplies used in the manufacture of the commodities named in (1) above* from points in the destination states named in (1) above to Kaukauna, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Badger Northland, Inc., 1215 Hyland Avenue, Kaukauna, WI 54130. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 95876 (Sub-277TA), filed April 24, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Iron and steel articles* from Hicksville, OH to points in MN and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dietrich Industries, Inc., State Route 2 West, Hicksville, OH 43526. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 97127 (Sub-13TA), filed April 19, 1979. Applicant: BATESVILLE TRUCK LINE, INC., P.O. Box E, Batesville, AR 72501. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Little Rock, AR and Memphis, TN: From Little Rock, AR over Interstate Highway 40 to Memphis, TN and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, for 180 days as a common carrier over regular routes. Supporting Shipper(s): Batesville Truck Line, Inc., P.O. Box E, Batesville, AR 72501. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 98807 (Sub-3TA), filed April 20, 1979. Applicant: PETROLEUM TRANSPORT COMPANY, P.O. Drawer 1080, Kenner, LA 70063. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. Applicant is seeking authority to operate as a common carrier over irregular routes transporting *gasoline, distillate fuel and aviation fuel, in bulk, in tank vehicles, from Port Arthur, TX to all points in LA, for 180 days. Applicant has also filed an underlying ETA seeking 90 days authority. Supporting Shipper(s): Texaco, Inc., P.O. Box 52332, Houston, TX 77052. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.*

MC 102567 (Sub-227TA), filed April 26, 1979. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. *Pulp mill liquids, in bulk, in tank vehicles*, between the facilities of International Paper Company at Camden, AR; Pine Bluff, AR; Springhill, LA; Bastrop, LA; Natchez, MS; Redwood, MS; and S. Texarkana, TX, for 180 days. Applicant has filed an underlying ETA seeking 90 days authority. Supporting Shipper(s): International Paper Company, P.O. Box 160707, Mobile, LA 36616. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 105007 (Sub-55TA), filed April 23, 1979. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Avenue, Albert Lea, MN 56007. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. *Animal lard and grease* from Ft. Dodge, IA to Sleepy Eye, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Company, P.O. Box 800, Austin, MN 55912. Send protests to: Delores A. Poe,

TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 105607 (Sub-11TA), filed April 26, 1979. Applicant: CON. WEIMAR CORP., P.O. BOX 434, 401 Commerce Road, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Extra white tallow tallow, and yellow grease, in bulk in tank vehicles, from the facilities of Independent Tallow Co., Inc. located at or near Woburn, MA to Weehawken, NJ and Philadelphia, PA for 180 days. Supporting shipper(s): Independent Tallow, 39 Cedar Street, Woburn, MA 01801. Send protests to: Robert E. Johnson, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 108207 (Sub-506TA), filed March 26, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith, (address same as above). *Canned foodstuffs (except in bulk),* From the facilities of Stilwell Foods, Inc. at Stilwell, OK to Dallas, and Houston, TX; Little Rock, AR; Kansas City, MO; and Chicago, IL for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Stilwell Foods, Inc., 5 E. Walnut, Stilwell, OK 74960. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 109397 (Sub-458TA), filed April 6, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. *Radioactive materials (natural uranium concentrate),* from United Nuclear Home Stake Mine (10 miles north) and Kerr McGee Mine (30 miles north) of Grants, NM to Sequoyah Facilities of Kerr McGee near Gore, OK, for 180 days. An underlying ETA seeking up to 90 days authority has been filed. Supporting shipper(s): Cobb Nuclear Corporation, 20 First Plaza, Suite 404, Albuquerque, New Mexico 87102. Send protests to: John V. Barry, DS, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 114457 (Sub-501TA), filed March 7, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). *(1) Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses; and (2) materials, ingredients, and supplies used in the manufacture, distribution and sale of the products in (1) above* between the facilities of Ralston Purina Company at or near Clinton and Davenport, IA, on the one hand, and, on the other, points in IL, IN, KY, MI, MN, MO, OH and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 116077 (Sub-411TA) Applicant: DSI TRANSPORTS, INC., 4550 One Post Oak Place/Suite 300, Houston, TX 77027. Representative: J. C. Browder, 4550 One Post Oak Place/Suite 300, Houston, TX 77027. Common carrier over irregular routes. *Chemicals, in bulk, in tank vehicles* from Lake Charles, LA to the states of SC, VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH and ME for 180 days authority. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Oil Company, P.O. Box 2197, Houston, TX 77001. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 117386 (Sub-11TA), filed April 13, 1979. Applicant: L. B. TRANSPORT, INC., Buffalo Center, IA 50424. Representative: Kenneth F. Dudley, Box 279, Ottumwa, IA 52501. *Crude soybean oil* from Cedar Rapids, Mason City, Des Moines, Eagle Grove, Iowa Falls and Ralston, IA to the facilities of Hunt-Wesson Foods, Inc., at or near Chicago, IL for 180 days. Supporting shipper(s): Hunt-Wesson Foods, Inc., 1645 W. Valencia Dr., Fullerton, CA 92634. Send protests to: Herbert W. Allen, DS, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, IA 50309.

MC 117797 (Sub-8TA), filed April 12, 1979. Applicant: R. D. LEWIS BANANA COMPANY, INC., P.O. Box 387, Fowler, CO 81039. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. *Bananas, and agricultural commodities* exempt from regulations under Section 203(b)(6) of the Act, in mixed loads with bananas, from Port Hueneme, CA to points in AZ, AR, CA, CO, ID, IA, KS, LA, MN, MO, MT, NE, NM, NV, ND, OK, OR, SD, TX, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Del Monte Bananas Company, P.O. Box 011940, Miami, FL 33101. Send protests to: Herbert C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 119767 (Sub-357TA), filed April 17, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Paper, paper products, cellulose products, and textile softeners,* from the facilities of the Procter & Gamble Paper Products Co. at or near Green Bay, WI and Cheboygan, MI to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Procter & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 121517 (Sub-9TA), filed May 2, 1979. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Cement* in bulk from Fredonia, KS to points in Creek, Mayes, Rogers, Tulsa and Wagoner Counties, OK for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anchor Concrete Company, 10050 South Delaware, Tulsa, OK 74136. Send protests to: Connie Stanley, TA, ICC, Room 240 Old Post Office Bldg., 215 N.W. Third Street, Oklahoma City, OK 73102.

MC 123407 (Sub-572TA), filed April 17, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same as applicant). (1) Agricultural machinery and implements, and (2) parts and attachments for agricultural machinery and implements from the facilities of Allis-Chalmers Corp. located at LaPorte, IN to points in AL, GA, IA, KS, KY, MN, MS, MO, NE, ND, OK, SD, TX, and WI for 180 days. Applicant's underlying ETA was granted for 90 days. Supporting shipper(s): Allis-Chalmers Corp., Milwaukee. WI 53201. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 124896 (Sub-87TA), filed April 17, 1979. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Representative: Peter A. Greene, 900 17th Street, N.W., Washington, DC 20006. *Paper and paper products* from the facilities of Weyerhaeuser Company in NC to points in OH, IN, IL, MI, WI, NM, IA, MO, and KY for 180 days. An underlying ETA has been filed seeking 90 days authority. Supporting shipper(s): Weyerhaeuser Company, Inc., P.O. Box 787, Plymouth, NC 27962. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 125227 (Sub-12TA), filed April 6, 1979. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., 100 North Main Bldg., Suite 909, Memphis, TN 38103. *Wooden pallets, skids or crating devices and materials,* from the facilities of Ohio Valley Container Co., Manasha Corporation, at Jackson, TN to Ft. Smith, AR and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ohio Valley Container Co.—Menasha Corporation, P.O. box 367, Neenah, WI 54956. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 128007 (Sub-137TA), filed April 30, 1979. Applicant: HOFER, INC., P.O. box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. *Iron Construction Castings,* from facilities of Deeter Foundry, Inc., Lincoln, NE., to points in KS & MO; 180 days, common, irregular; Supporting Shipper: Deeter Foundry, Inc., Lincoln, NE: SEND PROTESTS TO: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. Supporting shipper(s): Deeter Foundry, Inc., P.O. Box 29345, Lincoln, NE 68529. Send protests to: M. E. Taylor, D/S, ICC, 101 Litwin Bldg., Wichita, Kansas 67202.

MC 128117 (Sub-37TA), filed March 30, 1979. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Francis J. Ortman, 7101 Wisconsin Ave, Suite 605, Washington, DC 20014. *Canned vegetables, fruits and berries* from facilities of Woldert Canning Company, Inc. at or near Lindale, TX to points and places in AL, GA, KY, LA, NC, SC, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Woldert Canning Company, Inc., P.O. Box 1140, Tyler, TX 57510. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 128527 (Sub), filed April 24, 1979. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Feed, feed ingredients and animal health aid products when moving in mixed loads with feed and feed ingredients,* from the facilities used by Kal-Kan Foods, Inc., at or near Ogden, UT to points in ID, MT, NV, OR and WA and from the facilities used by Kal-Kan Foods, Inc., at or near Cerritos, Irvine and Vernon, CA to points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kal-Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 129537 (Sub-32TA), filed March 15, 1979. Applicant: REEVES TRANSPORTATION CO., Rt 5 Dews Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan, Tampa, FL 33602. *Carpeting, floor covering, carpet padding, materials, supplies and equipment used in the installation and manufacture thereof,* between Dallas, Ft. worth, TX and their commercial zones on the one hand and all points in the states of AR, LA, NM, and OK on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 39 statements of support attached to this application, which may be examined at the office listed below and headquarters. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 133937 (Sub-32TA), filed April 9, 1979. Applicant: CAROLINA CARTAGE COMPANY, INC., 1638 East Vesta Ave., College Park, GA 30337. Representative: Henry P. Willimon, P.O. Box 1075, Greenville, SC 29602. *Such commodities as are dealt in by catalog and retail department stores, materials, supplies, and equipment, including garments on hangers* between Hudson County, NJ and Dallas, Ft. Worth, and Houston, TX, Cincinnati, Cleveland, Columbus, and Dayton, OH, Chicago, IL, Milwaukee, WI, St. Louis, MO, Detroit, MI, Boston, MA, Baltimore, MD, San Francisco and Los Angeles, CA, AL, FL, GA, MS, NC, SC, TN, and DC for 180 days. Supporting shipper(s): There are 12 statements of support attached to this application which may be examined at the office listed below and headquarters. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 134197 (Sub-6TA), filed April 16, 1979. Applicant: JACKSON & JOHNSON, INC., Box 327, West Church St., Savannah, NY 13146. Representative: Roy D. Pinsky, Attorney-At-Law, Suite 1020, State Tower Building, Syracuse, NY 13202. *Canned Foodstuffs* from Oakfield, LeRoy, Alton, Shortsville, Phelps and Leicester, NY to points in NJ. Underlying ETA for 30+2 granted March 21, 1979 under R-2. Supporting shipper(s): Curtice-Burns, Inc., William Hargrove, Vice-Pres., Lent Avenue, LeRoy, NY 14482. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St., Rm. 1259, Syracuse, NY 13260.

MC 134467 (Sub-45TA), filed April 19, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Such merchandise* as is dealt in by retail, discount, department or variety stores, except commodities in bulk, from points in CA, NJ, NY, PA, TX and VA, to the facilities of Wal-Mart Stores, Inc., at or near Bentonville, Searcy, and Fort Smith, AR, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Wal-Mart Stores, Inc., 702 Southwest 8th Street, P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 134477 (Sub-336TA), filed March 1, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs (except commodities in bulk)* from Canajoharie, NY to points in IL, IN, KY, MI, OH and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Beech-Nut Foods Corporation, 2 Church Street, Canajoharie, NY 13317. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134477 (Sub-344TA), filed April 16, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Musical instruments* from Union, NJ to Northbrook, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fretted Industries, 1415 Waukegan Avenue, Northbrook, IK 60062. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 134477 (Sub-345TA), filed April 23, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Wearing apparel and accessories, materials, and supplies used in the distribution of wearing apparel* from Brooklyn Park, MN to Philadelphia, PA and points in its commercial zone and points in NJ and OH, for 180 days. An underlying ETA

seeks 90 days authority. Supporting shipper(s): County Seat Stores, Inc., 8816 70th Avenue North, Brooklyn Park, MN 55428. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 135687 (Sub-6TA), filed April 12, 1979. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, GA 30080. Representative: James L. Brazee, Jr., 3355 Lenox Rd. #795, Atlanta, GA 30326. *Concrete reinforcing steel and related accessories* from the facilities of Florida Steel Corporation located in Atlanta, Fulton County, GA and Duluth, Gwinnett County, GA to points in Trousdale County, Davidson County and Smith County, TN, for 180 days. Supporting shipper(s): Florida Steel Corporation, P.O. Box 926, 384 Banks St., Duluth, GA 30136. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309

MC 135797 (Sub-205TA), filed April 16, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Foodstuffs*, from the plantsite and storage facilities of Duffy-Mott Company, Inc., at or near Hamlin and Williamson, NY and Aspers, PA to points in OK, LA, and TX, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Duffy-Mott Company, Inc., 370 Lexington Avenue, New York, NY 10017. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-206TA), filed April 17, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Paper, paper products of natural or synthetic fiber and woodpulp*, (1) From Philadelphia, PA to Rogers, AR; Cape Girardeau, MO and Columbus, OH and, (2) From Winslow, ME to Rogers, AR; Ft. Edward, NY; Columbus, OH and Philadelphia, PA and, (3) From Rogers, AR to Mobile, AL; Albany, GA; Cape Girardeau, MO; Cheboygan, MI; Landisville, NJ, Columbus and Cincinnati, OH; Philadelphia, and Mehoopany, PA; Aiken, SC; Sherman, TX; Everett, WA; Green Bay, Marinette, Neenah and Waxdale, WI and, (4) From Landisville, NJ to Rogers, AR and, (5) From Everett, WA to points in CA, CT, MT, NM, NV, OR, TX, UT, WA, and WY, restricted to traffic originating at or destined to the facilities of Scott Paper Company, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-207TA), filed April 19, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Petroleum products and lubricating oils* (except in bulk), in packages and containers from the facilities of Mobil Oil Corporation at or near Beaumont, TX to points in AL, AR, CA, GA, IL, KS, LA, MA, MI, MN, MO, MS, NE, NJ, NM, OH, OK, PA, TX, and WI for 180 days as a common carrier over irregular routes. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway, #522, Dallas, TX 75206. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-208TA), filed April 19, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Nonbleached flour* from Cortes, CO to points in AR, FL, and PA, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Arrowhead Mills, P.O. Box 866, Hareford, TX 79045. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-209TA), filed April 19, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). (1) *Containers, container ends and closures* (a) from Springdale, AR to Augusta, WI, (b) from Augusta, WI to Columbus, OH, (2) *Materials, equipment and supplies* used in the manufacture and distribution of containers, containers ends and closures from Cincinnati, OH to Blytheville and Springdale, AR, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Diamond International Corp., 429 New Street, Cincinnati, OH 45202. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-210TA), filed April 19, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Paper and paper products*, and such *equipment, materials and supplies* as are used in the manufacture and distribution of such products (except commodities in bulk or those which, because of size or weight, require the use of special equipment) between the facilities of Fort Howard Paper Company, located at or near Green Bay, WI on the one hand, and on the other, points in AL, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA and WV, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Fort Howard Paper Company, P.O. Box 130, 1919 S. Broadway, Green Bay, WI 54305. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 138157 (Sub-140TA), filed April 24, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. *General Commodities*, except those of unusual value, Class A and B Explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, from the facilities of USC Shippers Association at or near Los Angeles, CA to points in the U.S. in and east of MT, WY, CO & NM, for 180 days. Supporting shipper(s): USC Shippers Association, 726 West Cowles St., Long Beach, CA 90813. Send protests to: Glenda Kuss, T/A, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138157 (Sub-141TA), filed April 26, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, 2931 South Market St., P.O. Box 9596, Chattanooga, TN 37412. *Air Conditioning Parts*, from Dallas, TX to Elyria, OH, for 180 days. Supporting shipper(s): Frigiking Division of Smith Jones, Inc., 10858 Harry Hines Blvd., Dallas, TX 75220. Send protests to: Glenda Kuss, T/A, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 139767 (Sub-3TA), filed April 26, 1979. Applicant: FAIRWAY TRANSIT, INC., N 10 W 24730 Hwy. TJ, Pewaukee, WI 53072. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Scrap iron*, in dump vehicles, between the facilities of Grossman Bros. Co. at Milwaukee, WI

on the one hand and on the other Chicago and Rockford, IL and points in their respective Commercial Zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grossman Bros. Co., 138 E. Madison St., Milwaukee, WI 53202. Send protests to: Gail Daugherty, TA, Interstate Commerce Commission, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 140176 (Sub-16TA), filed April 24, 1979. Applicant: POWELL TRUCKING COMPANY, INC., Rt. 3, Box 13, Sumrall, MS 39482. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Contract Carrier:* Irregular routes: *Lumber, plywood and forest products* from the facilities of Crown Zellerbach Corp., Joyce, Ponchatoula, Pine Grove, Bogalusa and Powhatan, LA and Lumberton, MS to the states of AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, NJ, OH, OK, PA, SC, TN, TX, WV and WI, for the account of Crown Zellerbach Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crown Zellerbach Corp., P.O. Box 1060, Bogalusa, LA 70427. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 142827 (Sub-6TA), filed March 30, 1979. Applicant: DeMARLIE TRUCKING, INC., P.O. Box 338, Reynolds, IL 61279. Representative: Michael C. Whitten, 29 South La Salle Street, Chicago, IL 60603. *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C. 209 and 766. (1) from the facilities of Wilson Foods Corporation located at Monmouth, IL to point in WI, IA and MO; and (2) from the cold storage facilities utilized by Wilson Foods Corp. at Peoria, IL to Kenosha, WI. Restricted to transportation of traffic originating at the above named origins and destined to the named destinations. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 143127 (Sub-34TA), filed April 11, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *Foodstuffs (except frozen foodstuffs and except in bulk),* from the facilities of Ragu Foods, Rochester, NY to points in IL, MI, and WI for 180 days. Underlying ETA also filed seeking up to 90 days of operating authority. Supporting shipper(s): Ragu Foods, Inc., Kevin Clarke, Asst. Division Traffic Mgr., 33 Benedict Place, Greenwich, CT 06830. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 S. Clinton St., Rm. 1259, Syracuse, NY 13260.

MC 143127 (Sub-35TA), filed April 24, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *Canned goods,* from Charlotte, NC to all points in FL, for 180 days. Underlying ETA for 90 days granted under R-21 with effective date of April 12, 1979. Supporting shipper(s): Curtice-Burns, Inc., William Hargrove, VP, Lent Avenue, LeRoy, NY 14482. Send protests to: Interstate Commerce Commission, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 143127 (Sub-36TA), filed April 27, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Rd., Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *Carpet, tile and vinyl floor covering,* from Lancaster, Landisville, and Mariett, PA to points in NY, for 180 days. An underlying ETA granted under R-20 for 90 days with effective date of April 11, 1979. Supporting Shipper(s): Chapin Owen Co., Inc., Schuler Ulrich, Vice-Pres., P.O. Box 65, Rochester, NY 14601. Send protests to: Interstate Commerce Commission, 910 Federal Bldg., 111 West Huron St., Buffalo, NY 14202.

MC 143417 (Sub-5TA), filed March 23, 1979. Applicant: FLASH INTERSTATE DELIVERY SYSTEM, INC., 4711 West 16th Street, Cicero, IL 60650. Representative: Barry Roberts, 888 17th Street, NW, Washington, D.C. 20006. *General commodities,* (except classes A and B explosives, household goods as difined by the commission, commodities in bulk, and commodities requiring special equipment) from points in CT, DC, IN, MA, MD, NJ, JY, PA, RI, and WI, to Chicago, IL, restricted to traffic having a subsequent movement by rail in trailer-on-flatcar service, shipper furnished trailers equipped with mechanical refrigeration. Supporting Shipper(s): Co-Operative Shippers, Inc., 2608 South Damen Avenue, Chicago, IL 60608. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 143687 (Sub-9TA), filed April 25, 1979. Applicant: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Meday, MA 02053. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *Contract carrier:* irregular routes: *Cans* from Peabody, MA to points in the United States in and east of MN, IA, MO, OK, and TX, for 180 days. Supporting Shipper(s): Eagle Can Co., Peabody, MA 01960. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 143267 (Sub-66TA), filed April 9, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, Esq., 1155 15th St., NW, Washington, DC 20005. *Refractory products* from the facilities of Harbison Walker Refractories, Division of Dresser Industries, Inc., at or near Mouth Union, PA, to points in IN and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harbison Walker Refractories, Division of Dresser Industries, Two Gateway Center, Pittsburgh, PA 15222. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Bldg., Cleveland, OH 44199.

MC 144407 (Sub-12TA), filed April 26, 1979. Applicant: DECKER TRANSPORT COMPANY, INC., 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Drugs and medicines in termperature controlled equipment, between Philadelphia, PA on the one hand, and, on the other, Sparks, NV and South Haven, MS. Supporting shipper(s): Smith Kline & French Co., Div. of Smith Kline Corp., P.O. Box 7929, Philadelphia, PA 19101. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Newark, NJ 07102.

MC 144667 (Sub-9TA), filed April 10, 1979. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Cabinets, building materials, wood products and lumber,* from Scottsbluff County, NE, to points in MT, WY, CO, NM, SD, KS, and IA; and (2) *Commodities named in (1) above and materials, equipment and supplies utilized in the production and distribution of commodities in (1),* from points in WI, MO, AR, WA, and TN to Scottsbluff County, NE. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Scottsbluff Sash and Door, Inc., P.O. Box 420, Scottsbluff, NE 69361. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building

& Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 144827 (Sub-23TA), filed April 18, 1979. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., 100 North Main Bldg., Suite 909, Memphis, TN 38103. *Household products and related articles,* from S.C. Johnson & Co. facilities at Waxdale, WI to S.C. Johnson & Co. facilities at Memphis, TN, for 180 days. Restricted to shipments originating at and destined to the named facilities. An underlying ETA seeks 90 days authority. Supporting shipper(s): S.C. Johnson & Co., 3830 South Perkins, Memphis, TN 38103. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145437 (Sub-2TA), filed April 26, 1979. Applicant: JWI TRUCKING, INC., 8100 N. Teutonia Ave., Milwaukee, WI 53209. Representative: Michael Wyngaard, 150 E. Gilman St., Milwaukee, WI 53209. Contract carrier; irregular routes; *Wearing apparel and materials, equipment and supplies used or useful in the manufacture, sale or distribution of wearing apparel* between Warren, AR; Bainbridge, GA; Junction City and Minden, LA; and Brown Deer, LaCrosse and Milwaukee, WI; on the one hand, and, on the other, points in the U.S. (except AK & HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jack Winter Apparel, Inc., Mary Lester Fashion Fabrics, Inc., 8100 N. Teutonia Ave., Milwaukee, WI 53209. Send protests to: Gail Daugherty, TA, Interstate Commerce Commission, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145557 (Sub-4TA), filed April 6, 1979. Applicant: LIBERTY TRANSPORT, INC., 4614 South 40th Street, St. Joseph, MO 64503. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. *Malt beverages (except commodities in bulk) advertising materials and supplies,* from Jefferson County, CO to IA and MO; and from IA and MO to Jefferson County, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Adolph Coors Company, Golden, CO 80401. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 146187 (Sub-8TA), filed April 23, 1979. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Road, Greenback, TN 37742. Representative: Edward C. Blank II, P.O. Box 1004, Columbia, TN 38401. *Packaged television sets and associated parts,* from the plantsite of Toshiba America Corporation, Lebanon, TN to points in CA, IL, LA, NY, PA and TX, for 180 days. Supporting shipper(s): Toshiba America Corporation, Toshiba Drive, Lebanon, TN 37087. Send protests to: Glenda Kuss, T/A, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 146296 (Sub-2TA), filed April 18, 1979. Applicant: DANCO OILFIELD SERVICE COMPANY, 2300 South Olie, Oklahoma City, OK 73109. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. *Machinery, equipment, materials, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of manufactured and natural gas and petroleum and their products and by-products,* between points in Oklahoma City, OK, on the one hand, and on the other, points in CO, KS, TX, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Garfield Gas Gathering Co., 722 S.W. Second, Oklahoma City, OK 73019. Send protests to: District Supervisor, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 146447 (Sub-3TA), filed April 16, 1979. Applicant: TANBAC, INC., P.O. Box 593278, Miami, FL 33159. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. *Contract carrier*—Irregular route: *Such commodities as are manufactured and distributed by a manufacturer of leisure and recreational, household and institutional products, and materials, supplies and equipment used in the manufacture and distribution of such commodities* (except in bulk) between the facilities of King-Seeley Thermos Co. located at Norwich, CT, on the one hand, and, on the other, the facilities of King-Seeley Thermos Co. located at Macomb, IL and Los Angeles, CA under a continuing contract or contracts with King-Seeley Thermos Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): King-Seeley Thermos Co., Thermos Ave., Norwich, CT 06360. Send protests to: Donna M. Jones, T/A, ICC–BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terr., Miami, FL 33166.

MC 146566 (Sub-2TA), filed March 21, 1979. Applicant: JAK-WIL EXPRESS, INC., Box 161, Mankato, MN 56001. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Food seasoning compounds* from New Ulm, MN to West Chicago and Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden, Inc., Industrial Food Products, General Manager, First North and Valley Streets, New Ulm, MN 56073. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 146596 (Sub-1TA), filed April 18, 1979. Applicant: FRED McCALL TRUCKING, INC., 6542 Slocum Road, Ontario, NY 14519. Representative: Robert D. Gunderman, P.C., 710 Statler Bldg., Buffalo, NY 14202. *Calcium nitrate in bags or in bulk,* from Toledo, OH to points in NY, with returned, refused and rejected merchandise of the same description in the reverse direction, for 180 days. An underlying ETA seeks 90 days under R granted with effective date of March 28, 1979. Supporting shipper(s): Wilson and George Meyer and Company, Mr. Ross Johnson, Asst. Mgr., Marine Operations, 5321 Southwyck Boulevard, Toledo, OH 43614. Send protests to: Interstate Commerce Commission, 910 Federal Bldg., 111 West Huron St., Buffalo, NY 14202.

MC 146757 (Sub-TA), filed April 17, 1979. Applicant: PORTER TRUCK SERVICE, INC., P.O. Box 866, Sioux Falls, SD 57101. Representative: Mark Menard, P.O. Box 480, Sioux Falls, SD 57101. *Contract carrier:* irregular routes: (1) *Asphalt roofing materials, insulating materials, cement-asbestos pipe, steel toilet partitions, plastic pipe, and prefabricated chimneys (except commodities in bulk, in tank vehicles)* from Minneapolis and St. Paul, MN and Sioux Falls, SD to points in MT, NE, ND, SD and WY and points in IA on and north of Interstate Hwy 80 and on and west of Interstate Hwy 35, points in MN on and west of Interstate Hwy 35; (2) *Asphalt roofing materials (except in bulk, in tank vehicles)* from Cody, WY to points in MT, NE, ND, SD and WY, points in IA on and north of Interstate Hwy 80 and on and west of Interstate Hwy 35, points in MN on and west of Interstate Hwy 35; (3) *Asphalt roofing materials (except in bulk, in tank vehicles)* from Phillipsburg, KS to points in IA, MN, NE and SD; (4) *Plastic pipe* from Ulysses, KS to points in IA, MN and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): MacArthur Company, Inc., 1416 "B" Avenue—Box 1547, Sioux Falls, SD 57101. Send protests to: J. L.

Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 146776 (Sub-4TA), filed April 12, 1979. Applicant: QUAD CITY SPOTTING SERVICE, INC., P.O. Box 390, Bettendorf, IA 52722. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Contract authority. *Pallets, lumber, and materials used in the manufacture of pallets,* between Champaign, Moline, and East Moline, IL and Plover and Pound, WI, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KY, LA, MI, MN, MS, MO, NE, OH, TN and WI, under contract with John M. Boast, Inc. of Bettendorf, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John M. Boast, Inc., P.O. Box 390, Bettendorf, IA 52722. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146787 (Sub-1TA), filed April 18, 1979. Applicant: DEAN ALBAUGH AND MICKEY ALBAUGH d.b.a. ALBAUGH FARMS, R.R. No. 2, Ankeny, IA 50021. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Wheels, hubs, tires, brakes and brake parts, spindles and chemicals, and equipment materials, and supplies used in the manufacture thereof, except commodities in bulk, between Des Moines, IA, Slinger, WI, and Dresden, TN, on the other hand, and, on the other, points in IA, WI, IL, TN, KY, TX, OK, KS, MO, AR, NE. Restricted to traffic originating at or destined to the facilities of Dico Company, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dico Company, Inc., 200 S.W. 16th St., Des Moines, IA 50305. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146796 (Sub-1TA), filed April 16, 1979. Applicant: ROBERT HANSEN, Hansen Trucking, 121 West Fourth St., Danville, IL 61832. Representative: Robert Hansen, 121 West Fourth St., Danville, IL 61832. Common irregular. T.O.F.C. Trailers between points and places within a 100 mile radius of Danville, IL on the one hand and points in Illinois and Indiana on the other and between points within a 100 mile radius of Danville, IL. Supporting shipper(s): ATI, Inc., 800 South Gilbert, Danville, IL 61832. Esco Corp., 712 Porter St., Danville, IL 61832. Wyman Gordon Co., Lynch Road, Danville, IL 61832. Teepak, Inc., 915 N. Michigan Ave., Danville, IL 61832. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, Room 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, Illinois 62701.

MC 146807 (Sub-1TA), filed April 17, 1979. Applicant: S–N–W ENTERPRISES, INC., 1 Passan Drive, Wilkes-Barre, PA 18702. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Foodstuffs* (except in bulk), from Johnson City, NY, to points in IN, IL, MI, OH, WI and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Convenience Food Division, Douglas Food Service Company, Flowers Industries, Inc., P.O. Box 71, Johnson City, NY 13790. Send protests to: ICC, William J. Green, Jr., Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 147017 (Sub-1A), filed May 2, 1979. Applicant: HARRIS MOTOR EXPRESS, INC., 4261 Crawford St., Cincinnati, OH 45223. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. *Contract carrier:* irregular routes: *(1) Toilet preparations, soaps, shampoos and health and beauty aids, from the facilities of The Andrew* Jergens Company at Cincinnati, OH, to Chicago, IL, Detroit, MI, Ft. Wayne and Indianapolis, IN, Lexington and Louisville, KY, and Pittsburgh, PA; and *(2) materials and supplies (except commodities in bulk) used in the manufacture, sale, and distribution of the commodities specified in (1) above,* from points in IL, IN, KY, MI, and PA to the facilities of The Andrew Jergens Company at Cincinnati, OH, for 180 days. Restricted to service performed under continuing contract or contracts with the Andrew Jergens Company of Cincinnati, OH. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Andrew Jergens Co., Clayton H. Shunk, Traffic Manager, 2535 Spring Grove Ave., Cincinnati, OH 45214. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 145406 (Sub-24TA), filed, February 26, 1979 and published in the FR issue of April 12, 1979 and republished as corrected this issue. Applicant: MIDWEST EXPRESS, INC., 380 East Fourth St., Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent St., Madison, WI. *Such commodities* as are manufactured or distributed or used by manufactuers or distributors of plastic, wooden and health care products, between the facilities of Bemis Manufacturing Co., at or near Sheboygan Falls, WI on the one hand, and, on the other, points in the states of WA, OR, ID, MT, CA, NE, AZ, NM, UT, and FL for 180 days. An underlying ETA seeks 90 days, authority. Supporting shipper: Bemis Manufacturing Co., 300 Mill St., Sheboygan Falls, WI 53085. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309. The purpose of this republication is to indicate the proper destination state applied for.

By the Commission

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-17099 Filed 5-31-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 83]

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 107 (Sub-10TA), filed May 4, 1979. Applicant: BORO BUSSES COMPANY, 445 Shrewsbury Avenue, Shrewsbury, N.J. 07701. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, Maryland 20760. *Passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, and in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Ocean County, NJ extending to points in the United States including AK, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Various. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, N.J. 08608.

MC 4687 (Sub-22TA), filed May 2, 1979. Applicant: BURGESS & COOK, INC., P.O. Box 458, Fernandina Beach, FL 32034. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Paper and paper products and materials and supplies used in the manufacture, sale and distribution of paper and paper products (except commodities in bulk)*, between points in FL on the one hand, and, on the other, points in AL, FL, GA, NC and SC for 180 days. Supporting shipper(s): Multipack, Inc., 6400 Bristol Pike, Levittown, PA 19057. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 18037 (Sub-11TA), filed April 20, 1979. Applicant: CHAS. LEVY CIRCULATING CO., 1200 North Branch St., Chicago, IL 60622. Representative: Joel H. Steiner, 39 South LaSalle St., Chicago, IL 60603. *Contract carrier:* irregular routes: *Printed matter*, from Des Moines, IA to points in IL, IN, KY, MI, OH and WI, for the account of Meredith printing, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Meredith Printing, 5701 S.W. Park Ave., Des Moines, IA 50321. Send protests to: Annie Booker, TA, ICC, 1386 Everett Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 26396 (Sub-242TA), filed April 19, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Crushed limestone* from Valley, WA to the International Boundary line between the U.S. and Canada located in MT, ID and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): WMB Corporation, 960 E. Green St., Suite 110, Pasadena, CA 91106. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-243TA), filed April 20, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Steel buildings and steel grain bins* from Chicago, IL, Omaha, NE and Jamestown, ND to points in MT and WY; and from the International Bounary line between the U.S. and Canada located in MT and ND to points in MT and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Intermountain Systems, P.O. Box 462, Laurel, MT 59044. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 40757 (Sub-20TA), filed April 24, 1979. Applicant: CREECH BROTHERS TRUCK LINES, INC., 100 Industrial Dr., Troy, MO 63379. Representative: Richard A. Mehley, Esq., 1000—16th St., NW, Washington, DC 20036. *Contract carrier*, irregular routes: (1) *Deodorants, disinfectants, breath fresheners, cleaning compounds, swimming pool treatment compounds and insecticides* (except commodities in bulk, in tank vehicles), between points in AL, AZ, AR, CA, CO, CT, FL, GA, IL, IN, DC, DE, IA, KS, KY, LA, MD, MA, MI, MO, NE, NJ, VA, SC, MS, NY, NC, OH, OK, PA, RI, TN, TX, WA, WV, and WI, under a continuing contract or contracts with Airwick Industries, Inc., and (2) Printed matter, and (3) supplies and equipment used by book publishing and book printing companies (except commodities in bulk), between points in AR, CA, CT, FL, GA, IL, IN, KY, LA, MA, MI, MO, NJ, NY, OH, PA, TN, TX and WI, under a continuing contract or contracts with Harper & Row Publishers, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Airwick Industries, Inc., 111 Commerce Rd., Carlstadt, NJ, 07072. Harper & Row Publishers, Inc., Keystone Industrial Park, Scranton, PA 18512. Send protests to: P. E. Binder, OC, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 42146 (Sub-22TA), filed April 13, 1979. Applicant: A. G. BOONE COMPANY, P.O. Box 8126, Charlotte, NC 28208. Representative: Floyd C. Hartsell, P.O. Box 8126, Charlotte, NC 28208. *Contract* carrier—Irregular routes: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business for the acount of The Kroger Company* between points and places within the boundary lines of the states of NC, SC, GA, VA, TN, KY, WV, and Hamilton County, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Kroger Company, 1014 Vine St., Cincinnati OH 45201. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 43246 (Sub-30TA), filed May 1, 1979. Applicant: BURKE LINES, INC., 123 West Tyler Avenue, Litchfield, IL 62056. Representative: Same. **Contract, irregular.* Silica sand, in bulk, in dump and hopper type trailers (shipper owned) from Festus, Crystal City, Klondike, and Pacific, MO to Hillsboro, IL. Supporting shipper(s): Hillsboro Glass Company, Hillsboro, IL 62049. Send protest to: Charles D. Little, District Supervisor, Interstate Commerce Commission, Room 414, Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701.

MC 45626 (Sub-72TA), filed April 30, 1979. Applicant: VERMONT TRANSIT CO., INC., 135 St Paul Street, Burlington, VT 05402. Representative: John J. Dwyer, same address as applicant. Common carrier, regular routes: *passengers and their baggage and express in the same coach*, between Bennington, VT and Albany County Airport, Colonie, NY: From Bennington, VT over VT Hwy 9 to the NY–VT state line, then over NY Hwy 7 to the junction of NY Hwy 7 and Interstate 87 to junction Interstate 87 and NY State Hwy 155, then over NY State Hwy 155 to Albany County Airport, then over NY State Hwy 155 to junction with Interstate 87, then over Interstate 87 to Albany, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 19 statements of support attached to application which may be examined at the ICC in Washington, D.C. or copies thereof may be examined at the field office named below. Send protests to: ICC, P.O. Box 548, Montpelier, VT 05602.

MC 45736 (Sub-57TA), filed April 18, 1979. Applicant: GUIGNARD FREIGHT LINES, INC., PO Box 26067, Charlotte, NC 28213. Representative: Eugene L. Clark, PO Box 26067 Charlotte, NC 28213. (1) *Synthetic fiber yarn from the facilities* of Fiber Industries, Inc. at or near Fiberton, NC to Lanett, Langdale, Riverview, AL; Avondale Estates, Barnesville, Cartersville, Cedartown, Columbus, Hogansville, La Grange, Macon, Madison, Porterdale, Rockmart, Scottdale, Thomaston and Tunnel Hill, GA; Bowling Green, KY; Elizabethton, Port Rayon and Shelbyville, TN (2) *Empty textile warp beams* from above

destinations to the facilities of Fiber Industries, Inc. at or near Fiberton, NC, for 180 days. Restriction: Restricted to movement in or on beam rack trailers or trailers equipped with rails or racks. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Fiber Industries, Inc., PO Box 32414, Charlotte, NC 28232. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 51146 (Sub-688TA), filed April 23, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Petfood and equipment, materials and supplies used in the manufacture and distribution of pet food* between Perham, MN on the one hand, and, on the other, points in IL, IN, IA, KS, MO, OH, MI & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Tuffy, Div. of Starkist Foods, Inc., P.O. Box 190, Perham, MN 56573. Send protests to: Gail Daugherty, TA, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 59806 (Sub-12TA), filed April 27, 1979. Applicant: GROSS & HECHT TRUCKING, INC., 35 Brunswick Avenue, Edison, NJ 08817. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Contract carrier, irregular routes for 180 days. Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and materials, supplies and equipment used in the manufacture, sale and distribution of such commodities (except commodities in bulk). Between Chicago, IL, Westwood, MA, Baltimore, MD, Ft. Fairfield, ME, Detroit, MI, Edison, NJ, Albany and Horseheads, NY, Salem, OH and Plymouth, WI. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Great Atlantic & Pacific Tea Company, Inc., Two Paragon Drive, Montvale, NJ 07645. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 59806 (Sub-13TA), filed April 27, 1979. Applicant: GROSS & HECHT TRUCKING, INC., 35 Brunswick Avenue, Edison, NJ 08817. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Contract carrier, irregular routes for 180 days. Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and materials, supplies and equipment used in the manufacture, sale and distribution of such commodities (except commodities in bulk). Between Florence, NJ, on the one hand, and, on the other, New Castle County, DE. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Great Atlantic & Pacific Tea Company, Inc., 2 Paragon Drive, Montvale, NJ 07645. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 59806 (Sub-14TA), filed April 27, 1979. Applicant: GROSS & HECHT TRUCKING, INC., 35 Brunswick Avenue, Edison, NJ 08817. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Contract carrier, irregular routes for 180 days. Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and materials, supplies and equipment used in the manufacture, sale and distribution of such commodities (except commodities in bulk). From points in ME, NH, MA, VT, CT, RI, NY, PA, MD, VA and DC to Secaucus, NJ. An underlying ETA seeks 90 days authority. Supporting Shipper(s): White Rose Frozen Food Corp., 2 Frozen Food Plaza, Secaucus, NJ 07094. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 60157 (Sub-31TA), filed May 4, 1979. Applicant: C. A. WHITE TRUCKING COMPANY, 5327 N. Central Expressway, Suite 310, Dallas, TX 75205. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Frank Crane (same address as above.) *Pipe and tubing* from the facilities of Jones & Laughlin Steel Corporation at or near Gainesville, TX to points in IN, IL, NE, MI, KS, TN, WI, AL, MS, and NM for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Jones & Laughlin Steel Corporation, P.O. Box 1077, Gainesville, TX 76240. Send protests to: Opal M. Jones, TA, ICC, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 61396 (Sub-370TA), filed April 27, 1979. Applicant: HERMAN BROS., INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, NE 68101. Representative: Duane L. Stromer, (same address as above). *Cement, in bulk and bag,* from at or near Joppa, IL to points in NE and IA, for 18 days. Supporting shipper(s): Missouri Portland Cement Company, 7711 Carondelet Ave., St. Louis, Mo. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 61977 (Sub-16TA), filed April 27, 1979. Applicant: ZERKLE TRUCKING COMPANY, 2400 Eighth Ave., Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Commodities as are dealt in by wholesale, retail, grocery and drug stores,* (except commodities in bulk), from Cincinnati, OH to points in PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: J. A. NIGGEMYER, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 67646 (Sub-83TA), filed April 9, 1979. Applicant: HALL'S MOTOR TRANSIT CO., 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. *Paper, paper products and cellulose products, and materials, equipment and supplies used in the manufacture and distribution of paper, paper products and cellulose products (except commodities in bulk)* between the facilities used by Procter & Gamble Paper Products Co. in Wyoming, Lackawanna and Luzerne Counties, PA on the one hand, and on the other, facilities used by Procter & Gamble Paper Products Co. at or near Green Bay, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Procter & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Peter R. Guman, D/S, 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 76177 (Sub-333TA), filed April 17, 1979. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd Street, Birmingham, AL 35233. Representative: Mel P. Booker, Jr., 110 South Columbus Street, Alexandria, VA 22314. *Empty intermodal explosive containers,* moving on specially designed equipment, between points in the U.S. in and east of MN, IA, MO, AR and LA, restricted to shipments destined to the facilities of explosive manufacturers and distributors, for 180 days. Supporting shipper(s): Hercues Incorporated, 3169 Holcomb Bridge Road, Norcross, GA 30071; E. I. Du Pont de Nemours & Company, 1007 Market Street, Wilmington, DE 19898. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616–2121 Bldg., Birmingham, AL 35203.

MC 100666 (Sub-422TA), filed April 18,, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Mr. Paul L. Caplinger, (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular

routes transporting *such commodities as are dealt in or used by agricultural, industrial, and construction machinery equipment dealers (except in bulk)* from the facilities of Badger Northland, Inc., at or near Kaukauna, WI to points in AL, AR, FL, GA, KS, LA, MS, MO, NM, NC, OK, SC, TN, and TX, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): Badger Northland, Inc., 1215 Hyland Ave., Kaukauna, WI 54130. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-423TA), filed April 18, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger, (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting *roofing, building and insulating materials (except iron and steel articles and commodities in bulk)* between the facilities of CertainTeed Corporation in Granville County, NC, on the one hand, and, on the other, points in KY, TN, and WV; and (2) *Materials, equipment and supplies (except iron and steel articles and commodities in bulk)* used in the manufacture, installation and distribution of roofing and building materials from points in the above described territory to the facilities of CertainTeed Corporation in Granville County, NC, for 180 days. Applicant has also filed an underlying ETA seeking 90 days. Supporting shipper(s): CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-424TA), filed April 18, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger, (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting (1) *Roofing, building and insulating materials (except iron and steel articles and commodities in bulk)* between the facilities of CertainTeed Corporation in Chatham County, GA, on the one hand, and, on the other, points in AL and MS; and (2) *Materials, equipment and supplies (except iron and steel articles and commodities in bulk)* used in the manufacture, installation and distribution of roofing and building materials from points in the above described territory to the facilities of CertainTeed Corporation in Chatham County, GA, for 180 days. Applicant has also filed an underlying ETA seeking 90 days. Supporting shipper(s): CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 103066 (Sub-77TA), filed April 26, 1979. Applicant: STONE TRUCKING CO., INC., P.O. Box 2014, 4927 S. Tacoma, Tulsa, OK 74107. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Pipe,* from points in Allen, Woodson, Greenwood, Butler, and Harvey Counties, KS, to Leonard Pipeline Construction Co. Storage Yard, in Laramie County, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leonard Pipeline Construction Co., 3005 E. Skelly Drive, Tulsa, OK 74209. Send protests to: Connie Stanley, TA, ICC, Room 240 Old Post Office and Courthouse Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 103926 (Sub-92TA), filed April 5, 1979. Applicant: W. T. MAYFIELD SONS TRUCKING CO., INC., Post Office Box 947, Mableton, GA 30059. Representative: K. Edward Wolcott, Watkins & Daniell, P.C., 1200 Gas Light Tower, Atlanta, GA 30303. *Cast iron pipe fittings, valves, hydrants and accessories therefor* from the facilities of U.S. Pipe and Foundry Company and McWane Cast Iron Pipe Company at or near Birmingham, AL to all points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, OK, SC, TN, TX, VA, WV, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McWane Cast Iron Pipe Company, Box 11446, Birmingham, AL 35202; United States Pipe and Foundry Company, 3300 First Avenue North, Birmingham, AL 35202. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 103926 (Sub-93TA), filed April 10, 1979. Applicant: W. T. MAYFIELD SONS TRUCKING CO., INC., Post Office Box 947, Mableton, GA 30059. Representative: Kim G. Meyer, Watkins & Daniell, P.C., 1200 Gas Light Tower, 235 Peachtree St., NE., Atlanta, GA 30303. *Cast iron pipe fittings, valves, hydrants and accessories therefore* from the facilities of American Cast Iron Pipe Company at or near Birmingham, AL to points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MS, NC, OH, OK, SC, TN, TX, VA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cast Iron Pipe Company, P.O. Box 2727, Birmingham, AL 35202. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30303.

MC 103926 (Sub-94TA), filed April 10, 1979. Applicant: W. T. MAYFIELD SONS TRUCKING CO., INC., P.O. Box 947, Mableton, GA 30059. Representative: Kim G. Meyer, P.O. Box 872, Atanta, GA 30301. *Electric circuit breakers, switches and parts thereof* from the facilities of Siemens-Allis at or near Milwaukee, WI to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX, and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Siemens-Allis Corporation, P.O. Box 512, Milwaukee, WI 53201. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 104896 (Sub-58TA), filed May 3, 1979. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Ralph C. Wilgus (same as applicant). *Such commodities as are dealt in by chain retail variety stores and materials, equipment and supplies used in the conduct of such business:* (1) between the facilities of G. C. Murphy Company, at McKeesport, PA and Belmont, Coshocton, Cuyahoga, Lorain, Portage and Trumbull Counties, OH, MD, and WV. (2) From North Bergen, NJ to Pymatuning Township, Mercer County, PA. Supporting shipper(s): G. C. Murphy Company, 531 Fifth Avenue, McKeesport, PA 15132. Send protests to: J. J. England, DS, ICC., 2111 Federal Bldg., Pittsburgh, PA 15222.

MC 108676 (Sub-137TA), filed April 16, 1979. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Ave., Knoxville, TN 37917. Representative: Mark S. Roach (same address as applicant). *Road construction machinery, equipment parts and accessories thereof as shown in 61 MMC 286,* between points in OK on the one hand, and on the other points in the United States, for 180 days. Supporting shipper(s): CMI I–40 at Morgan Road, Oklahoma City, OK 73101. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 108676 (Sub-138TA), filed April 16, 1979. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Ave., Knoxville, TN 37917. Representative: Mark S. Roach (same address as applicant). *Centrifuge Machines, parts and accessories thereof; scrap,* between Torrence, CA, on the one hand, and, on the other points in Richland and Seattle, WA, for 180 days. Supporting shipper(s)

Department of Energy, Oak Ridge, TN 37830. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 108676 (Sub-139TA), filed April 27, 1979. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Ave., Knoxville, TN 37917. Representative: Mark S. Roach (same address as applicant). *Iron and steel articles* from Beaver Falls, PA, Allenport, PA and Canton, OH to the facilities of FMC Corporation at or near Indianapolis, IN, for 180 days. Supporting shipper(s): FMC Corporation, 200 E. Randolph St., Chicago, IL 60601. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 109736 (Sub-46TA), filed April 25, 1979. Applicant: CAPITOL BUS COMPANY, d.b.a. CAPITOL TRAILWAYS, 1061 South Cameron Street, Harrisburg, PA 17104. Representative: S. Berne Smith, McNees, Wallace & Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Common carrier: regular routes: Passengers and their baggage, and express and newspapers in the same vehicle with passengers,* between Philadelphia, PA, and Atlantic City, NJ, serving no intermediate points, serving Philadelphia for purposes of joinder only, and restricted to the transportation of traffic moving to or from points west of Philadelphia, PA: from Philadelphia over Interstate Hwy 76 to junction Interstate Hwy 676, then over Interstate Hwy 676 to junction NJ Hwy 42, then over NJ Hwy 42 to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, and return over the same route for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 21 support statements attached. Statements may be examined at the office listed below and Headquarters. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. Seventh Street, Room 620, Phila., PA 19106.

MC 113666 (Sub-164TA), filed April 27, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: R. Scott Mahood, House Counsel (same as applicant). *Cement pipe containing asbestos fibre and materials and supplies used in installation thereof* from ports of entry between the United States and Canada located in New York and Michigan to points in the United States located east of the states of MN, IA, MO, AR and LA for 180 days. Supporting Shipper(s): Johns-Manville Canada, Inc., 295 The West Mall, Etobicoke, Ontario, Canada. Send protests to: J. J. England, DS, ICC, 2111 Federal Bldg., Pittsburgh, PA 15222.

MC 113666 (Sub-165TA), filed April 20, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: R. Scott Mahood, House Counsel (same as applicant). *Enameled products, frit, and materials, equipment and supplies* used in the production thereof, between Frankfort, IN, on the one hand, and, on the other, points in IN, MI, OH, KY, IL, TN, MO, GA, WI, AL, IA, NC and SC for 180 days. Supporting Shipper(s): Ingram-Richardson Company, State Road 28 West, Frankfort, IN 46041. Send protests to: J. J. England, DS, ICC, 2111 Fed. Bldg., Pittsburgh, PA 15222.

MC 115496(Sub-119TA), filed March 30, 1979. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, Ga 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Sheathing, siding, wallboard, particleboard, composition board, lumber and urethan rigid boards and sheets* from the plantsites of Temple-Eastex, Inc., located at or near Diboll, TX; Pineland, TX; West Memphis, Ar; and Monroeville, AL to points in that part of the US in and east of ND, SD, NE, CO, and NM for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Temple-Eastex, Inc., Temple Div., P.O. Drawer N, Diboll, TX, Diboll, TX 75941. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, Ga 30309.

MC 115826 (Sub-456TA), filed April 25, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meat and meat products,* from facilities of Circle C Beef, Denver, CO and its commercial zone to points in NY, NJ, PA and CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Circle C Beef Company, 5800 York Str., Denver, CO 80217. Send protests to: District Supervisor Herbert C. Ruoff, 494 U.S. Customs House, 721 19th Street, Denver, CO 80217.

MC 115826 (Sub-457TA), filed April 25, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Such commodities as are dealt in by a manufacturer of abrasives and abrasive products and industrial materials and supplies, materials, supplies and equipment* used in the conduct of such business (except in tank vehicles), from (1) Bauxite, AR to Worcester, MA and Watervliet, NY; (2) Lexington, NC to Watervliet, NY; (3) Santa Clara, CA to points in WA or OR; (4) Sparks, NV to Granville, NY and Trenton, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Norton Company, Worcester, MA 01606. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, Colorado 80202.

MC 117686 (Sub-262TA), filed April 18, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., 500 South Lewis Blvd, P.O. Box 417, Sioux City, IA 5110. Representative: George L. Hirschbach (same addressed as applicant). *Bananas and agricultural commodities otherwise otherwise exempt from economic regulation under Section 10526 (a)(6)(B) of the Act, when transported in mixed loads with bananas* from Gulfport, MS and Galveston, TX to Colorado Springs, Denver, and Grand Junction, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Castle & Cooke Foods, Suite 220, 13101 E. Mississippi Ave., Aurora. Send protests to: Carroll Russell, ICC, Suite 620, 100 No. 14th St., Omaha, NE 68102.

MC 118457 (Sub-31TA), filed April 17, 1979. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 W. Becher St., West Allis, WI 53227. Representative: David Purcell, 111 E. Wisconsin Ave., Milwaukee, WI 53202. (1) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Appendix I to the report in Descriptions in Motor Carrier Certificates, 61M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) Foodstuffs (except commodities in bulk), all moving in vehicles equipped with mechanical refrigeration, from Beaver Dam, Green Bay, Madison, New London, and Portage, WI to points in IL, IN, KY, LP of MI, MO, NJ, NY, OH, & PA, restricted to the transportation of traffic originating at the named origins and destined to the name State, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A.M.P.I. P.O. Box 455, New Ulm, MN 56073. Send protests to: G. Daugherty, TA, ICC, Federal Bldg., 517 E. Wisconsin Ave. Rm. 619, Milwaukee, WI 53202.

MC 118457 (Sub-32TA), filed April 18, 1979. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 W. Becher St., West Allis, WI 53227. Representative: David Purcell, 111 E. Wisconsin Ave., Milwaukee, WI 53202. *Cheese, cheese products, and butter* (except commodities in bulk) in vehicles equipped with mechanical refrigeration from Green Bay, WI to points in CT, DC,

DE, MA, MD, ME, NH, RI, VA, VT, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: G. Daugherty, TA, ICC, Federal Bldg., 517 E. Wisconsin Ave. Rm. 619, Milwaukee, WI 53202.

MC 124896 (Sub-88TA), filed April 24, 1979. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Representative: Peter A. Greene, 404 Farragut Bldg., 900 Seventeenth St., N.W., Washington, DC 20006. *Foodstuffs* from the facilities of Globe Products Company, Inc., at Clifton, NJ to points in IA, MO, NE, IL, KS, WI, MN, OH, IN, KY, NC, SC, GA, FL, AL, MS, LA, TX, OK, AR, TN, WV, and PA for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting Shipper(s): Globe Products Company, Inc., 55 Webro Road, Clifton, NJ 07015. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 126346 (Sub-26TA), filed April 27, 1979. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Daniel Sullivan, 10 S. LaSalle St., Chicago, IL 60603. Contract carrier; irregular routes; (1) *Power transmission and fluid handling equipment and parts of power transmission and fluid handling equipment;* (2) *Generating systems and parts of generating systems* from Freeport & Rockford, IL to points in U.S. (except AK & HI); and (3) *Parts, equipment, materials and supplies* for (1) and (2) above, from points in the U.S. to Freeport and Rockford, IL (except AK & HI) for 180 days. An underlying ETA seeking 90 days authority. Supporting Shipper(s): Sundstrand Corp., 4751 Harrison Ave., Rockford, IL 61101. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 127047 (Sub-36TA), filed May 1, 1979. Applicant: ED RACETTE & SON, INC., 6021 No. Broadway, Wichita, KS 67219. Representative: William B. Barker, 641 Harrison, Topeka, KS 66603. *Materials used in the manufacture of shipping containers and pallets,* from points in AZ, AR, CO, MO, MT, NM, OK, UT, and WY, to Wichita, KS; 180 days, common, irregular, 90-day ETA filed simultaneously; Supporting shipper: Wirths and Sons Manufacturing, Inc., Wichita, KS. Send protests to: M. E. Taylor DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 128117 (Sub-38TA), filed May 4, 1979. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *Wooden doors* from the facilities of Buell Door Company, Dallas, TX to points in GA, SC, NC, VA, DC, MD and points in TN on and east of US Highway 27, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Buell Door Company, 305 South Haskell St., Dallas, TX 75226. Send protests to: D/S Terrell Price, 800 Briar Creek Rd., Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 128246 (Sub-42TA), filed April 24, 1979. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box A. D., Watsonville, CA 95076. Representative: W. F. King, Suite 400, Overlook Building, 6121 Lincolnia Rd., Alexandria, VA 22312. *Contract carrier;* irregular routes: *Foodstuffs,* and such commodities as are dealt in by hotels, restaurants and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business (except commodities in bulk), from the facilities of Lyons-Magnus and Wawona Frozen Foods at or near Clovis, CA to points in AZ, AR, CO, ID, KS, LA, MN, MO, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wawona Frozen Foods, P.O. Box 646, Clovis, CA 93612; Lyons-Magnus, P.O. Box 646, Clovis, CA 93612. Send protests to: District Supervisor, 211 Main, Suite 500, San Francisco, CA 94150.

MC 128246 (Sub-43TA), filed April 24, 1979. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box A. D., Watsonville, CA 95076. Representative: W. D. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Contract carrier;* irregular routes: *Cheese, including Cheese Foods and Cheese Spreads,* from the facilities of Safeway Stores, Incorporated at or near Carthage, MO, to the facilities of Safeway Stores, Incorporated at or near Butte, MT, Denver, CO, El Paso, TX, Omaha, NE and Salt Lake City, UT for the account of Safeway Stores, Incorporated, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Safeway Stores, Incorporated, 5825 E. 14th St., Oakland, CA 94660. Send protests to: District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 128246 (Sub-44TA), filed April 27, 1979. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box A. D., Watsonville, CA 95076. Representative: W. F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. *Contract carrier;* irregular routes: *Meat, meat products, meat by-products* and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Motor Carrier Certificates 61 MCC 203 and 766 (except hides and commodities in bulk), from the facilities of Swift & Company at or near Kansas City, KS and Sioux City, IA to points in CA and OR for the account of Swift & Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: District Supervisor, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 128246 (Sub-451A), filed April 30, 1979. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box A. D., Watsonville, CA 95076. Representative: W. F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Contract carrier:* irregular routes: *Bakery goods* from the facilities of Safeway Stores, Inc., at or near Joplin, MO to the facilities of Safeway Stores, Inc., at or near Little Rock, AR; Denver, CO; Landover, MD; Oklahoma City, OK; Dallas, Houston and El Paso, TX; and Richmond, VA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Safeway Stores, Inc., 5825 E. 14th St., Oakland, CA 94660 SEND PROTESTS TO: District Supervisor, 211 Main, Suite 500, San Francisco. CA 94105 Supporting Shipper(s): Safeway Stores, Inc., 5825 E. 14th St., Oakland, CA 94660. Send protests to: District Supervisor, 211 Main, Suite 500. San Francisco, CA 94105.

MC 128746 (Sub-50TA), filed April 9, 1979. Applicant: D'AGATA NATIONAL TRUCKING COMPANY, 3240 South 61st Street, Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. *Malt beverages in containers,* from the Anheuser Busch facility at or near Williamsburg, VA to New Castle and Milford, DE, Philadelphia, PA and its commercial zone, and Deptford, Mine Hill, New Brunswick, Trenton, Wall, Pleasantville and Newark, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Anheuser-Busch, Inc., 721 Pestalozzi St., St. Louis, Missouri 63118. Send protests to: T. M. Esposito, TA, ICC, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 129486 (Sub-11TA), filed May 4, 1979. Applicant: PAGE TRUCKING COMPANY, INC., P.O. Box 14, Hines, MN 56647. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O.

box 1982, Bismarck, ND 58501. *Contract carrier:* irregular routes: *Canned and preserved foodstuffs,* from the facilities of Heinz USA, Division of H. J. Heinz Company, at Iowa City, IA and Muscatine, IA, to points in ND, SD and MN, restricted to a transportation service to be performed under a continuing contract(s) with Heinz USA Division of H. J. Heinz Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Heinz USA, Division of H. J. Heinz company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to : DS, ICC, Room 268 Fed. Bldg. 657 2nd Avenue North Fargo, ND 58102.

MC 129537 (Sub-33TA), filed April 10, 1979 Applicant: REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhon, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. *Carpet and rugs,* from all points in Troup and Muscogee Counties, GA to Gordon County, GA, for purpose of tacking to carrier's existing authority from Gordon County, GA to all points in the States of AR and TX for 180 days. Supporting Shipper(s): There are 7 statements of support attached to this application which may be examined at the office listed below and Headquarters. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 133336 (Sub-3TA), filed April 24, 1979. Applicant: CAROLINA TRANSIT LINES OF CHARLOTTE INC., 224 Iverson Way, Charlotte, NC 28203. Representative: W.G. Reese, III, P.O. Box 3004, Charlotte, NC 28203. *Church, civic, and school organizations and their baggage* in round trip charter operations from points in Mecklenburg, County, NC on the one hand and points east of a line along the western border of the states of IL, MO, AR, and LA for 180 days. An underlying ETA seeks 90 days of authority. Supporting Shipper(s): Park Road Baptist Church, 3900 Park Rd., Charlotte, NC 28209. Johnson C. Smith University, 100 Beatties Ford Rd., Charlotte, NC 28216. Piedmont Middle School, 1241 E. 10th St., Charlotte, NC 28204. Central Piedmont Community College, 1201 Elizabeth Ave., Charlotte, NC 28204. Send protests to: Terrell Price, DS, ICC, 800 Briar Creek Rd., Rm. CC–516, Charlotte, NC 28205.

MC 134286 (Sub-106TA), filed April 26, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as above). *(1) Adhesives, sealants, solvents, stains and wood preservatives, and (2) material equipment and supplies used in installation, maintenance and distribution of floors and floor coverings, and walls and wall coverings, in vehicles equipped with mechanical refrigeration, except commodities in bulk,* from the facilities of Roberts Consolidated Industries, located at or near Dayton, OH; Kalamazoo, MI; and Los Angeles County, CA; to points in CO, IA, NE, KS, MO, MN, NY, NJ, MD, and GA, for 180 days. Supporting Shipper(s): Roberts Consolidated Industries, Inc., 600 N. Baldwin Park Blvd., City of Industry, CA 91749. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134387 (Sub-65TA), filed May 2, 1979. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Representative: Patricia M. Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Containers and container ends,* between points in CA, OK, and TX, for 180 days. Supporting Shipper(s): National Can, 1657 Rollins Road, Burlingame, CA 9401. Send protests to: Irene Carlos, TA, ICC, P.O. Box 15551, Los Angeles, CA 90053.

MC 135797 (Sub-211TA), filed April 20, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, (same as applicant). *Such articles* as are dealt in by wholesale and retail grocery houses (except in bulk), (1) from Byhalia, MS to points in GA, IL, IN, KS, LA, MD, MO, NC, OH, SC, TX, VA and WI, and (2) From Rialto, CA to points in CO, IA, ID, MS, MT, NM, OK, OR, TX and WA for 180 days as a common carrier over irregular routes. Supporting Shipper(s): Professional Mixers, Inc., 300 Chesterfield Center, Chesterfield, MO 63017. Send protests to: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-212TA), filed April 20, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Foodstuffs* from Beaverton, OR to Denver, CO; Oklahoma City, OK; Tulsa, OK; and Little Rock, AR, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Hoody Corporation, P.O. Box 100, Beaverton, OR 97005. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 136786 (Sub-155TA), filed April 23, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Ave., Des Moines, IA 50321. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Blvd., Minneapolis, MN 55416. *Foodstuffs, canned, preserved or packaged, other than frozen, NOI* from Bordentown, NJ; Middleboro, MA and North East, PA to points in MI, WI, IL, IN, KY, TN, MN, ND, SD, IA, NE, CO, KS, MO, OK, TX and AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ocean Spray Cranberries, Inc., Water St., Plymouth, MA 02360. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136786 (Sub-156TA), filed April 23, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Ave., Des Moines, IA 50321. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Blvd., Minneapolis, MN 55416. *Printed matter* from the facilities of Dayton Press at or near Dayton, OH to points in the United States in and east of OH, KY, TN and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Select Magazines, Inc., 229 Park Ave. South, New York, New York 10003. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138157 (Sub-142TA), filed April 16, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). *Carpet strips, molding, staples, tools, nails, adhesives, sealants, solvents, stains, wood preservatives, and materials, equipment and supplies used in the manufacture, sale and distribution of the above-named commodities* (1) from Calexico, CA to points in the United States (except AK and HI) and (2) between the facilities of Roberts Consolidated Industries, Inc., in Los Angeles, CA on the one hand and on the other, Calexico, CA and the Los Angeles, CA harbor Zone, for 180 days. Supporting shipper(s): Roberts Consolidated Industries, Inc., 600 N. Baldwin Park Blvd., City of Industry, CA 91749. Send protests to: Glenda Kuss, TA, ICC, Suite a–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138157 (Sub-143TA), filed April 26, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, 2931 South Market St., P.O. Box 9596, Chattanooga, TN 37412. *Such merchandise as is sold in and distributed by retail drug stores (except*

in bulk), from Los Angeles and City of Industry, CA to Grand Prairie, TX, Smyrna, GA and Bedford Park, IL, for 180 days. Restriction: Restricted to traffic originating at the facilities of Foremost-McKesson, Inc. Supporting shipper(s): Foremost-McKesson, Inc., Crocker Plaza, One Post St., San Francisco, CA 94104. Send protests to: Glenda Kuss, T/A, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138157 (Sub-144TA), filed April 27, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Heating and Air Conditioning Equipment,* from Elyria, OH to points in TN, GA, AL, NC, SC, AZ, CA, Lexington and Louisville, KY and points in the Chicago, IL commercial zone, for 180 days. Restricted to traffic originating as the facilities of SJC Corp. Supporting shipper(s): SJC Corp., 206 Woodford Ave., Elyria, OH 44035. Send protests to: Glenda Kuss, T/A, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 139156 (Sub-10TA), filed April 12, 1979. Applicant: FAITH TRUCK LINES, INC., 14326 South Wood Street, Dixmoor, IL 60426. Representative: Charlie Woodard (same address as applicant). *Caustic soda,* from Montague, MI to points in the Chicago, IL commercial zone, for 180 days. Supporting shipper(s): Hooker Chemical Company, P.O. Box 4289, Houston, TX 77210. Send protests to: Annie Booker, T/A, ICC, 1386 Everett Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 139276 (Sub-8TA), filed March 22, 1979. Applicant: ALOHA FREIGHTWAYS, INC., 1069 Bryn Mawr Avenue, Bensenville, IL 60106. Representative: Grace Kasallis, Secretary-Treasurer (address same as applicant). *Contract carrier:* irregular routes: *Iron and steel articles,* from the facilities of Inland Steel Company at East Chicago, IN to points in IL and Michigan, for 180 days. Supporting shipper(s): Inland Steet Company, 30 West Monroe Street, Chicago, IL 60603. Send protests to: Annie Booker, Interstate Commerce Commission 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 139577 (Sub-39TA), filed May 4, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. (1) *Cookies* from facilities of Ripon Foods, Inc. and Heritage Wafers, Ltd. at Ripon, WI to points in and east of ND, SD, NE, KS, OK and TX; and (2) *Materials, equipment and supplies used in the manufacture or distribution of cookies* from points in and east of ND, SD, NE, KS, OK and TX to facilities of Ripon Foods, Inc. and Heritage Wafers, Ltd. at Ripon, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ripon Foods, Inc., Heritage Wafers, Ltd., Oshkosh St., Ripon, WI 54971. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 139756 (Sub-6TA), filed April 26, 1979. Applicant: HOWARD HERLEE LISK d.b.a. HOWARD LISK, Rt. 1, Box 166, Wadesboro, NC 28170. Representative: George W. Clapp, Registered Practitioner, P.O. Box 836, Taylors, SC 29687. *Contract:* irregular routes: *Fly Ash,* in bulk, in tank and hopper-type vehicles from the facilities of AMAX Resource Recovery Systems, Inc. at or near Roxboro and Terrell, NC to points in GA for 180 days. An underlying ETA for 90 days has been filed. Supporting shipper(s): AMAX Resource Recovery Systems, Inc., 2708 Church St., Greensboro, NC 27405. Send protests to: Terrell Price, DS, ICC, 800 Briar Creek Rd., Rm. CC–516, Charlotte, NC 28205.

MC 139917 (Sub-9TA), filed April 12, 1979. Applicant: SEARAIL, INC., P.O. Box 909, Mobile, AL 36601. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. (1) *General commodities,* in containers or trailers, having an immediate prior or subsequent movement by water (except those of unusual value, classes A and B explosives and commodities in bulk); (2) *General commodities* having an immediate prior or subsequent movement by rail (except those of unusual value, classes A & B explosives and commodities in bulk): Between Pensacola, FL, on the one hand, and, on the other, points in FL, west of the Apalachicola River for 180 days. Supporting shipper(s): International Paper Company, P.O. Box 160707, Mobile, AL 36616. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140717 (Sub-22TA), filed April 23, 1979. Applicant: JULIAN MARTIN, INC., Highway 25 W, P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Meats, meat products and articles distributed by meat packinghouses* as described in Motor Carrier Certificate 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Clovis, NM and Brownwood, TX to AL, GA, FL, TN, NC and SC, for 180 days as a contract carrier over irregular routes. Supporting shipper(s): Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: William H. Land, Jr., DS, ICC, 3108 Federal Office Building, Little Rock, AR 72201.

MC 141966 (Sub-2TA), filed April 25, 1979. Applicant: GINA MARIE EXPRESS CO., INC., 3740 Shoshone St., Denver, CO 80211. Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Contract—irregular route—*Such commodities as are dealt in, or used by, manufacturers and distributors of cheese, cheese products, pizza topping and related commodities* between facilities of Leprino Cheese Co., Horseheads, NY, Waverly, PA and Waverly, NY, to points in the U.S., except AK and HI, under contract with Leprino Cheese Co. of Denver, CO, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Leprino Cheese Co., 3740 Shoshone St., Denver, CO 80211. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 142096 (Sub-9TA), filed April 11, 1979. Applicant: MILLER BROS. TRUCKING CO., INC., 4100 W. Mitchell St., Milwaukee, WI 53215. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. *Empty containers* between Milwaukee, WI and points in the Chicago, IL Commercial Zone restricted to transportation performed for the account of W.B. Bottle Supply Co., Inc. for 180 days. An underyling ETA seeks 90 days authority. Supporting shipper(s): W.B. Bottle Supply Co., Inc., 836 E. Bay St., Milwaukee, WI 53207. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 143236 (Sub-30TA), filed April 23, 1979. Applicant: WHITE TIGER TRANSPORTATION, INC., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Elizabeth Eleanor Murphy, 40 Hackensack Avenue, Kearny, NJ 07032. Toys, games and commodities sold in toy stores and display racks. Between the facilities of Lesure Lines, Inc. at or near Secaucus, NJ and points in the US except AK and HI, for 180 days. An underlying ETA

seeks 90 days authority. Supporting shipper(s): Leisure Lines, Inc., 900 Secaucus Road, Secaucus, NJ. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton St., Newark, NJ 07120.

MC 143236 (Sub-31TA), filed April 30, 1979. Applicant: WHITE TIGER TRANSPORTATION, INC., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Elizabeth Eleanor Murphy, 40 Hackensack Avenue, Kearny, NJ 07032. Commodities sold in discount drug stores and display racks, in temperature controlled vehicles. Between points east of and including TX, OK, KS, NE, ND, and SD on the one hand, and on the other, points east of and including TX, OK, KS, NE, ND, SD, and Glendale, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Revco Drug Store, Inc., 1925 Enterprise Pkwy., Twinsburg, OH 44087. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton St., Room 618, Newark, NJ 07120.

MC 143246 (Sub-5TA), filed May 1, 1979. Applicant: LAND TRANSPORT CORPORATION, 24 Sabrina Road, Wellesley, Mass. 02181. Representative: James E. Mahoney, 148 State Street, Boston, Mass. 02109. *Contract carrier:* irregular routes: *metal cans* from plant site and facilities of Eagle Can Company, Peabody, MA, to points in the United States in and east of MN, IA, MO, OK, and TX for the account of Eagle Can Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eagle Can Company, Peabody Industrial Park, Peabody, MA 01960. Send protests to: D/S John B. Thomas, ICC, 150 Causeway St., Room 501, Boston, Mass. 02114.

MC 143586 (Sub-2TA), filed May 2, 1979. Applicant: RANGEN TRANSPORTATION, INC., P.O. Box 706, Buhl, ID 83316. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Animal and fish feed ingredients, fertilizer ingredients, chemicals and hatchery supplies,* between points in AZ, CA, CO, MT, NM, NV, OR, UT, ID, WA and WY, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Rangen, Inc., P.O. Box 706, Buhl, ID 83316. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 143586 (Sub-3TA), filed May 2, 1979. Applicant: RANGEN TRANSPORTATION, INC., P.O. Box 706, Buhl, ID 83316. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Ferric sulphate solution, in bulk in tank vehicles,* from Wilder, ID to points in ID, MT, NV, OR, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Smith & Ardussi, Inc., 115 South Dawson Street, Seattle, WA 98108. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 144027 (Sub-10TA), filed May 2, 1979. Applicant: WARD CARTAGE AND WAREHOUSING, INC., Route No. 4, Glasgow, Ky. 42141. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. Household appliances, equipment, materials, and supplies used in the manufacture and distribution thereof, except commodities in bulk, from the facilities of the General Electric Company, Appliance Park, Louisville, KY, to all points in MS. Supporting shipper(s): L. R. Crompton, Manager—Traffic, General Electric Company, Applicance Park, Louisville, Ky. 40225. Send protests to: Linda H. Sypher, D/S, ICC, 426 Post Office Building, Louisville, Ky. 40202.

MC 144136 (Sub-3TA), filed April 27, 1979. Applicant: STOVER LINES, INC., 5636 NW 17th Street, Topeka, KS 66618. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Dry Animal & Poultry Feed & Premix; Dry Animal & Poultry Feed Supplements; Feed Blocks; Bulk Replacers & Livestock Feeding Equipment,* from the facilities of Albers Milling Co. at Kansas City, MO to points in TX, OK, AR, NM & KS; *Dry Rendered Tankage,* from Wichita and Emporia, KS to St. Joseph, MO; *Meatmeal and Bonemeal,* from St. Joseph, MO to points in KS; *Soy Bean Meal,* from the facilities of Ralston-Purina Co. near Kansas City, MO to OK, AR and KS and Flagstaff, AZ; *Alfafa Products,* from the facilities of Western Alfalfa Near Topeka, KS to St. Joseph and Kansas City, MO; *Dry Feed Ingredients,* from Kansas City, MO and St. Joseph, MO to facilities of General Foods Corp. at or near Topeka, KS; and *Bloodmeal, Meatmeal, Bonemeal and Unground Tankage,* from Wichita, Mankato, Liberal, Garden City and Arkansas City, KS to points in MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston-Purina Co., 2334 Rochester, Kansas City, MO 64102. Wellens Company, Inc., 6700 France Avenue South, Minneapolis, MN 55435. Albers Milling Co., 1700 Potter Ave., Kansas City, MO. 64126. Pillsbury Company, 7900 Xerxes Ave South, Bloomington, MN 55420. General Foods Corp., 250 North Street, White Plains, NY 10625. Send protests to: M. E. Talylor, DS, ICC, 101 Litwin Bldg., 110 No. Market St., Wichita, KS 67202. Supporting shipper(s): Ralston-Purina Co., 2334 Rochester, Kansas City, MO 64102, Wellens Company, Inc., 6700 France Avenue South, Minneapolis, MN 55435, Albers Milling Co., 1700 Potter Ave., Kansas City, MO 64126, Pillsbury Company, 7900 Xerxes Ave. South, Bloomington, MN 55420, General Foods Corp., 250 North Street, White Plains, NY 10625. Send protests to: M E. Taylor, DS, ICC, 101 Litwing Bldg, 110 No. Market St, Wichita, KS 67202.

MC 144176 (Sub-1TA), filed April 16, 1979. Applicant: VALLEY PARCEL SERVICE, INC., 500 So. Teilman, Fresno, CA 93726. Representative: Rodney D. Heintz, P.O. Box 11486, Fresno, CA 93773. *Contract carrier:* irregular routes. Drugs and Medicines, between Sacramento, CA on the one hand, and on the other, Fallon, Reno, Sparks, Carson City, Stead, Gardnerville, Minden, Incline Village, Glenbrook, and Tahoe Village, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foremost-McKesson, Inc., P.O. Box 15858, Sacramento, CA 95813. Send protests to: District Supervisor, 211 Main—Suite 500, San Francisco, CA 94105. Supporting Shipper(s): Foremost McKesson, Inc., P.O. Box 15858, Sacramento, CA 95813. Send Protests to: District Supervisor, 211 Main, Suite 500, San Franciso, CA 94105.

MC 144696 (Sub-6TA), filed April 25, 1979. Applicant: MEEUWSEN PRODUCE, Inc., 9525 Ransom Street, Zeeland, MI 49464. Representative: Edward N. Button, 1329 Pennsylvannia Avenue, Hagerstown, MD 21740. *Contract carrier:* irregular routes; *drugs and toilet articles, materials and supplies* used in the manufacture, sale, and distribution thereof. Between Allegan, MI, and its commercial zone, on the one hand, and on the other points in AZ, OR, WI, MN, MD, VA, NC, and NV. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): L. Perrigo, Co. 117 Water Street, Allegan, MI 49010. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 144756 (Sub-2TA), filed April 23, 1979. Applicant: DEDICATED TRUCKING CORP., P.O. Box 1383, Chehalis, WA 98532. Representative: Henry C. Winters, 525 Evergreen Bldg., 15 S. Grady Way, Renton, WA 98055. Contract, irregular, charcoal, vermiculite, and hickory chips, in bags, charcoal lighter fluid and fireplace logs, from facilities of Husky Industries, Inc., at White City, OR to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY for 180 days. MC 144756 R-2

granted 30 + 2, 4/23/79. Supporting Shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: R V. Dubay, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 145026 (Sub-3TA), filed April 23, 1979. Applicant: NORTHEAST CORRIDOR EXPRESS, INC., Railroad Avenue, Federalsburg, MD 21632. Representative: Dwight L. Koerber, Jr., 666 11th St., NW., Washington, DC 20001. *Edible Flour compounds* (except in bulk) from Cleveland, OH to Gloucester and New Bedford, MA, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Starr H. Lloyd, GTM, The Gorton Group, Div. of General Mills, Inc., 327 Main St., Gloucester, MA 01930. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 145026 (Sub-4TA), filed April 16, 1979. Applicant: NORTHEAST CORRIDOR EXPRESS, INC., Railroad Avenue, Federalsburg, MD 21632. Representative: Dwight L. Koerber, Jr., 666 11th St., NW., Washington, DC 20001. *Bananas,* from Norfolk, VA and points within its commercial zone, to points in MD, PA, VA, NJ, NY, CN, RI, MA, VT, NH, ME, OH, IN, KY, IL, IO, WI, MI, MN, MO and DC, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Robert Rogers, Terminal Manager, The Best Banana Company, 3616 E. Virginia Beach Blvd., Norfolk, VA 23502. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 145507 (Sub-1TA), filed April 16, 1979. Applicant: TRUCKING SERVICES, INC., 26400 Van Born Road, Dearborn Heights, MI 48123. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Lumber, Particle Board and Composition Board,* from the International Boundary at Detroit, MI to points in IL, IN, KY, MI, OH, PA, TN and WI. Restricted to traffic originating in Canada. For 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): T. W. Hager Lumber Company, 1545 Marquette Street, Grand Rapids, MI 49509; Erb Lumber Company, 375 South Eton, Birmingham, MI 48012; and North Pacific Lumber Company, P.O. Box 3015, Portland, Oregon 97208. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 145557 (Sub-5TA), filed April 17, 1979. Applicant: LIBERTY TRANSPORT, INC., 4614 South 40th Street, St. Joseph, Missouri 64503. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, Missouri 64068. *Meat, meat products & meat by-products, & articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report* in Descr. in Motor Carrier Certs. 61 M.C.C. 209 & 766 (except hides & comms. in bulk), from the facilities of Dubuque Packing Co. at or near LeMars, IA to all points in the United States except Alaska and Hawaii for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dubuque Packing, P.O. Box 340, LeMars, Iowa 51031. Send protests to: Vernon V. Coble, D/S, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 145566 (Sub-8TA), filed April 20, 1979. Applicant: TERRY W. KULTGEN & NORMAN W. KULTGEN d.b.a. B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53154. Representative: Terry W. Kultgen (address same as applicant). *Commodities, which because of size or weight, require the use of special equipment or handling,* from facility of Voeller Mfg., Co., Port Washington, WI to points in GA, AL, FL, MO, AR, TX, IA, LA and CA, for 180 days. Supporting shipper(s): Voeller Mfg., Co., 455 Moore Rd., Port Washington, WI. Send protests to: G. Daugherty, TA, ICC, Federal Bldg., 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145596 (Sub-3TA), filed May 3, 1979. Applicant: A & M EXPRESS, INC., 1136 Haley Road, Murfreesboro, TN 37130. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Furniture, furniture parts, and material used in the production, sale and distribution of furniture* between Rutherford Co., TN and Fort Smith, AR, on the one hand, and points in and east of KS, OK, NE, ND, SD, and TX, on the other, for 180 days. Supporting shipper(s): Samsonite Corporation, Samsonite Boulevard, Murfreesboro, TN. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 145906 (Sub-2TA), filed April 24, 1979. Applicant: GENERAL TRUCKING CO., INC., P.O. Box 269, Santa Fe Pike, Columbia, TN 38401. Representative: Edward C. Blank, II, P.O. Box 1004, 805 South Garden St., Columbia, TN 38401. *Aluminum, scrap aluminum, aluminum dross, aluminum oxide fines and aluminum secondary ingots,* between the plantsite of Greater Tennessee Metals, Inc. in Maury County, TN, on the one hand, and on the other, points in AL, AR, FL, GA, IL, IN, KY, MS, MO, NJ, NC, OH, OK, TN, TX, WV, LA, PA, SC and VA, for 180 days. Restriction: Restricted to movements originating and terminating at the plantsite of Greater Tennessee Metals and further restricted against movements in bulk. Supporting shipper(s): Greater Tennessee Metals, Inc., Santa Fe Pike, Columbia, TN 38401. Send protests to: Glenda Kuss, T/A, ICC, Suite A422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 146146 (Sub-6 TA), filed April 20, 1979. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: J. F. Schouman, 21925 Garrison, Dearborn, MI 48124. *(1) Iron & steel articles, machinery, aluminum, plastics N.O.I., auto trim, paint, compounds N.O.I., and materials; (2) Materials, equipment & supplies used in the* manufacture and distribution of above mentioned commodities; (1) from Michigan's lower peninsula to points in the 48 contiguous states; (2) from points in the 48 contiguous states to Michigan's lower peninsula. For 180 days. An underlying ETA Seeks 90 days authority. Supporting shipper(s): Mitsui & Company, Inc., 200 Park Ave., New York, NY 10017; Atco Steel Warehouses, Inc., 29556 Southfield Road, Southfield, MI 48076; Bradley Steel Corporation, 6200 North Hiawatha Ave., Chicago, IL 60646; Technical Metals Company, 199 Pierce Street, Birmingham, MI 48011; Kenwal Products Corporation, 9301 Central Avenue, Detroit, MI 48024. Send protests to: C. R. Fleming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 146187 (Sub-9TA), filed April 26, 1979. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Road, Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401. *Ice buckets and decorated glassware* from Blanchester, OH to Lyndhurst, NJ, for 180 days. Supporting shipper(s): Georges Briard, Inc., 525 Del Road, Carlstadt, NJ 07072. Send protests to: Glenda Kuss, T/A, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 146386 (Sub-1TA), filed March 21, 1979. Applicant: NATIONAL RETAIL TRANSPORTATION, INC., 10 East Oregon Avenue, Philadelphia, PA 19148. Representative: Richard Rueda, Esq., 135 North Fourth Street, Philadelphia, PA 19106. *Such commodities as are dealt in or used by retail department stores,* except in bulk, from the facilities of Walsh Trucking and Consolidating Co., Inc., at or near Jersey City, NJ to (1) the facilities of Lerner Shops at Pittsburgh, PA, Atlanta, GA, Jacksonville, FL, Dallas, TX, Chicago, IL, Denver, CO, Los Angeles, CA, and their respective commercial zones, (2) the facilities of

Marshall's, Inc. at Houston, TX and Los Angeles, CA, and their respective commercial zones, and (3) the facilities of Emporium/Capwell Company at San Francisco, CA, and its respective commercial zone. Restricted to (1) such commodities consolidated at the facilities of Walsh Trucking and Consolidating Co., Inc. at or near Jersey City, NJ and (2) traffic of mixed loads of clothing and wearing apparel on hangers and bulk freight in cartons for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Walsh Trucking and Consolidating Co., Inc., 311 17th Street, Jersey City, NJ 07302. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. Seventh Street, Room 620, Philadelphia, PA 19106.

MC 146636 (Sub-2TA), filed April 17, 1979. Applicant: J. K. SMITH, P. SMITH, and M. R. SMITH, d.b.a. SMITH TRUCKING, Route 1, Box 43, Round Lake, MN 56167. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* (1) Huron, SD and Worthington, MN to AL, FL, GA, MS, NC, SC and TN; and (2) Huron, SD to CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour Fresh Meat Company, 111 West Clarendon, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 146746 (Sub-TA), filed March 30, 1979. Applicant: A & S, INC., Belgrade Rd., Oakland, ME 04963. Representative: Wayne Chaffee, Pond Rd., Oakland, ME 04963. Contract: Irregular: Wood shavings and sawdust from points in ME to ports of entry on the International Boundary line between the U.S. and Canada in ME. Supporting shipper(s): A. W. Chaffee, Pond Rd., Oakland, ME 04963. Send protests to: ICC, 76 Pearl St., Rm. 303, Portland, ME 04111.

MC 146747 (Sub-TA) filed April 6, 1979. Applicant: MAY-PORT COMMODITIES, INC., P.O. Box 48, Mayville, ND 58257. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract carrier:* irregular routes: *Dry fertilizer,* from points in the Minneapolis-St. Paul, MN Commercial Zone to points in ND, under a continuing contract with Midland Cooperatives, Inc., for 180 days. Supporting Shipper(s): Midland Cooperatives, Inc., IH 694 at Main Street, N.E., Fridley, MN 55421. Send protests to: DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 146826 (Sub-2TA), Applicant: SOUTHWEST FREIGHT, INC., 1305 Rye St., Houston, TX 77029. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Contract carrier over irregular routes. *Such commodities as are dealt in by retail department stores,* between Houston and Dallas, TX, on the one hand, and, on the other, points in TX and LA under a continuing contract or contracts with J. C. Penney Co., for 180 days. Supporting Shipper(s): J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019. Send protests to: John F. Mensing, Interstate Commerce Commission, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 146826 (Sub-3TA), Applicant: SOUTHWEST FREIGHT, INC., 1305 Rye St., Houston, TX 77029. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Contract carrier over irregular routes. *Such commodities as are dealt in by retail department stores,* between points in TX, LA, MS, and AL under a continuing contract or contracts with F. W. Woolworth Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): F. W. Woolworth Co., Inc., Woolworth Bldg., New York, NY 10007. Send protests to: John F. Mensing, Interstate Commerce Commission, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 146826 (Sub-4TA), Applicant: SOUTHWEST FREIGHT, INC., 1305 Rye St., Houston, TX 77029. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Contract carrier over irregular routes. *Such commodities as are dealt in by retail department stores,* between points in TX, LA, MS, and AL under a continuing contract or contracts with K-Mart Corporation for 180 days. Supporting Shipper(s): K-Mart Corporation, 3100 W. Beaver Rd., Troy, MI 48084. Send protests to: John F. Mensing, Interstate Commerce Commission, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 146827 (Sub-TA), filed April 24, 1979. Applicant: DONOVAN L. SPRY d.b.a., W. J. SPRY & SONS, P.O. Box 36, Chili, WI 54420. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Animal and poultry feeds and feed ingredients* from facilities of Allied Mills, Inc. at or near Mason City, IA to points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Mills, Inc., 939 Office Park Rd., W. Des Moines, IA 50265. Send protests to: Gail Daugherty, TA, Interstate Commerce Commission, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146836 (Sub-TA), filed April 20, 1979. Applicant: DE BETTA & SONS TRUCKING INC., 115 Shinbone Lane, Commack, NY 11725. Representative: Richard De Beta, President (same address as applicant). *Contract carrier,* irregular routes: *Aircraft equipment and parts, and those commodities which are used in the operation of the airline,* between New York, NY, on the one hand, and, on the other, Atlanta, GA, Baltimore, MD, Hartford, CT, Boston, MA, Charlotte and Greensboro, NC, Chicago, IL, Cleveland and Dayton, OH, Detroit, MI, Dulles, VA, Greenville and Spartanburg, SC, Miami, FL, and Philadelphia and Pittsburgh, PA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seabord World Airlines, Seabord World Building, J.F.K. International Airport, Jamaica, NY 11430. Sent protests to: Maria B. Kejss, Transportation assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 146847 (Sub-TA), filed April 23, 1979. Applicant: PETER P. MARTINOVICH, d.b.a. L. M. TRUCKING, P.O. Box 28, Babcock, WI 54413. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. (a) *Such commodities as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters and printers of paper and paper products* (except commodities in bulk) from the facilities of Riverside Paper Corp. at or near Appleton, WI to points in IL, IA, MN, MI, IN & MO; and (2) *Scrap paper* from points in IL, IA, MN, MI, IN & MO to the facilities of Riverside Paper Corp. at or near Appleton, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riverside Paper Corp., P.O. Box 179, Appleton, WI 54912. Send protests to: Gail Daugherty, TA, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 146876 (Sub-1TA), filed April 25, 1979. Applicant: WILLIAM W. EGGERS, d.b.a. CEDAR VALLEY TRANSPORT, R.R., P.O. Box 309, Webster City, IA 50595. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. *Meats, meat products, meat by-products, and articles distributed by meat packinghouse as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766*

(except hides and commodities in bulk), from Colfax, Dakota and Douglas County, NE to the facilities of G. B. Nissen & Son Company, Inc., at or near Webster City, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. B. Nissen & Son Company, Inc., P.O. Box 68, Webster City, IA 50595. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, IA 50309.

MC 147147 (Sub-TA), filed April 11, 1979. Applicant: RONALD CREED, RR 1, Bern, KS 66408. Representative: (Same as applicant.) *Crushed Rock, Lime,* from Pawnee and Richardson Counties, NE to Nemaha and Brown Counties, KS, for 180 days. SUPPORTING SHIPPER: City Council, Bern, KS 66408. SEND PROTESTS TO: Thomas P. O'Hare, DS, ICC, 256 Federal Bldg. 444 S.E. Quincy, Topeka, KS 66683. Supporting shipper(s): City Council, Bern, KS 66408. Send protests to: Thomas P. O'Hara, DS, ICC, 256 Federal Bldg., 444 S.E. Quincy, Topeka, KS 66683.

MC 138206 (Sub-6TA), filed February 12, 1979 and published in the **Federal Register** issue of May 9, 1979 and republished in this issue. Applicant: TRULINE CORP., 4455 S. Cameron Ave., Las Vegas, NV 89103. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. *Iron and steel products,* including rebar, fencing sheet, angle flat beams, tubing pipe, channel structural sizes and shapes, mesh rolls and nails, BETWEEN POINTS IN Los Angeles, San Bernadino and Riverside, Counties, CA, on the one hand, and, on the other, points in NV. Restriction: Restricted against transportaiton of commodities listed under Construction materials and or building materials as defined at Appendix VI in Descriptions in Motor Carrier Certificates 61 MCC 209. There are six supporting shippers. Their statements may be examined at the office listed below. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Bldg., Carson City, NV 89701. The purpose of the republication is to indicate the proper territorial scope of this application.

By the Commission.

H. G. Homme, Jr.,

Secretary.

MC 119226 (Sub-112TA), filed February 15, 1979 and published in the **Federal Register** issue of May 9, 1979 and republished as corrected this issue. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Ave., Indianapolis, IN 46227. Representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. *(1) Chemical, vegetable oils, animal fats and products thereof,* in bulk, in tank vehicles, from the facilities of Procter & Gamble Co., at Ivorydale and St. Bernard, OH to points in AL, GA, IA, IL, IN, KY, MI, NC, NJ, NY, PA, SC, TN, TX, VA and WV. (2) *Vegetable oils,* in bulk, in tank vehicles, from points in IL and KY to the facilities of Procter & Gamble Co., at Ivorydale and St. Bernard, OH. Supporting shipper(s): The Procter and Gamble Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Beverly Williams, ICC, 46 E. Oh St., Indianapolis, IN 46204. The purpose of this republication is to indicate the supporting shipper and the location of the ICC field office handling this application.

MC 146666 (Sub-1TA), filed March 26, 1979 and published in the **Federal Register** issue of May 2, 1979 and republished as corrected in this issue. Applicant: EDWARD R. CORCORAN, d.b.a. CORCORAN TRUCKING, P.O. Box 31135, Billings, MT 59107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. *Bananas and agricultural commodities exempt from regulation* under Section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas, from the facilities of Del Monte Banana Co., at Port Hueneme, CA to points in CO, MN, MT, NE, ND, SD, and WY, restricted to the transportaiton of traffic having a prior movement by water, for 180 days, an underlying ETA seeks 90 days authority. Supporting shipper(s): Del Monte Banana Co., 1201 Brickell Ave., Miami, FL 33101. Send protests to: Paul J. Labane, DS, ICC, 2606 First Ave., N., Billings, MT 59101. The purpose of this republication is to indicate the proper destination of CO in the territory described.

[FR Doc. 79-17100 Filed 5-31-79; 8:45 am]

[BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 107
Friday, June 1, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-224, Amdt. 1; May 30, 1979]

CIVIL AERONAUTICS BOARD.

Notice of closure and addition of item to the May 29, 1979, agenda.

TIME AND DATE: 3 p.m., May 29, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue N.W., Washington, D.C. 20428.

SUBJECT: 3. Pacific Rim Civil Aviation Negotiations including Philippines and Singapore. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: In the discussion of Malaysia and Thailand at the Board's Closed Meeting it became apparent that these issues involve the broader contact of the Pacific Rim Civil Aviation Negotiations, including Singapore and the Philippines. Accordingly, the following Board Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

This meeting concerns strategy and positions to be taken by the United States in civil aviation negotiations with countries in the Pacific Rim area. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.
Assistants to Board Members.—Mr. David M. Kirstein, Mr. James L. Deegan, Mr. Stephen H. Lachter, and Mr. Richard Klem.
Office of the Managing Director.—Mr. Cressworth Lander.
Executive Assistant to Managing Director.—Mr. John R. Hancock.
Office of the General Director.—Mr. Michael E. Levine.
Bureau of International Affairs.—Mr. Sanford Rederer, Mr. Rosario J. Scibilia, Mr. David A. Levitt, Mr. Richard M. Loughlin, Mr. Ivars V. Mellups, Mr. Ronald Miller, Mr. Edward Wilbur, Mr. James S. Horneman, and Mr. Douglas Leister.
Office of the General Counsel.—Mr. Peter Schwarzkopf.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson, Ms. Patricia Kennedy.
Office of Economic analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.
Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that this meeting may be closed to public observation.

Phillip Bakes,

General Counsel.

[S-1097-79 Filed 5-20-79; 3:35 pm]

BILLING CODE 6320-01-M

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[M-226, May 29, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., June 5, 1979.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 33112, *Texas International-National Acquisition Case.* National's motion to disqualify Dr. Frank and Mr. Levine. (OGC)
3. Docket 33465, *Continental-Western Merger Case.* Continental-Western motion to terminate consulting agreement. (Memo No. 8825, OGC)
4. Docket 3159, Application of Allegheny Airlines for a change of name. (OGC)
5. Docket 31955, *Twin Cities-Las Vegas/Phoenix/San Diego Route Proceeding*—Draft Opinion and Order. (OGC)
6. Docket 35538, Application of American Airlines for an emergency exemption to operate nonstop St. Louis-Washington National Airport service. (OGC)
7. Dockets 35060, 33296, 33318, 33520, 33603, 33624, 33643, 33644, 33660, 33673, 33822, 33861, 33891, 33961, 34078, and 35460; Applications of Allegheny, American, Braniff, Delta, Northwest, Ozark, Piedmont, Southern, Trans World Airlines, and Western for new or improved authority at St. Louis. (Memo No. 8859, BDA, BLJ, OGC)
8. Docket 34242, Application for a certificate of public convenience and necessity under section 401(b) and motion for hearing on the application filed by Florida Airlines, Inc. (Memo No. 8852, BDA)
9. Docket 33335, Application of American Airlines (part not consolidated for consideration in Order 79-2-40) for Great Lakes-Florida authority. (BDA, BLJ, OGC)
10. Dockets 34911 and 34912; Braniff's petition for show-cause order to amend its certificate for fill-up authority in the New York-Miami and Washington-Miami markets on flights in foreign air service, and its request for immediate exemption authority pending resolution of show-cause procedure. (Memo No. 8860, BDA)
11. Docket 33344, Application of Air California for a certificate to provide interstate charter air transportation. (BDA, OGC, BLJ)
12. Docket 35339, Continental Air Lines application for Corpus Christi-Houston/San Antonio authority. (BDA, OGC, BLJ)
13. American's applications for New York/Newark-Pittsburgh turnaround authority and Phoenix-Palm Springs unrestricted authority, respectively. (BDA)

14. Docket 21448, *Spokane-Montana Points Service Investigation*—Order Finalizing Tentative Findings and Conclusions. (OGC)

15. Dockets 34776, 35016, 35002, 35009, 33876, 34999, 35014, 33581, 35005, 35044, 34993, 34970, 34984, 35003, 34989, 33754, and 33524; TWA's application to amend its certificate to add St. Louis-Charlotte/Colorado Springs/Des Moines/Knoxville/Richmond/Toledo/Norfolk and Salt Lake City-San Francisco/San Jose/Oakland/Los Angeles/Ontario/Portland/Seattle/Sacramento/San Diego authority; applications of Allegheny, American, Braniff, Continental, Delta, Eastern, Frontier, Hughes Airwest, North Central, Northwest, Ozark, Piedmont, Southern, Texas International and Western, requesting similar authority in whole or in part. (Memo No. 8499–A, BDA)

16. Dockets 31413, 34515, and 34629; *Pittsburgh-Los Angeles/San Francisco/Denver Service Investigation*, Draft Order on Discretionary Review. (OGC)

17. Dockets 34651, 34795, 34862, 35180, and 35315; Applications of Braniff, Western, Ozark, National, and Hughes Airwest, respectively, for San Antonio-San Diego certificate authority. (BDA)

18. Dockets 33976, 34008, 34027, 34124, 34322, 34323, and 34327; Airborne Freight Corporation; WTC Airlines, Inc. Amerford Airways, Inc.; Purolator Sky Courier, Inc.; Piedmont Aviation, Inc.; Hawaii Pacific Air Cargo, Ltd.; and Challenge Air Transport Inc.—certification as section 418 all-cargo air carriers. (BDA)

19. Dockets 35092 and 30622; TXI's Subpart M Application for Nonstop El Paso-Dallas/Ft. Worth Authority; TXI's Request for Renewal of Suspension Authority at El Pasco. (BDA)

20. Dockets 34118, 34120, 34793, and 34812; Interim Essential Air Transportation at Merced and Visalia, California. (BDA, OCCR)

21. Docket 35328, Chicago Helicopter's 90-day Notice to Suspend Service.. (BDA, OCCR)

22. Docket 35450, Allegheny's 60-day notice to terminate nonstop or single-plane service in 17 markets. (BDA, OCCR)

23. Dockets 34148, 34812, and 35418; Petition of Kern County for reconsideration of Order 79–2–99 asking that the Board vacate the order and direct Airwest to reinstitute Bakersfield service; United's notice to suspend all single-plane service in the Bakersfield-San Francisco/Monterey markets; Bakersfield Parties' petition asking the Board to prohibit United's reductions in the Bakersfield-San Francisco/Los Angeles markets. (BDA)

24. Docket 35106, Airwest's notice of its intent to terminate air service at Great Falls and in the Denver-Great Falls nonstop market. (BDA)

25. Dockets 34595 and 34138; Petition for Reconsideration of Order 79-2-151, denying without prejudice for Reconsideration of Order 7912–151, denying Rocky Mountain Airway's application for an exemption to suspend service in the Durango-Denver market on less than 90-day notice without termination its participation in the mandatory joint fare program. (BDA, OGC)

26. Docket 34194, Air New England's Notice of Suspension of nonstop service in the New Bedford, Massachusetts-New York market. The Board is acting on ANE's notice of withdrawal of its notice of suspension and on New Bedford's petition to expand the Board's interim determination of essential service. (BDA, OCCR)

27. 35451 and 21886–4; application of Air New England for exemption. (BDA)

28. Negotiating Policy and Strategy for Developing Countries. (BIA)

STATUS: Open (Items 1–27), Closed (Item 28).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Public disclosure, particularly to foreign governments, of opinions, evaluations, and strategies could seriously compromise the ability of the U.S. achieve objectives which would be in the best interests of the United States. Accordingly, we believe that public obervation of this meeting would involve matters the disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(c)(9), and 14 CFR section 310b.5(9)(B) and that the meeting should be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. David M. Kirstein, Mr. James L. Deegan, and Mr. Stephen H. Lachter.

Office of the Managing Director.—Mr. Cressworth Lander.

Executive Assistant to Managing Director.—Mr. John R. Hancock.

Office of the General Director.—Mr. Michael E. Levine.

Bureau of International Affairs.—Mr. Sanford Rederer, Mr. Donald Litton, Mr. Douglas Leister, Mr. John Kiser, Mr. Richard M. Loughlin, Mr. Ivars V. Mellups, Mr. Rosario J. Scibilia, Mr. David A. Levitt, Mr. Francis S. Murphy, Mr. Michael Pelcovits, Ms I. Pett, Mr. James S. Horneman, and Mr. John A. Driscoll.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary Edles, and Mr. Peter Schwarzkopf.

Bureau of Domestic Aviation.—Ms. Barbara A. Clark.

Bureau of Consumer Protection.—Mr. Reuben B. Robertson and Ms. Patricia Kennedy.

Office of Economic Analysis.—Mr. Larry Manheim.

Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552(c)(9), and 14 CFR section 310b.5(9)(B) and that this meeting may be closed to public observation.

Phillip Bakes,
General Counsel.

[S–1098–79 Filed 5–30–79; 3:35 pm]
BILLING CODE 6320–01–M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., June 8, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1090–79 Filed 5–30–79; 1:49 pm]
BILLING CODE 6351–01–M

4

May 30, 1979.

COUNCIL ON ENVIRONMENTAL QUALITY.

TIME AND DATE: June 7, 1979, 11:30 a.m.

PLACE: Conference Room, 722 Jackson Place, NW., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old Business
2. Briefing on the Status of the Annual Report.
3. Adoption of Revisions to the Council's Public Meeting Procedures.

CONTACT PERSON FOR MORE INFORMATION: Foster Knight, 395–4616.

[S–1088–79 Filed 5–30–79; 12:00 pm]
BILLING CODE 3125–01–M

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, June 5, 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. Proposed contract for computer analysis and expert witness services from Charles R. Mann, Associates.

2. Status report on matters currently pending in the Office of Policy Implementation.

3. Status report on matters currently pending in the Office of Interagency Coordination.

4. Report on Commission operations by the Executive Director.

Closed to the Public

1. Proposed decision in Charge TN03–1711.

2. Proposed reconsideration of decision in Charge, 052–77–1688.

3. Litigation Authorization; General Counsel Recommendations.

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 May 29, 1979.

[S–1095–79 Filed 5–30–79; 3:02 pm]

BILLING CODE 6570–06–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m. on Monday, June 4, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 500–17th Street N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Recommendation 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. 43,934–L—Bank of Picayune, Picayune, Mississippi.

Memorandum and resolution proposing the publication for comment of amendments to Part 335 of the Corporation's rules and regulations, entitled "Securities of Insured State Nonmember Banks," in order to bring that part into substantial similarity with comparable regulations of the Securities and Exchange Commission.

Memorandum proposing a sublease of space for the New York Regional Office.

Resolution amending the Budget Year 1979 Staffing Table for the Legal Division to establish the position of Special Counsel to the General Counsel.

Resolution amending the Budget Year 1979 Staffing Table for the Executive Offices to reclassify the position of Assistant Executive Secretary.

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.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary, (202) 389–4425.

[S–1081–79 Filed 5–30–79; 10:54 am]

BILLING CODE 6714–01–M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m. on Monday, June 4, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550—17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

Manufacturers Bank of Novi, a proposed new bank to be located at 26200 Novi Road, Novi, Michigan, for Federal deposit insurance.

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. 43,931–L—International City Bank and Trust Company, New Orleans, Louisiana.

Case No. 43, 935–L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Case No. 43,937–NR—United States National Bank, San Diego, California.

Case No. 43,938–NR—United States National Bank, San Diego, California.

Case No. 43,939–NR—United states National Bank, San Diego, California.

Case No. 43,940–NR—United States National Bank, San Diego, California.

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)).

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary, (202) 389–4425.

[S–1082–79 Filed 5–30–79; 10:54 am]

BILLING CODE 6714–01–M

8

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 10:55 a.m. on Friday, May 25, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the initiation of cease-and-desist proceedings and the issuance of a temporary cease-and-desist order against an insured State nonmember bank, in accordance with sections 8(b) and 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b), (c)).

In calling the meeting, the Board determined, on motion of Director William M. Isaac (Appointive), seconded by Mr. Paul M. Homan, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), and concurred in by Chairman Irvine H. Sprague, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter was eligible for consideration in a closed meeting pursuant to 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)).

Dated: May 25, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1083–79 Filed 5–30–79; 10:54 am]

BILLING CODE 6714–01–M

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: June 6, 1979, 10 a.m.

PLACE: Room 12126—1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Classification of controlled carriers pursuant to Ocean Shipping Act of 1978.
2. Identification of controlled carriers pursuant to Ocean Shipping Act of 1978.
3. Agreement No. 10329: A space chartering agreement between Korea Line Corporation and Toko Kaiun Kaisha, Ltd.
4. Agreement No. 3103–67: Request for hearing on modification of the Japan/Korea-Atlantic and Gulf Freight Conference Agreement for an indefinite extension of intermodal authority.
5. Agreement No. T–3637: Purchase of assets of Lavino Shipping Co., Southern Division by S.E.L. Maduro, Inc.
6. Agreement No. 10135–6: Petition for reconsideration of order of conditional approval.
7. Petitions to allow officers or employees of rate-fixing agreements to serve as policing authority.
8. Rene Lopez and David Romano d/b/a United Dispatch Services—Alleged violations of Shipping Act, 1916.
9. Proposed new service of Puerto Rico Maritime Shipping Authority in the Puerto Rico/Virgin Islands trades.
10. Docket No. 79–13: Fees for Services—Consideration of comments in response to proposed rules.

Portions to be Closed to the Public

1. Docket No. 77–27: Trailer Marine Transport Corporation—General Increase in Rates; Docket No. 77–28: Gulf Caribbean Marine Lines, Inc.—General Increase in Rates—Review of initial decision.
2. Docket No. 79–6: Puerto Rico Maritime Shipping Authority (PRMSA) and Trailer Marine Transport Corporation (TMT)—Proposed Reduced Rates—Appeal of denial of motion to discontinue.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–1084–79 Filed 5–30–79; 10:54 am]

BILLING CODE 6730–01–M

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 29, 1979, 44 FR 30814.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: May 29, 1979, 2 p.m.

CHANGE IN THE MEETING: Status of meeting changed from open session to closed session.

[S–1096–79 Filed 5–30–79; 3:35 pm]

BILLING CODE 6730–01–M

11

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, June 6, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. To be continued from the meeting of May 30, 1979: Proposed amendments to Regulation K (International Banking Operations) to implement the International Banking Act. (Proposed earlier for public comment; docket no. R–0204).
2. Proposed amendment to Regulation E (Electronic Fund Transfers) regarding disclosure of consumers' liability for unauthorized electronic fund transfers. (Proposed earlier for public comment; docket no. R–0212).
3. Proposal for collection of data from nonmember commercial banks for inclusion in estimates of the monetary aggregates and bank credit.
4. 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. 20661.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

[S–1087–79 Filed 5–30–79; 10:54 am]

BILLING CODE 6210–01–M

12

NATIONAL RAILROAD PASSENGER CORPORATION.

Correction

In S–1018–79 published on page 29820 in the issue of Tuesday, May 22, 1979, in the second column, in item "7.", the word "Adult" should have read "Audit".

BILLING CODE 1505–01–M

13

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 30192, May 24, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, May 31, 1979, 9 a.m. [NM–79–16]

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first six items will be open to the public; the seventh item on the agenda will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Special Study*—Single-Engine, Fixed Wing General Aviation Accidents, 1972–1976.
2. *Marine Accident Report*—Collision of M/V WORLD NOBILITY (Liberian) and SS PENNSYLVANIA GETTY at the mouth of the Chesapeake Bay near Norfolk, Va., December 29, 1978.
3. *Briefing* on the operation and activities of the Federal Highway Administration's Bureau of Motor Carrier Safety.
4. *Recommendation* to the Federal Aviation Administration re runway incursion accidents/incidents in the past 10 months.
5. *Regulations*—Revision of 49 CFR Parts 831 and 845, investigations, hearings, and reports of transportation accidents/incidents.
6. *Letter* to Materials Transportation Bureau re closeout of seven recommendations relating to hazardous materials.
7. *Opinion and Order*—Administrator v. Hale, Dkt. SE–3980; disposition of the appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–472–6022.

May 30, 1979.

S–1093–79 Filed 5–30–79; 2:46 pm]

BILLING CODE 4910–58–M

14

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, June 7, 1979 [NM–79–18]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—United Airlines, Inc., McDonnell-Douglas DC–8–61, N8082U, Portland, Oreg., December 28, 1978.
2. *Aircraft Accident Report*—Las Vegas Airlines, Piper PA–31–350, N44LV, Las Vegas, Nev., August 30, 1978.
3. *Railroad Accident Report*—Derailment of Southern Railway Train No. 2, the Crescent, at Elma, Nelson County, Va., December 3, 1978.
4. *Highway Accident Report*—Stationwagon penetration of bridgerail, I–10, near Alhambra, Calif., November 11, 1978.
5. *Marine Accident Report*—M/V ANCO SCEPTRE collision with the Crown Central Petroleum Corporation Pier on the Houston Ship Channel, February 9, 1978.
6. *Proposed Special Study*—Driver Training and Fatal Schoolbus Accidents.
7. *Letter* to National Highway Transportation Safety Administration re Dkt. 79–06, rulemaking petition by Trailways Bus Company.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

May 30, 1979.

[S–1094–79 Filed 5–30–79; 2:46 pm]

BILLING CODE 4910–58–M

15

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 30, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Wednesday, May 30, 1:30 p.m.

Additional item—to follow.Briefing on Beaver Valley.

Discussion of Status of May 2 Event at Oyster Creek (Approximately 1 hour—Public meeting).

Walter Magee,

Office of the Secretary.

May 30, 1979.

[S–1091–79 Filed 5–30–79; 2:45 pm]

BILLING CODE 7590–01–M

16

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: June 5, 1979.

PLACE: Commissioners' Conference Room, 1717 H St. NW, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Tuesday, June 5, 9:30 a.m.

1. Briefing on Mark I containment (Approximately 1 hour—Public meeting).

2. Second Periodic Review of NRC fiscal year 1979 operating Budget and Decision Unit tracking (Approximately 1½ hours—Public meeting— Tentative).

Tuesday, June 5, 1:30 p.m.

1. Discussion of Hearing Board Report in Clearance Rule Proceeding (Approximately 1 hour—Public meeting).

2. Briefing on Performance Appraisal Teams (Approximately 2 hours—Public meeting).

3. Affirmation Session (Approximately 10 minutes—Public meeting).

NECO–Sheffield Show Cause Order.

Walter Magee,

Office of the Secretary.

May 29, 1979.

[S–1092–79 Filed 5–30–79; 2:45 pm]

BILLING CODE 7590–01–M

17

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 97 page 28925—May 17, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1 p.m. on Thursday, May 31, 1979.

CHANGES IN THE MEETING: This meeting has been canceled and rescheduled for 9:30 a.m. on Friday, June 1, 1979.

Dated: May 30, 1979.

[S–1089–79 Filed 5–30–79; 12:27 pm]

BILLING CODE 7600–01–M

18

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: (To be published).

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: May 22, 1979.

CHANGES IN THE MEETING: Deletion; Additions.

The following item was not considered at a closed meeting on Tuesday, May 29, 1979, at 10 a.m.:

Settlement of injunctive action.

The following additional items will be considered at a closed meeting on Wednesday, May 30, 1979, following the 10 a.m. open meeting:

Institution of injunctive action.
Chapter X Proceeding.
Litigation matter.

The following additional item will be considered at a closed meeting on Wednesday, May 30, 1979, following the 2:30 p.m. open meeting:

Settlement of administrative proceedings of an enforcement nature.

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

May 29, 1979.

[S–1085–79 Filed 5–30–79; 10:54 am]

BILLING CODE 8010–01–M

19

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of June 4, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

Open meetings will be held on Tuesday, June 5, 1979, at 10 a.m., and on Wednesday, June 6, 1979, at 2:30 p.m. Closed meetings will be held on Tuesday, June 5, 1979, following the 10 a.m. open meeting, and on Wednesday, June 6, 1979, at 10 a.m. and following the 2:30 p.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the open meeting scheduled for Tuesday, June 5, 1979, will be:

(1) Oral presentation by the Institute for Public Representation, a public interest group affiliated with Georgetwon University, on its petitions to: (a) amend the Commission's Rules of Practice to set forth the responsibilities of lawyers to report fraud or other violations of the law by corporate clients or others to the Commission, to management and to the board of directors; and (b) amend the Commission's disclosure forms to require disclosure of information concerning (i) the obligations of corporate attorneys to report violations of law to the board of directors, (ii) agreements between corporations and outside counsel and (iii) resignations or dismissals of corporate counsel. For further information, please contact Frederic Townsend at (202) 376–3561.

(2) Consideration of whether to establish and publish a formal policy to govern its reaction when defendants, who settle Commission enforcement proceedings without admitting or denying the violations alleged, later make public statements denying that their conduct had been improper. For further information, please contact James R. Farrand at (202) 755–1144.

(3) Consideration of a request for a waiver of certain provisions of the Commission's Conduct Regulation (relating to outside practice) in connection with the temporary employment of Richard I. Weingarten, Esquire, on matters relating to the Special Study of the Options Market. For further information, please contact Myrna Siegel at (202) 376–3561.

(4) Consideration of whether to grant an exemption to Broadscope Securities, Inc., a registered broker-dealer, from the requirements of Securities Exchange Act Rule 15b10–9 to permit it to participate in the distribution of equity securities issued by its parent corporation, Broadscope, Inc. For further information, please contact Susan Davis at (202) 755–7610.

(5) Consideration of whether to authorize publication of a release requesting public comments on proposed staff guidelines for disclosure in registration statements and reports filed by electric and gas utility companies. For further information, please contact William H. Carter at (202) 376–8090.

(6) Consideration of whether to adopt rules that would provide a safe harbor from the applicable liability provisions of the federal securities laws for statements of projections or other items of forward looking information unless such statements were prepared without a reasonable basis or disclosed other than in good faith. The Commission also will consider whether to withdraw the reference in note (a) to Rule 14a–9 to prediction of dividends as an example of a possibly misleading statement. For further information, please contact Steven J. Paggioli at (202) 376–8090.

The subject matter of the open meeting scheduled for Wednesday, June 6, 1979, at 2:30 P.M. will be:

Oral argument on application for review by Cook & Co., Inc., L. Howard Cook, and Edmund C. H. Hyun of adverse decisions by the National Association of Securities Dealers, Inc. For further information, please contact R. Moshe Simon at (202) 755–1530.

The subject matter of the closed meeting scheduled for Tuesday, June 5, 1979, following the 10:00 a.m. open meeting, will be:

Regulatory matter bearing enforcement implications.
Institution and settlement of administrative proceedings of an enforcement nature.
Regulatory matter involving litigation.

The subject matter of the closed meeting scheduled for Wednesday, June 6, 1979, at 10 a.m., will be:

Other litigation matters.
Access to investigative files by Federal, state, or self-regulatory authorities.
Settlement of injunctive action.
Chapter X proceeding.
Litigation matter.
Formal orders of investigation.
Subpoena enforcement action.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Personnel matter.
Personnel security matters.
Administrative proceedings of an enforcement nature.

The subject matter of the closed meeting schedule for Wednesday, June 6, 1979, following the 2:30 P.M. open meeting, will be:

Post oral argument discussions.

FOR FURTHER INFORMATION, PLEASE CONTACT: John Ketels at, (202) 755–1129.

May 29, 1979.

[S–1086–79 Filed 5–30–79; 10:54 am]

BILLING CODE 8010–01–M

federal register

Friday
June 1, 1979

Part II

Department of Health, Education, and Welfare

Health Care Financing Administration

Medicare Program: Limits on Reimbursement for Provider Costs and for Services by Hospital-Based Physicians, Inpatient General Routine Operating Costs, and Home Health Agency Costs

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Limiting Reimbursement for Provider Costs and For Services By Hospital-Based Physicians

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final regulation.

SUMMARY: This rule revises the existing Medicare regulation for setting limits on reimbursable costs based on estimates of the costs necessary in the efficient delivery of needed health care. The rule clarifies and expands the exemptions and exceptions providers may obtain. It also sets a time limit within which a provider must request a reclassification, exemption or exception and, similarly, sets a limit on the time within which HCFA must respond to the request. It also requires a provider seeking an exception to agree to an operational review by HCFA: The purpose of the rule is to implement more effectively and equitably section 223 of the Social Security Amendments of 1972.

DATE: Effective for cost reporting periods beginning on or after July 1, 1979.

FOR FURTHER INFORMATION, CONTACT: Mr. Carl Slutter, Health Care Financing Administration, Room 403 East Highrise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, 301–594–9441.

SUPPLEMENTARY INFORMATION: Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare. Such limits may be applied to the direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the cost necessary in the efficient delivery of needed health services. Regulations implementing this authority are set forth at 42 CFR 405.460.

The proposed rulemaking for these regulations was published for public comment in the **Federal Register** on March 15, 1979 (44 FR 15745) to clarify the existing provisions and to make several changes.

Summary of Changes

The following revisions have been made:

1. Time Limit for Provider to Request a Change in the Application of Cost Limits

A provider seeking a reclassification, exemption or exception to cost limits established under this section must submit its request within 180 days of the date of its intermediary's notice of program reimbursement. (A provider could, of course, make a request as soon as a schedule of cost limits is published, or at any time during its cost reporting year affected by the cost limits, if it knew how it would be affected by the cost limits.) HCFA is to respond to the exception request within 180 days from the date the request is received from the intermediary. This is to expedite the final resolution of cost reimbursement to the provider and to avoid possible duplication of work by the intermediary.

We have clarified how the request is to be submitted, how it is decided, and the provider's review rights. The provider would submit its request to its intermediary, which would make a recommendation to HCFA. HCFA's decision on the request would be subject to the standard review process set forth in Subpart R of the Medicare regulations.

2. Exemption for New Providers

The present regulation permits "new providers" to carry forward to succeeding cost reporting periods certain costs which are not reimbursed because of the cost limits established under this section. (New providers are facilities that have been in operation for less than 3 years, under present or previous ownership.) However, the implementation of this provision has proven to be very complicated, because of its interaction with the provisions of section 405.455 for carrying over certain other unreimbursed costs. We recognize that new providers have great difficulty meeting applicable cost limits and believe that some relief from these cost limits is warranted. Therefore, new providers may receive an exemption from cost limits during their initial years of development. The exemption is retained for approximately the first 3 years of the provider's existence. It will expire at the end of a provider's first cost reporting period starting at least 2 years after it first began to accept patients.

This exemption is available only to facilities serving inpatients. This would include hospitals and skilled nursing facilities, but not home health agencies. In our view, the latter have different problems of initial underutilization from inpatient facilities and these problems are better addressed by the exceptions process.

3. Narrowing the Exemptions for Sole Community Providers

The present regulation permits an exemption for sole community providers. We have reviewed this in light of the Congressional intent in recommending such an exemption. The report of the Senate Committee on Finance accompanying section 223 of P.L. 92–603 (Senate Report No. 92–1230, page 188) states in part "The Committee expects that the provision will not be applicable where there is only one hospital in a community . . ." We believe this exemption is justified only for the acute care furnished by hospitals. Therefore, the regulation is revised to reflect the Congressional intent that this exemption apply only to hospitals.

4. Additional Exceptions

We are also adding several new exceptions. An exception differs from an exemption. If a provider receives an exemption, it is not affected at all by the cost limits and is reimbursed under the standard rules for reasonable cost or customary charges. If a provider receives an exception, it is reimbursed on the basis of the cost limit, plus an incremental sum for the reasonable costs warranted by the circumstances that justified its exception.

A new exception is added for providers located in areas which have large variations in population during the year. The purpose of this exception is to provide reasonable reimbursement for those providers (such as those in resort areas) that need to maintain a larger capacity than would be required by the area's permanent population, in order to meet the needs of an expanded population during only a portion of the year. In order to qualify for this new exception, the appropriate health planning agency must certify that the area does not have a surplus of beds and similar services. Also the provider is required to meet occupancy standards established by the Secretary. These standards will be established on a State basis and will be published for public comment in the **Federal Register.**

Another new exception is available to a provider which can demonstrate that it exceeds the applicable limit as the result of the provision of more intense services, of the type covered by the limit, which results in a shorter average length of stay and greater program savings. We believe this exception, for per diem costs, is warranted because it will encourage shorter lengths of stay

and, therefore, result in cost savings. Comments requested that we delete the occupancy requirement to qualify for this exception. We have adopted these comments.

In addition, we have clarified the present exception for atypical costs due to approved medical education programs. We now permit an exception for additional costs (which are not classified in the provider's cost centers for intern and resident and nursing school) that result from the provision of medical education programs. For example, if a provider could show that its medical record costs were higher than those of other providers in the group as a result of medical education programs, an exception would be granted for the increased medical records costs.

Another new exception is available to a newly established home health agency which has operated as the type of provider for which it was certified for Medicare under previous ownership for less than 3 full years. We recognize that new agencies experience lower utilization of services which may result in an increased cost per visit.

An exception has been added to protect essential medical services in a community where full application of the cost limits would threaten the financial stability of a hospital and thus deprive the community of essential services. In some cases, mainly large inner city hospitals, the effect of the application of the limits could result in the insolvency of the hospital. This could deprive a community of a much needed health care resource. We are providing a special exception to avoid such effects. To qualify for this exception, a hospital must give assurances that it has taken or plans to take all available measures to improve the efficiency and economy of its operations. The hospital's performance will be monitored and continuation of the exception will be contingent on continued efforts to implement its plan.

Another new exception provides that a provider's cost limit is based in part on its labor costs and if the labor cost percentage is based on an average for a group, an adjustment to the limit will be allowed if a provider can demonstrate that its labor costs vary more than 10 percent from the group average.

Example: Assume the average labor percentage for the group is 60 percent. 10 percent of this is 6 percent. Thus, if a provider's labor percentage is less than 54 percent or more than 66 percent, an adjustment to the limit will be made at the provider's request. We believe in these cases such an adjustment is appropriate to allow a provider's limit to reflect its own operation. We also believe that a variance from the group average of more than 10 percent reasonably shows that the provider's labor portion of its routine costs is significantly different from the labor portion as published.

5. Operational Review of Providers Requesting Exceptions

A new provision requires that a provider that requests an exception must make itself available for an operational review by HCFA. The purpose of such a review is to study a provider's operations and make appropriate recommendations for improvements to increase efficiency and economy. If such recommendations are made, granting any subsequent exception to a provider would be contingent on its implementation of the recommendations. However, the operational review will have no effect on any exception request which is filed before the recommendations are developed.

Discussion of Major Comments

A notice of the proposed rulemaking for these regulations was published on March 15, 1979, in the **Federal Register** (44 FR 15745). Comments and suggestions were received from approximately 25 national and State organizations, hospitals and individuals. Responses to the most significant comments and changes to the proposed rulemaking are described below.

1. Operational review—The majority of the comments dealt with the proposed operational review to be conducted by HCFA. A number of commenters stated that the recommendations resulting from the review may impose restrictions on hospital operations and may also affect the practice of medicine. Other comments stated that the operational review would be a duplication of reviews presently carried out by other Federal or State agencies. All such comments requested that this provision be deleted. As explained in the proposed rule, the purpose of the operational review is to study a provider's operations and to make appropriate recommendations for improvements to increase efficiency or economy. The review would not encroach upon the provider's practice of medicine. We do not believe this type of review duplicates reviews carried out by other agencies. For example, neither Health Planning Agencies or JCAH reviews for operational efficiency. Therefore, the request for deletion of this section was not adopted.

Some commenters have the impression that a decision by HCFA to conduct an operational review will have an effect on the granting of exception requests filed prior to the decision to conduct the review. HCFA will continue to make decisions on exception requests filed prior to the decision to conduct an operational review. As explained in the proposed rule, only the granting of a subsequent exception would be contingent on the implementation of the recommendation arising from the review.

2. Time limits for provider to request a change in the application of cost limits—Comments were received pointing out that an intermediary's notice of program reimbursement limiting the provider to the cost permitted by the routine service cost limitation starts the 180-day appeal period for requesting a review before the Provider Reimbursement Review Board or an intermediary hearing officer. This 180-day period may be partially or completely exhausted before HCFA's decision on the provider's exception request is received. We agree with these comments and have revised the proposed rule so that the time limit for filing an appeal with the Board can be extended.

In response to comments seeking clarification whether a provider may request an exception prior to the end of its cost reporting period, we are restating our position that a provider may request an exception at any time subsequent to the publication of the cost limits. This procedure has been followed since the initial schedule of limits on hospital routine cost became effective in 1974.

Comments were also received suggesting that HCFA be required to respond to an exception request within 180 days. We agree generally with this comment and have revised the proposed rule to require that HCFA respond to the exception request within 180 days after the date that the request is received from the intermediary with all required documentation.

3. Case mix—Comments were received suggesting that the regulations should provide recognition for the increased costs resulting from a mix of cases which is more complex than the mix in peer hospitals. The current regulations allow an exception to be granted for atypical case mix. Also, § 405.460(f)(1) of this final regulation allows an exception where the cost of services furnished by a provider exceeds the limit because the services furnished by the provider are atypical when compared to similar providers and are furnished because of the special needs of the patients treated. Exceptions have been and will continue to be

granted to providers furnishing documentation that their patient mix is atypical.

4. Medical education—Commenters suggested that the exception for medical education programs be expanded to cover other approved education programs. The regulation has been revised to clarify that exceptions may be granted for such educational programs, but that they must be approved programs under the provisions of 42 CFR 405.421.

5. Sole community providers—Commenters objected to the provision changing the exemption for sole community providers to apply to hospitals only. This provision reflects the Congressional intent that the sole community exemption apply only to hospitals. This Congressional intent is contained in the Report of the Senate Committee on Finance accompanying section 223 of Pub. L. 92–603 which states in part, "The . . . provision will not be applicable where there is only one hospital in a community . . . ." Therefore, we have not adopted this comment.

6. Exception for newly established home health agencies—We received some comments requesting that exceptions from the cost limits be granted to newly established home health agencies. We adopted this suggestion and added an exception for newly established home health agencies. We did so because these agencies may have difficulty in meeting the applicable cost limits during their initial years of operation. We know that new agencies incur the same type of fixed operating costs as established agencies, yet the new agencies experience lower utilization of services. This may result in an increased cost per visit. Therefore, an exception is available to a new home health agency to take into account the agency's fixed operating costs.

7. Editorial changes were made in the interest of clarity.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND THE DISABLED

42 CFR 405.460 is revised to read as follows:

§ 405.460 Limitations on reimbursable costs.

(a) *General principle.* Reimbursable provider costs may not exceed the costs estimated by the Secretary to be necessary for the efficient delivery of needed health services. The Secretary may establish estimated cost limits for direct or indirect overall costs or for costs of specific items or services or groups of items or services. These limits may be calculated on a per admission, per diem, per visit, or other basis.

(b) *Procedure for establishing limits.* (1) In establishing limits under this section, the Secretary may classify providers by type of provider (e.g. hospitals, skilled nursing facilities, and home health agencies) and by any other factors the Secretary finds appropriate and practical, including:

(i) Type of services furnished;

(ii) Geographical area where services are furnished, allowing for grouping of noncontiguous areas having similar demographic and economic characteristics;

(iii) Size of institution;

(iv) Nature and mix of services furnished; or

(v) Type and mix of patients treated.

(2) Estimates of the costs necessary for efficient delivery of health services may be based on cost reports or other data providing indicators of current costs. Current and past period data will be adjusted to arrive at estimated costs for the prospective periods to which limits are being applied.

(3) Prior to the beginning of a cost period to which limits will be applied, the Secretary will publish a notice in the **Federal Register**, establishing cost limits and explaining the basis on which they were calculated.

(c) *Provider requests regarding applicability of cost limits.* A provider may request a reclassification, exception, or exemption from the cost limits imposed under this section. The provider's request must be made to its fiscal intermediary within 180 days of the date on the intermediary's notice of program reimbursement. The intermediary will make a recommendation on the provider's request to HCFA, which will make the decision. HCFA will respond to the exception request within 180 days from the date HCFA receives the request from the intermediary. The intermediary shall notify the provider of HCFA's decision. The time required for HCFA to review the exception request shall be considered good cause for the granting of an extension of the time limit to apply for a Board review, as specified in § 405.1841. HCFA's decision is subject to review under Subpart R of this part.

(d) *Reclassification.* A provider may obtain a reclassification if it can show that its classification is at variance with the criteria specified in promulgating the limits.

(e) *Exemptions.* Exemptions to the limits imposed under this section may be granted in the following circumstances:

(1) *Sole community hospital.* The hospital, by reason of factors such as isolated location or absence of other hospitals is the sole source of such care reasonably available to beneficiaries.

(2) *New provider.* The provider of inpatient services has operated as the type of provider (or the equivalent) for which it is certified for Medicare, under present and previous ownership, for less than 3 full years. An exemption granted under this paragraph expires at the end of the provider's first cost reporting period beginning at least 2 years after the provider accepts its first patient.

(3) *Risk-basis HMO.* The items or services are furnished to beneficiaries enrolled in an HMO by a provider that is either owned or operated by a risk-basis HMO or related to a risk-basis HMO by common ownership or control (see § 405.2050(c)).

(f) *Exceptions.* Limits established under this section may be adjusted upward for a provider under the circumstances specified in paragraphs (f) (1) through (8) of this section. An adjustment will be made only to the extent the costs are reasonable, attributable to the circumstances specified, separately identified by the provider, and verified by the intermediary.

(1) *Atypical services.* The provider can show that:

(i) The actual cost of items or services furnished by a provider exceeds the applicable limit because such items or services are atypical in nature and scope, compared to the items or services generally furnished by providers similarly classified; and

(ii) The atypical items or services are furnished because of the special needs of the patients treated and are necessary in the efficient delivery of needed health care.

(2) *Extraordinary circumstances.* The provider can show that it incurred higher costs due to extraordinary circumstances beyond its control. These circumstances include, but are not limited to, strikes, fire, earthquake, flood, or similar unusual occurrences with substantial cost effects.

(3) *Providers in areas with fluctuating populations.*

(i) The provider is located in an area (e.g., a resort area) that has a population that varies significantly during the year;

(ii) The appropriate health planning agency has determined that the area does not have a surplus of beds and similar services and has certified that the beds and services made available by the provider are necessary; and

(iii) The provider meets occupancy standards established by the Secretary.

(4) *Medical and Paramedical education.* The provider can demonstrate that, when compared to other providers in its group, it incurs increased costs for items or services covered by limits under this section because of its operation of an approved education program specified in § 405.421.

(5) *More intensive routine care.* The hospital:

(i) Furnishes a greater intensity of inpatient general routine care than other hospitals having a reasonably similar mix of patients;

(ii) Shows that the more intensive care results in a shorter average length of stay and higher per unit costs than in comparable hospitals; and

(6) *Essential community hospital services exception.* The Secretary finds that:

(i) The hospital exceeds its applicable limit by more than 15 percent;

(ii) Full application of the limits would render the hospital insolvent;

(iii) Such insolvency would deprive the community of essential services; and

(iv) The hospital has taken, or provided adequate assurances that it plans to take, all available efficiency and economy measures to bring its costs into line with those of comparable facilities. In this case, the Secretary may grant an exception to the limit for the amount by which the hospital exceeds 115 percent of its applicable limit for such period as he deems necessary (but not to exceed the period during which the hospital meets the enumerated conditions).

(7) *Newly established home health agency.* The agency can demonstrate that:

(i) It has operated as the type of provider for which it was certified for Medicare under present and previous ownership for less than 3 full years. (An exception may not be granted under this paragraph for any cost reporting period beginning more than 2 years after the provider makes its first visit.);

(ii) Its variable operating costs were reasonable in relation to its utilization during the year; and

(iii) Its fixed operating costs are reasonable in relation to realistic projection of utilization to be achieved at the end of the provider's second year of operation.

(8) *Unusual labor costs.* The provider has a percentage of labor costs which varies more than 10 percent from that included in the promulgation of the limits.

(g) *Operational review of providers receiving an exception.* Any provider that applies for an exception to the limits established under paragraph (f) of this section must agree to an operational review at the discretion of HCFA. The findings from any such review may be the basis for recommendations for improvements in the efficiency and economy of the provider's operations. If such recommendations are made, any future exceptions shall be contingent on the provider's implementation of these recommendations.

(Sections 1102, 1814(b), 1861(v)(1), 1866(a), and 1971 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773. Medicare-Hospital Insurance.)

Dated: May 23, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: May 24, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-16782 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Inpatient General Routine Operating Costs for Cost Reporting Periods Beginning on or After July 1, 1979

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Notice of Schedule of Limits on Hospital Inpatient General Routine Operating Costs.

SUMMARY: This notice sets forth a schedule of limits on hospital inpatient general routine operating costs that may be reimbursed under Medicare for cost reporting periods beginning on or after July 1, 1979.

This is an annual update of the schedule and replaces the schedule published in the **Federal Register** on September 26, 1978 (43 FR 43558). It covers total inpatient general routine operating cost and applies to the entire cost reporting period of a hospital whose cost reporting period begins on or after July 1, 1979.

The schedule of limits does not apply to the cost of special care units or ancillary services to capital related costs or the costs of approved medical education programs.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION, CONTACT: Carl Slutter, Health Care Financing Administration, Room 403 East Highrise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone 301–594–9441.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395 x(v)(1)) as amended by Section 223 (Limitation on Coverage of Costs) of Pub. L. 92–603, the Social Security Amendments of 1972, authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare. Such limits may be applied to the direct or indirect overall costs or to costs incurred for specific items or servics furnished by a Medicare provider, and may be based on estimates of the cost necessary in the efficient delivery of needed health services.

Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, limits on hospital inpatient general routine service costs have been published since 1974. The schedule of limits on hospital inpatient general routine operating costs set forth below was published for public comment in the **Federal Register** on March 1, 1979 (44 FR 11612). It includes several changes from the methodology used in establishing previous schedules of limits.

Summary of Changes

The new schedule of limits provides for:

1. Limits on hospital inpatient general routine operating costs. Unlike the current schedule, the new schedule does not include capital-related costs or the costs of approved medical education programs. A hospital is permitted to exclude all capital-related costs allocated to the routine service cost center when computing its routine operating costs.

2. A classification system based on whether a hospital is located within a Standard Metropolitan Statistical Area (SMSA) and on the basis of the hospital's bed size. In New England, New England County Metropolitan Areas (NECMA) are used to determine urban location. Area per capita income, which is presently used to account for general economic environment, is no longer a part of the classification system.

3. An estimate of increases in routine per diem costs, used to update hospital cost data from the cost reporting periods represented in the data collection to July 1, 1979. The estimate is based on data from Medicare cost reports and trends in the relationship between the increase in total costs and routine costs. This relationship was applied to Medicare budget estimates for years in which no cost report data were available.

4. A market basket index developed from the price of goods and services purchased by hospitals, used to account for the impact of changing wage and price levels on hospital costs. This index is used to adjust hospital cost data from July 1, 1979, to the cost reporting periods to which the limits will apply. Where the estimated rate of increase in the market basket index is significantly below the actual rate of increase, an adjustment will be made.

5. A wage index, developed from hospital wages, used to adjust the wage component of the limits to reflect differing wage levels among the areas in which hospitals are located. The wages and salaries portion of the market basket index (60.04%) is used to determine the wage component for all bed-size group limits.

6. Limits set at 115 percent of the group mean.

7. A formula that will permit the limit to be adjusted for areas where covered days of care per 1,000 Medicare beneficiaries is less than the national average.

8. A revised schedule of dollar limits, by geographic area and hospital size.

Discussion of Major Comments

A notice of the proposed schedule of limits on hospital inpatient general routine operating costs for cost reporting periods beginning on or after July 1, 1979, was published on March 1, 1979, in the **Federal Register** (42 FR 11612). Comments and suggestions were received from a number of national and state organizations, hospitals and individuals. Responses to the most significant comments and changes to the proposed schedule of limits are set forth below.

1. *Change from routine service costs to routine operating costs.* A number of commenters expressed concern that by establishing limits on general routine operating costs, Medicare has eliminated reimbursement for the routine nursing salary cost differential. These comments suggested that the term "general routine operating costs" should be clarified to indicate whether the inpatient routine nursing salary cost differential payment is to be included. We believe that the notice was clear that the costs used in setting the limits included the nursing differential and that the limits apply to general routine operating costs plus the nursing differential. Cost reporting schedules are being developed by HCFA for use by hospitals to compute their inpatient general routine operating costs for comparison to the cost limits.

Another major concern centered around the definition of capital-related costs which are removed from the calculation of the cost limit. A significant number of comments expressed the view that capital costs which are directly and indirectly allocated to the general routine service cost center through the step down cost finding process should be excluded from the hospital's general service cost to arrive at the hospital's general routine operating costs. We agree and HCFA is presently developing supplemental cost reporting forms which will permit a hospital to compute the total capital-related costs allocated to the general routine service cost center.

Capital-related costs include interest, depreciation, insurance, rent and fixed asset related costs which are normally reported in the depreciation accounts for Medicare reimbursement purposes.

When computing its general routine operating costs for comparison with its applicable cost limit a hospital will remove only that portion of the capital-related cost that is allocated to the *routine service cost center.*

Some commenters have the impression that by excluding capital-related costs and costs of medical education from the calculation of the cost limit, the Medicare program would not reimburse the hospital for these two cost factors. HCFA will continue to reimburse hospitals for reasonable capital-related costs and medical education costs. As explained in the proposed notice, this exclusion is for purposes of establishing and applying the limits only and does not restrict reimbursement for these items.

Some commenters proposed the exclusion of repairs and maintenance costs from the limits. Under HCFA instructions major repairs are generally required to be capitalized in accordance with generally accepted accounting principles and are thus excluded from costs subject to the limit. (See 42 CFR 405.406.) Therefore, this proposal is not adopted.

Some commenters requested clarification of the medical education costs that are excluded from the cost limits. As explained in the proposed notice, costs of medical education are the costs normally recorded in the interns and residents (in an approved program) and nursing school accounts for Medicare reimbursement purposes. Provider Reimbursement Manual (HIM–15) Chapter 4 and the instructions to the HCFA cost reporting forms provide instructions concerning the type of costs that should be recorded in the cost centers for nursing schools and interns-resident service (an approved teaching program).

2. *Classification Based on Hospitals Location in Standard Metropolitan Statistical Area (SMSA) and Bed Size.* Several comments proposed the use of the Standard Consolidated Statistical Area (SCSA) concept which had been used in previous notices to classify hospitals. The SCSAs were developed by the Office of Management and Budget to recognize the existence of high density population areas which are larger than an individual SMSA. The SCSA concept associates contiguous SMSAs between which a significant degree of economic interaction exists. Since we have eliminated the use of per capita income as an indicator of area economic environment and replaced it with a hospital wage index (discussed in item 3 below) which is based on hospital salaries paid within each individual SMSA, we believe the use of the SCSA concept is no longer appropriate. Where the wage index shows that contiguous SMSAs pay the same wages as the core SMSA, they will have the same limit. Where the wage levels are lower, they should not have the benefit of the higher wage levels and thus the higher limits of the core SMSA.

Many comments inquired about the designation of counties within the New England County Metropolitan Areas (NECMA) which are used to determine urban location. Counties within an NECMA (as defined in Standard Metropolitan Statistical Areas 1975, revised edition prepared by the Statistical Policy Division, Office of Management and Budget) are listed below:

NECMAs and Constituent Counties

Boston-Lowell-Brockton-Lawrence-Haverhill

Massachusetts Portion

Essex
Middlesex
Norfolk
Plymouth
Suffolk

New Hampshire Portion

Rockingham

Bridgeport-Stamford-Norwalk-Danbury

Connecticut

Hartford
Middlesex
Tolland

Lewiston-Auburn

Maine

Androscoggin

Manchester-Nashua

New Hampshire

Hillsborough

New Bedford-Fall River

Massachusetts

Bristol

New Haven-Waterbury-Meriden

Connecticut

New Haven

New London-Norwich

Connecticut

New London

Pittsfield

Massachusetts

Berkshire

Portland

Maine

Cumberland
Sagadahoc

Providence-Warwich-Pawtucket

Rhode Island

Bristol
Kent
Providence
Washington

Springfield-Chicopee-Holyoke

Massachusetts

Hampden
Hampshire

Worcester-Fitchburg-Leominster

Massachusetts

Worcester

3. *Use of a hospital wage index in calculating cost limits.* Although most commenters thought that the use of a wage index was an improvement over the use of per capita incomes, they criticized the use of the proposed wage index based on the "service industry" wages since it is not reflective of wage costs in hospitals. They recommended that a wage index be developed based on hospital wages. We believe greater accuracy and fairness will be achieved by substituting a hospital wage index for the service industry wage index used in the proposed notice.

The hospital wage index, developed from data supplied by the Bureau of Labor Statistics, is used to adjust for area-wage differentials and applied to the portion of the cost limit attributable to wages. The data used are those for the "hospital group", a standard BLS reporting category. The hospital wage index is based on data for the year 1977 and is the latest available data. Data for 1978 will not be available until late in 1979.

The hospital wage index was developed by computing the national SMSA (or NECMA) average wage for the hospital group and dividing this average into the average hospital wage for each SMSA (or NECMA). The result is expressed as an index number, which is used to adjust the wage portion of the group limit. For non-SMSA areas, the index was developed by computing the national non-SMSA average wage for the hospital group and dividing this average into the average hospital wage for all non-SMSA counties in a State. The index then applies to all non-SMSA counties in the State.

A number of commenters pointed out that in some cases the non-SMSA wage index was greater than the wage index for an individual SMSA. Based on these comments we believe there is some misunderstanding concerning the computation of the wage index. As explained in the proposed notice, a national average wage is computed for

non-SMSA areas based on non-SMSA data and separate data are used to compute the national average wage for SMSAs.

Many commenters questioned the labor percentage published in the notice that is used to adjust for the wage cost portion of the cost limit. They indicated that the routine service area is the most labor intensive part of the hospital. Many thought that the labor percentages used to adjust for the wage cost portion of the cost limit should be equal to or greater than the market basket labor percentage used in the "market basket index" to project hospital routine costs. Since the percentages used in the proposed notice were developed from data based on total costs, and as such did not properly reflect the labor portion or routine costs, we have adopted this recommendation and are using the market basket labor percentage (60.04%) as the labor portion of the cost limit for all bed size groups. In a companion regulation, we will be allowing through application to the fiscal intermediary, an individual hospital to obtain an adjustment to its limit if it can demonstrate that its labor percentage is significantly different from the published percentage.

An example of how the hospital wage index is used in adjusting the cost limits is set forth below and the wage indexes for urban and rural areas are set forth in Tables IIIA and IIIB.

4. *Use of a Market Basket Index.* The bulk of the comments dealt with the adoption of the "market basket index" which is used to adjust the cost limits for projected increases in the costs of goods and services used by hospitals in furnishing routine care. The main objection to the market basket index published in the proposed notice is that the index did not related to current inflationary trends. The comments pointed out that based on current consumer and wholesale indexes, price increases have equalled or exceeded one percent per month, which projects to a 12 percent inflationary rate for 1979. This is approximately 3.1 percent in excess of the proposed percent market basket index we have projected for 1979. Because of this large variance, most comments indicated that some methodology must be found to provide for an adjustment of the inflation factor in order to retain the financial planning benefits the current prospective limits provide.

As explained in the proposed notice, we have been reviewing whether and how to make retrospective adjustments to the cost limits if our forecasts turn out to be erroneous. We also indicated that comments on this issue are welcome. Many suggested that a new market basket index should be published quarterly. However, we believe the same effect can be obtained by retrospective adjustment of the index when the year is over. Therefore, we have included a provision in the final notice stating that we will adjust the projected rate of increase in the market basket index to actual where our estimate is more than ¼ of 1 percentage pont below the actual rate of increase.

A solution to this problem that was recommended by many commenters is that, since the Secretary has suggested a limit on total hospital cost increase of 9.7 percent, the 9.7 percent should be used in lieu of the market basket index. These commenters apparently do not recognize that the Secretary was referring to the rate of increase in total costs (including new admissions related to population growth), which this notice deals with the increase in costs of goods and services purchased on a patient day basis. We believe that the rate of routine cost increase experienced by hospitals should be closely related to the increase in the cost of goods and services which they purchase. Therefore, we developed a market basket index to account for the impact of the average increase in prices for the specific goods and services used by hospitals in furnishing routine care. Since the cost limits only apply to routine operating costs, we will not adopt the suggestion of using an inflation factor based on total costs.

Comments were also received, requesting the use of a regional market basket index. However, some of those requesting such an index also noted that regionalized data are not presently available. Due to the lack of a data base we cannot adopt this suggestion.

Other comments requested more specific details on the make up of the market basket index. This index is comprised of the most commonly used categories of hospital routine operating expenses. The categories are based on those used by the American Hospital Association in its analysis of costs, by the U.S. Department of Commerce in inter-industry analysis of the hospital sector, and by HCFA in its Medicare cost reports. A table listing the categories is presented below.

Each of these categories has been weighted according to the best available approximation of the national average proportion of routine hospital operating expenses falling into each expense category. These weights are based on surveys by the AHA, the Department of Commerce's input-output studies, and from our analysis of Medicare cost reports. Column 2 of the table specifies the weights for each category. The weights may differ from those listed in the proposed notice of March 1, 1979, since in some cases they are based on more refined estimates.

The percentage increases in the hospital market basket index for routine operating costs forecasted for 1979 and 1980 are shown below:

1979—8.9%.
1980—8.6%.

These rates are different from those published on March 1. The revised rates of inflation are based on more refined data.

Derivation of "Market Basket" Index for Routine Inpatient Hospital Operating Costs

Category of costs	Routine cost weight (percent)[1]	Forecaster,[2] percent changes 1979–1980	"Price" variable used
1. Wages and salaries	60.04	NA	A. *Internal Historical Proxy*—For the period through calendar year 1978: Percentage changes in average payroll expenses per full-time-equivalent worker employed by community hospitals. Source: American Hospital Association, National Hospital Panel Survey. See mid-month issues of *Hospitals*.
		DRI-CFS	B. *External Forecasted Proxy*—For the period calendar year 1979 and thereafter: Percentage change in average hourly earnings of production and nonsupervisory workers on private nonagricultural payrolls, service industry. Source: U.S. Department of Labor, Bureau of Labor Statistics, *Employment and Earnings*, (monthly) table C–2.
2. Employee benefits	7.88	NA	A. *Internal Historical Proxy*—For the period through calendar year 1978: Percentage changes in employee benefits per full-time equivalent worker employed by community hospitals. Source: 1976–1978, American Hospital Association, National Hospital Panel Survey. See mid-month issues of *Hospitals*. Prior to 1976, American Hospital Association, *Hospital Statistics*, Annual Survey, Chicago, Illinois.
		DRI–MM	B. *External Forecasted Proxy*—For the period calendar year 1979 and thereafter: Percentage changes in supplements to wages and salaries per worker in nonagricultural establishments.

Derivation of "Market Basket" Index for Routine Inpatient Hospital Operating Costs—Continued

Category of costs	Routine cost weight (percent)[1]	Forecaster,[2] percent changes 1979–1980	"Price" variable used
			Sources: For supplements to wages and salaries—U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business* (monthly) table 7 (1.12) July issue has detailed components. For total employment—U.S. Dept. of Labor, Bureau of Labor Statistics *Employment and Earnings*, (monthly) table B–4.
3. Professional fees, other (legal, auditing, consulting, etc.)[3]	.50	DRI–MM	Percentage changes in hourly earnings index for production or nonsupervisory workers on private nonagricultural payrolls, total private.
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, (monthly), table 18.
4. Malpractice insurance premiums.	1.88	HEW, HCFA	Percentage changes in hospital malpractice insurance premiums per hospital. Data obtained from the American Hospital Association for the period 1967–1978. HEW, Health Care Financing Administration projected this data for 1979–1981.
5. Food	5.90	DRI–MM	A. Percentage changes in food and beverages component of consumer price index, all urban (weight, 2.95).
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 27.
		DRI–MM	B. Percentage changes in processed foods and feeds component of producer price index (weight 2.95).
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 26.
6. Fuel and other utilities	3.08	DRI–MM	A. Percentage changes in implicit price deflation—consumption of fuel oil and coal (derived from fuel oil component of consumer price index) (weight 1.20).
Source: U.S. Dept. of Commerce, Bureau of Economic			Analysis, *Survey of Current Business*, (monthly) table 26 (7.11).
		DRI–MM	B. Percentage changes in implicit price deflator—consumption of electricity (derived from electricity component of consumer price index) (weight, 0.85).
			Source: U.S. Dept. of Commerce, Bureau of Economic Analysis Unpublished data provided to Data Resources Inc. by the Bureau of Economic Analysis. Historical time series data are available from the Health Care Financing Administration or the Bureau of Economic Analysis.
		DRI–MM	C. Percentage changes in implicit price deflator for natural gas (derived from utility (piped) gas component of consumer price index) (weight, 0.64).
			Source: Same as electricity above.
		DRI–CFS	D. Percentage changes in water and sewerage maintenance component of consumer price index (weight, 0.39).
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 23.
7. Drugs	1.39	DRI–CFS	Percentage changes in pharmaceutical preparations, ethical component of producer price index.
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Producer Prices and Price Indexes* (monthly), table 6.
8. Chemicals and cleaning products.	2.61	DRI–MM	Percentage changes in chemicals and allied products component of producer price index.
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 26.
9. Surgical and medical instruments and supplies.	1.22	DRI–CFS	Percentage changes in special industry machinery and equipment component of producer price index.
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 26.
10. Rubber and miscellaneous plastics.	1.10	DRI–MM	Percentage changes in rubber and plastic products component of producer price index.
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 26.
11. Business travel and motor freight.	1.43	DRI–CFS	Percentage changes in Transportation component of consumer price index, all urbans.
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 23.
12. Apparel and textiles	1.86	DRI–MM	Percentage changes in Textile products and apparel component of producer price index.
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 26.
13. Business services	3.87	DRI–MM	Percentage changes in services component of consumer price index, all urban.
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 23.
14. All other miscellaneous expenses[4]	7.24	DRI–MM	Percentage changes of consumer price index for all items, all urban.
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 23.
Total	100.00		

[1] Routine operating cost weights for 1977 were derived from special studies by the Health Care Financing Administration using primarily data from the American Hospital Association and data from HCFA Medicare costs reports. A laspeyres price index was constructed using 1977 weights and "price" variables indicated in this table. In calendar 1977 each "price" variable has an index value of 100.00. The relative routine operating cost weights change each period in accordance with "price" changes for each "price" variable. Cost categories with relatively higher "price" increasses get relatively higher cost weights and vice versa.

[3] NA = Not Applicable.

DRI-CFS = Data Resources, Inc., Cost Forecasting Service, 1750 K Street, NW., Washington, D.C. 20006, (Forecast: CFS 791).

DRI-MM = Data Resources, Inc., Macro Model, 29 Hartwell Avenue, Lexington, Massachusetts 02173, (Forecast: Control 0324).

HEW-HCFA = Dept. of Health, Education and Welfare, Health Care Financing Administration, 330 "C" Street, SW., Washington, D.C. 20201.

[3] Medical professional fees are included as part of nonroutine costs.

[4] This is a residual category of routine operating costs not included in the 13 specific categories above. It consists primarily of miscellaneous and unallocated items.

5. *Level of Limits.* We have adopted the suggestion that the limits should not be established at a fixed percentile as was proposed. However, for the following reasons we have adopted a limit different from the one we previously used—mainly 80th percentile plus 10 percent of the median. We believe that establishing limits on "routine operating costs" results in more homogenous costs being subject to the limits. There are three major identifiable reasons for variation in the absolute level of routine costs among hospitals: capital related costs, medical education efforts and area wage levels. We have accounted for capital related costs and medical education efforts by removing these costs from those subject to the limit. Area wage differentials are accounted for by application of the index based on hospital wages. We believe these changes result in a significant improvement in comparability of costs. This improved comparability removes the need to provide a margin like that used in previous promulgations. We have, therefore, decided to set the limits at 115 percent of the group mean. This change in the level at which the limits are established, together with the other changes adopted, results in limits which are generally equivalent to or higher than those published in the March 1, proposal.

The revised limits will better identify those hospitals whose costs are substantially higher than the costs necessary for efficient delivery of hospital inpatient general routine services. In addition, though the limits have been set at 115 percent of the group average, hospitals with routine operating costs above the limit will continue to have an opportunity to explain their excess cost and obtain relief to the extent that these costs are justified and verified (see 20 CFR 405.460(f)).

6. *Adjustment for Covered Days of Care.* In the March 1, 1979, notice HCFA indicated that preliminary analysis of the proposed schedule of limits showed that the limits may have a disparate impact on different regions of the country. We indicated we welcomed suggestions on this point.

In response to this request, many comments criticized the proposed limits because they appear to have a serious effect on parts of the country that have shorter lengths of stay alleged to result from higher intensity of routine services. For example, they estimate that 68 percent of all the hospitals in California will be adversely affected by the limits. It is pointed out that, although these hospitals are more expensive on a per diem basis, they save the program money as a result of their shorter length of stay. Therefore, they believe that the proposed system should be revised to eliminate the effect on facilities with shorter length of stays.

Length of stay among individual facilities will vary with the type and complexity of cases treated and is not, in itself, cause to expect higher routine operating costs or program savings. However, where shorter lengths of stay are experienced in the aggregate by hospitals in a State, without offsetting increases in admissions, (so that overall hospital utilization is less than that experienced in other States) we believe that, to the extent this lower utilization is achieved through more intensive services, it is reasonable to expect somewhat higher routine operating costs and considerable program savings. To prevent any disadvantage in States with relatively low utilization, an automatic upward adjustment of the limits is granted to hospitals in such States with opportunity for additional adjustment where an individual hospital demonstrates that this automatic adjustment is insufficient.

The formula for this adjustment is as follows.

Nature of Adjustment for Covered Days of Care

Where a provider is located in a State with lower utilization per 1,000 Medicare beneficiaries, the limits otherwise applicable may be adjusted upward. "Lower utilization" means the State's ratio of Medicare covered days of care per 1,000 beneficiaries is less than the national average. The nature of the adjustment is as follows:

(A) The total number of Medicare inpatient covered days of care are acute care hospitals for calendar 1976 for each State is determined (Source: HCFA, Office of Policy Planning and Research Current Utilization Tabulations as of September 29, 1978—Table AA4A—Total—Number of Bills, Days of Care, Amount of Covered Charges, and Reimbursement by Period Expense Incurred).

(B) This is divided by the State's number of Medicare beneficiaries as of July 1, 1976 (Source: Medicare: Health Insurance for the Aged and Disabled, 1976, Sect. 1.1: Reimbursement by State and County, Washington, D.C., 1978) to yield the number of covered Medicare days per 1,000 beneficiaries.

(C) the overall national average of Medicare covered days of care per 1,000 beneficiaries in the United States is determined by dividing the total number of covered days for the 50 States and D.C. by the total number of beneficiaries for these areas.

(D) For those States where the number of covered days of care per 1,000 beneficiaries is less than the national average, the number of covered days "saved" is calculated. The number of covered days saved equals the number of covered days by which the State is below the national average.

(E) The result in D is divided by the State's actual number of covered days of care to yield a ratio of Saved Covered Days/State's Covered Days.

(F) The result in E is multiplied by 25 percent.

(G) The result in F is the amount by which the limit otherwise applicable to a provider is increased. The percentage increases by State are set forth in Table IV below.

We have also provided for granting a further exception to any hospital which can demonstrate that lower utilization results in a typical costs beyond the level provided for in the automatic adjustment. (See revised regulations section 42 CFR 405.460 published in the **Federal Register** on March 15, 1979 (44 FR 15745).)

7. *Cost of Living Adjustments—Alaska and Hawaii.* Comments were received because the proposed notice did not contain a cost of living adjustment to the schedule of limits for hospitals located in the States of Alaska and Hawaii. All previous schedules of hospital cost limits have contained a provision to increase the limits which apply to Alaska and Hawaii by the amount of the Civil Service Commission cost of living differential for those States. Analysis of the impact of the limits on these States has convinced us that provision should be retained. This notice provides the cost of living adjustments to be applied to the limits for the States of Alaska and Hawaii.

8. *Inclusion of Energy Costs and Malpractice Insurance Costs.* Comments were received that energy costs and malpractice insurance costs should be removed from the computation of the cost limit in the same manner as capital-related cost and medical education costs were removed. Because energy usage and malpractice insurance costs are factors which can be controlled, and we wish to encourage such control, we believe it is appropriate for these costs to remain subject to the limits. However, our regulations, at 42 CFR 405.460 provide an exception to the limits for cost increases due to extraordinary circumstances beyond the control of the hospital. If a hospital can show that the higher costs result from extraordinary increased costs of energy or malpractice insurance, it may be granted an adjustment to the limit.

9. *Validity of Data.* Some comments were received that the data used to develop the limits contained errors. To verify the accuracy of the data, we sampled 276 hospitals in SMSAs in the bed size group 405–684. Our analysis indicated that 17.8 percent of the forms contained at least one error. However, the errors were of types which both lowered and increased the costs used to develop the limits and the results indicate that if the errors had been corrected, the group mean would be lower than that used to determine the limit, thus resulting in a limit lower than that contained in this notice. We have decided not to made these corrections, but a much more stringent quality control will be instituted for subsequent data collections. It is interesting to note that almost 75 percent of the errors detected were from either substitute cost reporting forms or from HCFA forms which had been modified by the hospital in some way. Therefore, we believe that the issue of the use of forms other than standard HFCA forms should be studied.

10. *When to Make Wage Adjustment.* Some comments were received indicating that a technical improvement could be made in the system if the wage portion of costs were deflated by the appropriate wage index prior to determining the limits. We have adopted this suggestion. See section on methodology for a description of the change.

11. *Using Market Basket Index to Update Prior Data.* Several comments were received questioning the use of the market basket index to update data for the past periods. In response to these comments, we have revised the methodology used to update the data. The cost data were adjusted by means of an estimate of the average increase in per diem routine costs. The estimate is based on data from Medicare cost reports and trends in the relationship between the increase in total costs and routine costs. This relationship was applied to Medicare budget estimates for years in which no cost report data were available. The factors used are:

Calendar year	Percentage[1]
1976	11.0
1977	10.0
1978	10.0
1979	10.5

[1] Increase in routine per diem costs.

12. *Other Changes.* We have made a number of editorial changes in the proposed notice in the interest of clarity.

Further Background—A number of comments which were received duplicated comments made to publication of the previous sets of limits. For further discussion of the schedule, and a discussion of prior comments received on it, see: **Federal Register** (43 FR 43558) published September 26, 1978, the **Federal Register** (42 FR 53675) published October 3, 1977, the **Federal Register** (41 FR 26992) published June 30, 1976, the **Federal Register** (40 FR 23622) published May 30, 1975, and the **Federal Register** (39 FR 20168) published June 1, 1974.

Effective Date

This schedule will apply to cost reporting periods beginning on or after July 1, 1979.

Methodology for Determining per Diem Routine Operating Cost Limit

1. *Data.* The limits have been determined by using actual hospital inpatient general routine operating costs data obtained from the latest Medicare cost reports available as of August 1, 1978.

These cost report data were projected from the midpoint of the cost report period used in the data collection to July 1, 1979. The market basket index data was used to project from July 1, 1979, to the midpoint of the first cost reporting period to which the limits will apply.

The percentage increases over the previous year which were used for this projection are:

	Percent
1976	11.0
1977	10.0
1978	10.0
1979 (1/1 to 6/30)	10.5
1979 market basket (7/1 to 12/31)	8.9

The projected rate of increase in the market basket index will be adjusted to actual if the actual rate of the increase is more than ¼ of 1 percentage point above the estimated rate. The actual rate of increase will be published in the **Federal Register** and will be used to adjust a hospital's cost limit at time of final settlement.

2. *Deflation by Wage Index.* A hospital's adjusted per diem routine operating costs were then divided into wage and non-wage portions. The wage portion of costs was determined by using the 60.04 percent routine wage factor from the market basket. This wage portion is then divided by the wage index applicable to the hospital's location to arrive at an adjusted wage cost. (See Table III.) This adjusted wage cost is then added to the non-wage cost to obtain the per diem costs and to calculate the group basic limit.

3. *Group Basic Limit.* A basic limit of 115 percent of mean routine operating cost was calculated for each group established in accordance with the hospitals urban/non-urban location and bed size.

4. *Adjusted Limit.* The basic limit is divided into its wage and nonwage components. The routine cost weight (60.04 percent) representing the wages and salaries portion of the market basket index is used in all groups to determine the wage component of the cost limit. The wage component of the basic limit is multiplied by the wage index developed from the wage levels for hospital workers in the areas in which the hospitals are located. (See Table III.) The adjusted limit which will apply to any hospital will be the sum of the nonwage component of the basic limit, plus the adjusted wage component.

Example—Calculation of Adjusted Limit

Limit from Schedule—$119.51
Labor portion—$71.75 (published in Tables I and II).
SMSA Wage Index—1.20

Computation of Adjusted Limit

$119.51 − $71.75 = $47.76 Non-labor Portion of Limit
$71.75 × 1.20 (wage index) = $86.10—Adjusted Labor Portion
$86.10 + $47.76 = $133.86—Adjusted limit for the SMSA Bed Size Group

Unless a hospital is located in a State where a covered days of care adjustment applies (Table IV below), this is the hospital's total prospective limit.

The wage indices for each SMSA/NECMA and for the non-SMSA areas of each State are published in Table III.

5. *Adjustment for Covered Days of Care.* If a hospital is located in a State which is entitled to a covered day of care adjustment (See Table IV) the limit

will be computed as follows. Determine the adjusted limit for the hospital and multiply that limit by the applicable factor from Table IV.

Example—A hospital in California has an adjusted limit of $133.86. The adjustment factor from Table IV is .07317.
Adjusted limit $133.86 × Adjustment factor .07317 = $9.79
$133.86 + $9.79 = $143.65 which is the limit applicable to this hospital.

6. *Adjustment for Cost Reporting Year.* If a hospital has a cost reporting period beginning on or after August 1, 1979, the published limit will be revised upward by a factor of .7417 percent for each elapsed month between July 1, 1979, and the month in which the hospital's cost reporting period starts. This factor is developed by dividing the projected increase in the market basket index by 12 and is used to account for inflation in costs which will occur after the date on which the limits become effective.

Example—Hospital A's cost reporting period begins January 1, 1980.

The base group limit for hospital A's group is $90.

Computation of Revised Group Limit

Group Limit —$90.
Plus Adjustment for 6-month period.
6 × .7417 = 4.45%
104.45% × $90 = $94.01

Revised basic group limit applicable to hospital A for cost reporting period beginning January 1, 1980, $94.01.

This basic group limit will be divided into its labor and non-labor portions, using the percentage published in Tables I and II, and the labor portion will be adjusted by use of the wage index. The sum of the adjusted labor portion and the unadjusted non-labor portion will be the hospital's adjusted per diem routine operating cost limit.

If a hospital uses a cost report period which is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of a cost reporting period and the factor of .7417 is based on an assumed 12 month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The hospital's intermediary will obtain this adjustment factor from HCFA.

Schedule of Limits

Under the authority of section 1861(v) of the Social Security Act, the following group per diem limits apply to hospital inpatient general routine operating cost (including the inpatient routine nursing salary differential) for cost reporting periods beginning on and after July 1, 1979. The adjusted limits (using the wage index published in Table III) will be computed by the fiscal intermediaries and each hospital will be notified of its applicable limit.

Table I.—*Group Limits for Hospitals Located in SMSA (NECMA)* [1]

Bed Size	Group limit	Labor portion	Percent labor portion
Less than 100	$119.51	$71.75	60.04
100–404	124.06	74.49	60.04
405–684	124.85	74.96	60.04
685 and above	143.25	86.01	60.04

Table II.—*Group Limits for Hospitals Located in nonSMSA (nonNECMA) Areas* [1]

Bed Size	Group limit	Labor portion	Percent labor portion
Less than 100	$96.13	$57.72	60.04
100–169	101.65	61.03	60.04
Over 169	99.95	60.01	60.04

[1] Limits for hospitals located in States of Alaska and Hawaii will be increased by the following cost-of-living adjustments:

	Percent
Alaska	25
Hawaii (Island)	
Oahu	15
Kauai	17.5
Molokai	15
Mau and Lanai	12.5
Hawaii	15

Table III A—*Wage index for urban areas*

SMSA Area	Wage Index
Abilene, TX	.7817864
Akron, OH	.9009922
Albany, GA	.6888152
Albany-Schenectady-Troy, NY	.9564138
Albuquerque, NM	1.0024912
Alexandria, LA	.8846018
Allentown-Bethlehem-Easton, PA-NJ	.9676768
Altoona, PA	1.0162619
Amarillo, TX	.9160869
Anaheim-Santa Ana-Garden Grove, CA	1.0459080
Anchorage, AK	1.3802678
Anderson, IN	.8253111
Ann Arbor, MI	1.1310564
Anniston, AL	.6573296
Appleton-Oshkosh, WI	.8826942
Asheville, NC	1.0053936
Atlanta, GA	.9610832
Atlantic City, NJ	.8647122
Augusta, GA-SC	.9818104
Austin, TX	.8146060
Bakerfield, CA	.9299136
Baltimore, MD	1.0411706
Baton Rouge, LA	.7507689
Battle Creek, MI	1.1068553
Bay City, MI	.8632990
Beaumont-Port Arthur-Orange, TX	.7751797
Billings, MT	.7925247
Biloxi-Gulfport, MS	1.0729591
Binghamton, NY-PA	.9250013
Birmingham, AL	.8999575
Bloomington, IN	.8545872
Bloomington-Normal, IL	.8614273
Boise City, ID	.9817917
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.0383125
Bradenton, FL	.7840533
Bridgeport-Stamford-Norwalk-Danbury, CT	1.0174962
Brownsville-Harlingen-San Benito, TX	.7766896
Bryan-College Station, TX	.6780472
Buffalo, NY	.8785651
Burlington, NC	.7132341
Canton, OH	.8070206
Cedar Rapids, IA	.7870741
Champaign-Urbana-Rantoul, IL	.8275104
Charleston-North Charleston, SC	.9526042
Charleston, WV	.9867342
Charlotte-Gastonia, NC	.7968266
Chattanooga, TN-GA	.7933366
Chicago, IL	1.0802769
Cincinnati, OH-KY-IN	.9936312
Clarksville-Hopkinsville, TN-KY	.7707538
Cleveland, OH	1.0727585
Colorado Springs, CO	.8010228
Columbia, MO	1.1482990
Columbia, SC	.8929865
Columbus, GA-AL	.7559156
Columbus, OH	.9097972
Corpus Christi, TX	.7713051
Dallas-Fort Worth, TX	.8395097
Davenport-Rock Island-Moline, IA-IL	.7602528
Dayton, OH	1.0188927
Daytona Beach, FL	.9138623
Decatur, IL	.9320051
Denver-Boulder, CO	.9893444
Des Moines, IA	.9549639
Detroit, MI	1.0741969
Dubuque, IA	.7330132
Duluth-Superior, MN-WI	.7808646
Eau Claire, WI	.7479729
El Paso, Tx	.8247960
Elmira, NY	.7894086
Erie, PA	.8756995
Eugene-Springfield, OR	.8370397
Evansville, IN-KY	.9039087
Fargo-Moorhead, ND-MN	.9334691
Fayetteville, NC	1.4407862
Fayetteville-Springdale, AR	.9143109
Flint, MI	1.0090565
Florence, AL	.7396290
Fort Collins, CO	.7120910
Fort Lauderdale-Hollywood, FL	1.0729465
Fort Myers-Cape Coral, FL	.8458896
Fort Smith, AR-OK	.7501032
Fort Wayne, IN	.8273668
Fresno, CA	.9922715
Gadsden, AL	.8372010
Gainesville, FL	1.0245569
Galveston-Texas City, TX	.8697117
Gary-Hammond-East Chicago, IN	1.0393875
Grand Forks, ND-MN	.7402307
Grand Rapids, MI	.8200939
Great Falls, MT	.8271435
Greeley, CO	.7550165
Green Bay, WI	.8074495
Greensboro-Winston-Salem-High Point, NC	.7804297
Greenville-Spartanburg, SC	.7774527
Hamilton-Middletown, OH	.9677146
Harrisburg, PA	.9395567
Hartford-New Britain-Bristol, CT	1.0293896
Honolula, HI	1.0521231
Houston, TX	.9066861
Huntington-Ashland, WV-KY-OH	.8121577
Huntsville, AL	.6648394
Indianapolis, IN	.9808246
Jackson, MI	.8855644
Jackson, MS	.8413921
Jacksonville, FL	.8922471
Janesville-Beloit, WI	.7369821
Jersey City, NJ	1.0024191
Johnson City-Kingsport-Bristol, TN-VA	.8520487
Johnstown, PA	.8906999
Kalamazoo-Portage, MI	.9827004
Kankakee, IL	.9173186

Table III A—*Wage index for urban areas*—Continued

SMSA Area	Wage index
Kansas City, MO–KS	.8746920
Kenosha, WI	.8646885
Killeen-Temple, TX	.9697617
Knoxville, TN	.7454802
Kokomo, IN	.8180744
La Crosse, WI	.7692549
Lafayette, LA	.7299344
Lafayette-West Lafayette, IN	.8036818
Lake Charles, LA	.7122432
Lakeland-Winter Haven, FL	.7291346
Lancaster, PA	.8188873
Lansing-East Lansing, MI	.9398465
Laredo, TX	.6974902
Las Vegas, NV	1.0363198
Lawrence, KS	1.1054001
Lawton, OK	.6814294
Lewiston-Auburn, ME	.7724421
Lexington-Fayette, KY	.9239338
Lima, OH	.8451905
Lincoln, NE	.9063802
Little Rock-North Little Rock, AR	.9937774
Long Branch-Asbury Park, NJ	.9575276
Longview-Marshall, TX	.7113164
Lorain-Elyria, OH	.8584578
Los Angeles-Long Beach, CA	1.1037830
Louisville, KY–IN	.9069019
Lubbock, TX	.7230551
Lynchburg, VA	.7576805
Macon, GA	.8802635
Madison, WI	.9362551
Manchester-Nashua, NH	.7704519
Mansfield, OH	.7670934
McAllen-Pharr-Edinburg, TX	.5906622
Melbourne-Titusville-Cocoa, FL	.8192981
Memphis, TN–AR–MS	.8646840
Miami, FL	1.0854220
Midland, TX	.7111879
Milwaukee, WI	.9199721
Minneapolis-St. Paul, MN–WI	.7570047
Mobile, AL	.7915066
Modesto, CA	.8302491
Monroe, LA	.7499661
Montgomery, AL	.8241726
Muncie, IN	.7378266
Muskegon-North Shores-Muskegon Heights, MI	.8856485
Nashville-Davidson, TN	.9308903
Nassau-Suffolk, NY	1.1435511
New Bedford-Fall River, MA	.8609717
New Brunswick-Perth Amboy-Sayreville, NJ	.9529374
New Haven-Waterbury-Meriden, CT	1.0431054
New London-Norwich, CT	.9580296
New Orleans, LA	.9323589
New York, NY–NJ	1.2836483
Newark, NJ	1.1530874
Newport News-Hampton, VA	.9250905
Norfolk-Virginia Beach-Portsmouth, VA–NC	.8917366
Northeast Pennsylvania	.9871651
Odessa, TX	.6942824
Oklahoma City, OK	.7853505
Omaha, NE–IA	.8508704
Orlando, FL	.7672632
Owensboro, KY	.6712032
Oxnard-Simi Valley-Ventura, CA	1.2991618
Panama City, FL	.7860455
Parkersburg-Marietta, WV–OH	.8482920
Pascagoula-Moss Point, MS	.8144002
Paterson-Clifton-Passaic, NJ	.9871591
Pensacola, FL	.8687345
Peoria, IL	.9603141
Petersburg-Colonial Heights-Hopewell, VA	.8604133
Philadelphia, PA–NJ	1.0427889
Phoenix, AZ	.9367511
Pine Bluff, AR	.6387947
Pittsburgh, PA	1.0037657
Pittsfield, MA	.9315021
Portland, ME	.8732662
Portland, OR–WA	1.0046502
Poughkeepsie, NY	1.0379910
Providence-Warwick-Pawtucket, RI	.9101288
Provo-Orem, UT	.6906648
Pueblo, CO	.9417969
Racine, WI	.8080810
Raleigh-Durham, NC	.9982753
Rapid City, SD	.9912066
Reading, PA	.8929759
Reno, NV	1.1936960
Richland-Kennewick-Pasco, WA	.8333314
Richmond, VA	.8557333
Riverside-San Bernardino-Ontario, CA	.9922397
Roanoke, VA	.9616381
Rochester, MN	.8039937
Rochester, NY	1.0114625
Rockford, IL	.8863163

Table III A—*Wage index for urban areas*—Continued

SMSA Area	Wage Index
Sacramento, CA	1.0701363
Saginaw, MI	1.0305533
St. Cloud, MN	.7889363
St. Joseph, MO	.8106216
St. Louis, MO–IL	.8353947
Salem, OR	.9671521
Salinas-Seaside-Monterey, CA	1.0521816
Salt Lake City-Ogden, UT	.8003268
San Angelo, TX	.7280581
San Antonio, TX	1.2015727
San Diego, CA	1.0423081
San Francisco-Oakland, CA	1.2261579
San Jose, CA	1.2318725
Santa Barbara-Santa Maria-Lompoc, CA	.9141919
Santa Cruz, CA	.9390376
Santa Rosa, CA	1.3319986
Sarasota, FL	.7794111
Savannah, GA	.7991026
Seattle-Everett, WA	.9114513
Sherman-Denison, TX	.6840456
Shreveport, LA	.9304503
Sioux City, IA-NE	.8158085
Sioux Falls, SD	.7752901
South Bend, IN	.8039176
Spokane, WA	.9596857
Springfield, IL	.8021688
Springfield, MO	.8428475
Springfield, OH	.8397949
Springfield-Chicopee-Holyoke, MA	.9118872
Stebenville-Weirton, OH-WV	.8687642
Stockton, CA	1.1694052
Syracuse, NY	1.0320677
Tacoma, WA	.9338239
Tallahassee, FL	.7936591
Tampa-St. Petersburg, FL	.9112976
Terre Haute, IN	.8133320
Texarkana, TX-Texarkana, AR	.9651876
Toledo, OH-MI	.9636379
Topeka, KS	1.0191180
Trenton, NJ	1.0181014
Tucson, AZ	.9815322
Tulsa, OK	.8065469
Tuscaloosa, AL	.9434434
Tyler, TX	.7888754
Utica-Rome, NY	.9483622
Vallejo-Fairfield-Napa, CA	1.3675897
Vineland-Millville-Bridgeton, NJ	.8849021
Waco, TX	1.0659982
Washington, DC-MD-VA	1.1430803
Waterloo-Cedar Falls, IA	.7296063
West Palm Beach-Boca Raton, FL	.8588761
Wheeling, WV-OH	.8278128
Wichita, KS	.9081149
Wichita Falls, TX	.7661439
Williamsport, PA	.8408558
Wilmington, DE-NJ-MD	1.0590599
Wilmington, NC	.0793208
Worcester-Fitchburg-Leominster, MA	.8941985
Yakima, WA	.7821286
York, PA	.8702993
Youngstown-Warren, OH	.9486057

Table III B—*Wage index for rural areas*

Alabama	1.0461294
Alaska	1.6354423
Arizona	1.1122143
Arkansas	.8273242
California	1.2993578
Colorado	1.0080249
Connecticut	1.1747087
Delware	1.0342322
Florida	.9703395
Georgia	1.0599656
Hawaii	1.1225531
Idado	.8969254
Illinois	.9286388
Indiana	1.0841407
Iowa	1.0275121
Kansas	.9487575
Kentucky	.8980309
Louisiana	.8812404
Maine	1.0173606
Maryland	1.0668544
Massachusetts	1.2069380
Michigan	1.1016350
Minnesota	.7643302
Mississippi	.8376849
Missouri	.9206227
Montana	.9939387
Nebraska	.8271144
Nevada	1.3182003
New Hampshire	1.0166505

Table III B—*Wage index for rural areas*—Continued

New Jersey	1.1075845
New Mexico	.9872105
New York	1.0818880
North Carolina	1.0102951
North Dakota	.8934854
Ohio	.9990494
Oklahoma	.8099723
Oregon	1.0864072
Pennsylvania	1.1423726
Rhode Island	1.0525859
South Carolina	.9095838
South Dakota	.7760311
Tennessee	.8322538
Texas	.9576274
Utah	.7477027
Vermont	1.0353552
Virginia	.9030129
Washington	1.0312944
West Virginia	1.0907991
Wisconsin	.8837830
Wyoming	1.0836848

Table IV—*Adjustment to limits based on areas with covered days of care per 1,000 HI enrollees less than the national average (1976 data)*

State or area	Adjustment to limit (percent)
Kentucky	.126
Colorado	.335
North Carolina	.503
Delaware	.872
Wyoming	.902
Maryland	1.135
Louisiana	1.140
D.C.	1.224
Maine	1.563
Oklahoma	1.577
Nevada	1.660
New Hampshire	2.220
Montana	2.336
Florida	2.427
South Carolina	3.081
Connecticut	3.290
Rhode Island	3.327
Georgia	3.619
Arizona	4.952
New Mexico	6.285
Idaho	7.106
California	7.317
Oregon	10.790
Washington	13.130
Alaska	14.213
Utah	15.404
Hawaii	16.574

The published limit would be adjusted by the index so that hospitals in States with low utilization per 1,000 beneficiaries would receive higher per diem limits.

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13,773, Medicare—Hospital Insurance.)

Dated: May 23, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: May 24, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-16780 Filed 5-31-79; 8:45 am]

BILLING CODE 4110-35-M

Medicare Program; Initial Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning on or After July 1, 1979

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Notice of Initial Schedule of Limits on Home Health Agency Costs Per Visit.

SUMMARY: This Notice sets forth a schedule of limits on home health agency costs that may be reimbursed under the Medicare program. Limits are established by type of service and are expressed as costs per visit. This schedule will apply for the entire cost reporting period of a provider which begins on or after July 1, 1979. It will be periodically revised for subsequent reporting periods.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION, CONTACT: Carl Slutter, Telephone: 301–594–9441.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) as amended by Section 223 (Limitation on Coverage of Costs) of Pub. L. 92–603, authorizes the Secretary to set prospective limits on allowable costs incurred by a provider which is participating in the Medicare program. These limits are based on estimates of the costs necessary in the efficient delivery of needed health services. The limits may be applied to direct or indirect overall costs or to the costs incurred for specific items or services furnished by a Medicare provider. This provision of the statute is implemented under regulations at 42 CFR 405.460. The proposed schedule of limits for home health agency costs was published for public comment in the **Federal Register** on March 7, 1979 (44 FR 12509).

Medicare expenditures for home health benefits have increased from $287 million in fiscal year 1976 to a projected $789 million in fiscal year 1979. Although this increase is partially attributable to increased demand for services and inflation, there is evidence that some home health agencies are incurring costs in excess of those necessary in the efficient delivery of needed health services. For example, high cost home health agencies were recently the subject of investigations conducted by the General Accounting Office and the Subcommittee on Oversight of the House Ways and Means Committee. For this reason, we believe limits on home health agency costs that may be reimbursed by Medicare are necessary and appropriate.

Most services furnished by home health agencies that are covered under Medicare involve making visits to beneficiaries who are homebound. Services that are covered under the home health benefit provision include intermittent skilled nursing care, physical therapy, occupational therapy, speech pathology, medical social services and intermittent services of home health aides (see 42 CFR 405.236). This schedule establishes separate limits to be applied on an aggregate basis on the reimbursable costs per visit for each home health service. The limits are also applicable to physical therapy or speech pathology visits furnished by home health agencies under the outpatient physical therapy benefit.

The home health benefit provision includes the use of medical supplies and medical appliances in conjunction with covered home health visits. The per visit limits in this schedule include the cost of medical supplies routinely furnished in conjunction with patient care. However, the costs of medical appliances and supplies that are not routinely furnished in conjunction with patient care visits and which are directly identifiable services to an individual patient are excluded from the per visit limit amounts. The reasonable costs of these items will be reimbursed without regard to the schedule of limits.

Discussion of Major Comments

Approximately 150 comments were received in response to the March 7, 1979, notice, from representatives of national, State and individual provider organizations. The most significant comments and suggestions received in response to the initial schedule of limits are summarized below.

1. *Adequacy of Classification System.* Some comments expressed concern that the classification system does not adequately reflect differences in costs that may arise in home health agencies which were grouped by size, by economic factors, by differences in the scope and mix of service furnished, or by whether the agency is provider based. We analyzed each of these variables to determine whether it had an effect on the cost limits being established. We found no significant relationship between per visit costs and the size of the home health agency. We were also unable to find a significant relationship between per visit costs and either per capita income or area wage levels.

We found the percentage of skilled services within agencies had no effect on per visit costs for each type of service. For this reason, we believe that the application of separate limits by type of service adequately recognizes the scope and mix of services provided. Comments on provider based agencies are discussed in section 4 below.

We also found significant variances in home health agencies operatiang in metropolitan versus nonmetropolitan areas. Therefore, the classification system provides for this distinction by use of Standard Metropolitan Statistical Area (SMSA) and New England County Metropolitan Area (NECMA) designations as indicators of metropolitan location.

2. *Use of New England Metropolitan Counties.* Comments were made as to why the NECMA concept was used in the New England rather than SMSAs to determine urban status.

SMSA designations in New England are based in cities and towns rather than on counties, as is the case in the rest of the United States. As a result, only a part of a New England county may be in an SMSA. However, all the data which we used to analyze this issue are available only on a county basis. Therefore, we brought our classification into line with the data base. In order to provide a county version of the New England areas, the Department of Commerce has developed New England County Metropolitan Areas (NECMAs) following criteria identical to those used to define SMSAs in the other States. Therefore, we have adopted the NECMA concept.

3. *Urban/Rural Designation for Branch Offices.* Further clarification was requested concerning the SMSA/Non-SMSA designation for branch offices of agencies. A home health agency operating as a branch (see 42 CFR 405.1202) of another home health provider or a subunit of a public agency, and located in a different area, is classified according to the geographic location of its main office. We have made this distinction because a branch office is dependent on the main provider for administrative, supervisory and other services and frequently pays wages at the same levels as the primary agency.

4. *Separate Limits for Hospital Based Agencies.* Suggestions were made that separate, higher limits should be established for hospital-based agencies. However, none of the commenters could substantiate that the higher costs associated with hospital-based agencies were related to differences in patient mix or intensity of services provided. We are unable to justify a higher reimbursement limit when the higher

costs appear to be due mainly to the organizational structure of the provider.

5. *Aggregate application of limit*—Some commenters believed we were only applying the limits in the aggregate to those providers who do not report per visit costs by type of service. The limits will be applied in the aggregate for all providers, regardless of their current reporting methods. This approach will be used as an interim method only until the implementation of the uniform cost reporting system for home health agencies. When all providers are using a uniform method of cost finding and apportionment, we will apply the per visit limit for each discipline to the costs per visit of that discipline.

6. *Reclassification, Exemptions, and Exceptions*—The provisions of 42 CFR 405.460 provide that classification adjustments, exemptions and exceptions may be made to the application of cost limits if certain conditions are met and would be applicable to home health agencies. Some commenters questioned the effect of the proposed revision to 42 CFR 405.460 published in the Federal Register on March 15, 1979 (44 FR 15745) regarding exemptions and exceptions for home health agencies. The specific comments on this issue will be addressed when the final revision to section 405.460 is published.

7. *Inflation Factor*—Each per visit limit was adjusted from June 30, 1977, to July 1, 1979, to reflect the increase which occurred in average per visit costs during that period. There were some suggestions that a different inflation indicator, such as the consumer price index, be adopted. Because the percentage of increase we are using is based upon actual increases in the average per visit interim rate, we believe it is a better indicator of the increase in costs for the home health industry than a more general inflation formula. A more detailed explanation of the computation of the adjustment factor is discussed in the methodology section of this notice.

8. *Nominal Rate Structure*—A commenter questioned the impact of the limits on public home health agencies where services are provided at a nominal charge. (Under HCFA's regulations, a public provider's charges are considered nominal if the aggregate charges are less than one-half of the reasonable cost of services or items represented by such charges.) This question was raised because, under our regulations (section 42 CFR 405.455), public providers with nominal charge structures are reimbursed resonable costs for services, without regard to the lower of reasonable costs or customary charges provision. In determining whether a nominal rate structure exists, charges are compared to the lower of actual costs or the cost limit.

9. *Home Health Aide Cost Per Visit Limit*—The establishment of the home health aide limit on an average cost per visit basis has been criticized because current Medicare reporting methods allow an agency the *option of reimbursement* on a per visit or per hour basis.

Commenters also questioned whether a minimum time of aid visit was used in computing the limit amount. Under Medicare, the personal care needs of a patient are determined according to written plan of treatment established by a physician. Aides perform many types of services and, therefore, hours of service may vary within an agency depending on the medical evaluation of each patient. However, since aide services provided by agencies on a national basis are comparable, the *average* length of visit should be similar among providers. Therefore, in our view, it is reasonable and equitable to establish the limits based on average cost per visit.

Those agencies that are reimbursed on a per hour basis will calculate their total per hour reimbursement and will compare that with the aggregate cost limit computed on a per visit basis.

10. *Limit Set at 80th Percentile.* There has been criticism that the use of the 80th percentile in establishing limits makes an assumption that 20 percent of providers are inefficient. While this may be valid in regard to inpatient facilities, when limits are applied to per diem costs, we do not believe it is appropriate for HHA limits applied on the aggregate basis.

When limits are applied in the aggregate, a provider whose costs per visit for one or two types of services are excessive may be well within the limit amount if costs incurred for other services are reasonable. Thus, under this system, there is no validity in the argument that limits set at the 80th percentile judge 20 percent of all providers to be inefficient.

11. *Rounding Off Limits to Nearest Dollar.* Because an agency's costs per visit are expressed in dollars and cents, it was suggested that the limit amounts should also be computed in this manner instead of being rounded off to the nearest dollar. We agree that this would provide a more accurate calculation, and have set the limits at the actual 80th percentile, adjusted for inflation.

Methodology for Calculating Limits

The limits were developed separately for home health agencies located in metropolitan and nonmetropolitan areas in the following manner:

1. We obtained cost report data for 12-month reporting periods ending after June 30, 1976, and on or before June 30, 1977, for each participating home health agency from the fiscal intermediaries.

2. We determined the average per visit cost for each type of service provided by a home health agency based on the Medicare cost apportionment method used by the provider. Many home health agencies separately determine the average per visit costs of each service they provide. In these cases, the necessary cost data were extracted directly from the cost reports. Other home health agencies have elected to utilize cost finding methods that do not result in a separate determination of costs per visit by type of service. We were able to include these providers in the data base by obtaining supplemental information from the fiscal intermediaries and billing data submitted by the providers and computing an average cost per visit by type of service on the basis of this information.

3. To insure a comparable data base, the average per visit costs of each home health agency with a cost reporting period ending before June 30, 1977, were adjusted upward to reflect an estimated 7.00 percent increase on an annual basis in average per visit costs between cost reporting periods ending June 30, 1976, and those ending June 30, 1977. This estimate was developed by the Office of Financial and Actuarial Analysis, Office of Policy, Planning and Research, Health Care Financing Administration and is based on the increase in the average per visit interim reimbursement to participating home health agencies in 1976.

4. We arrayed the data from each type of service separately in descending order of adjusted per visit costs.

5. We computed a base limit equal to the adjusted average cost per visit at the 80th percentile of each array.

6. We increased the base limit by an adjustment factor of 27.08 percent to take into account increases in per visit costs from cost reporting periods ending June 30, 1977, to the effective date of the midpoint of the period covered by the limits. The adjustment factor was computed by compounding various inflation rates for this period as follows:

The Office of Financial and Acturial Analysis, based on interim reimbursement data, has estimated that

average per visit costs increased 8.75 percent from cost reporting periods ending June 30, 1977, to December 31, 1977, and 6.92 percent during the first 9 months of 1978. We have used these estimates to inflate per visit costs to September 30, 1978. After October 1, 1978, we have computed an annual inflation rate of 7.371 percent according to the formula established by the Council on Wage and Price Stability for calculating the voluntary standard for noninflationary price behavior in the health care sector. The formula consists of averaging the cost increases for the base years, and and subtracting one-half of one percent. The base period is calendar years 1976 and 1977, during which home health agency per visit costs increased an estimated 7.0 percent and 8.75 percent, respectively. Subtracting a one-half percentage point from the average annual rate of increase over 1976–1977 results in an annual inflation rate of 7.371 percent. We used this to increase per visit costs from October 1, 1978, to the midpoint of cost reporting periods beginning July 1, 1979. We believe that this standard is appropriate for setting limits on costs necessary in the efficient delivery of needed health services.

Schedule of Limits

The schedule of limits set forth below is applicable to 12-month cost reporting periods beginning on or after July 1, 1979. Intermediaries for providers with shorter (or longer) cost reporting periods must contact the Health Care Financing Administration for adjustment factors.

Limits on Per Visit Cost for Home Health Agencies By Metropolitan/Nonmetropolitan Location[1]

Type of visit	Limit for metropolitan location	Limit for nonmetropolitan location
Skilled Nursing Care	$41.80	$38.05
Physical Therapy	40.95	39.50
Speech Pathology	44.95	41.20
Occupational Therapy	46.97	48.85
Medical Social Services	52.62	43.88
Home Health Aide	33.00	27.70

[1] A home health agency whose main office as of the effective date of the initial schedule of limits is located in a Standard Metropolitan Statistical Area (SMSA) (or within a New England County Metropolitan Area (NECMA) if in New England) will be classified metropolitan. A home health agency whose main office is not located in a SMSA (or NECMA) will be classifed nonmetropolitan.

The limits are applicable to any home health agency that has a cost reporting period beginning on or after July 1, 1979. For a home health agency that has a cost reporting period beginning on or after August 1, 1979, the published limit will be adjusted upward by a factor of .61 percent for each elapsed month between July 1, 1979, and the month in which the provider's reporting period begins. This factor is based on an estimated 7.371 percent annual increase in average per visit costs in keeping with anti-inflation standard for the health care industry. The result of this calculation is not rounded and is to be given in dollars and cents.

EXAMPLE: Home Health Agency A's cost reporting period begins October 1, 1979, and ends September 30, 1980. Assume that the published limit for a specific service furnished by Home Health Agency A is $40.95.

Computation of Adjusted Cost Limit

Published Cost Limit, $40.95.
Plus: Adjustment for 3-month period (July 1, 1979, to September 30, 1979), 3 months × .61=1.83 percent.
Percent × Cost Limit, .75.
Adjusted cost limit applicable to Home Health Agency A for the October 1, 1979, to September 30, 1980, reporting period, $41.70.

Application of Limits To Determine Reimbursable Costs.

The current cost reporting forms utilized by home health agencies provide for various cost finding and cost apportionment methodologies. As a result, home health agencies do not uniformly report their per visit costs by type of service: HCFA Is developing revised cost reporting forms that will eliminate the multiple cost finding and apportionment methods and implement a uniform method of determining per visit costs. In the interim, we will apply the cost limits to each home health agency's total allowable costs attributable to Medicare patient care visits. Under this approach, an aggregate cost limit is determined for each home health agency by multiplying the number of Medicare visits for each type of service furnished by the provider by the respective per visit cost limit. The sum of these amounts is compared to the home health agency's aggregate allowable costs attributable to making patient care visits to Medicare beneficiaries.

Example: Home Health Agency A, located within a metropolitan area, made 5,000 skilled nursing, 1,000 physical therapy and 1,000 home health aide covered visits to Medicare beneficiaries during its 12-month cost reporting period beginning July 1, 1979.

The aggregate cost limit would be determined as follows:

Type of visit	Visits	Limit	
Skilled Nursing	5,000	$41.80	$209,000
Physical Therapy	1,000	40.95	40,950
Home Health Aide	1,000	33.00	33,000
Aggregate Cost Limit			$282,950

The provider's actual costs will be adjusted for individual items of cost (i.e., administrative compensation, contract services) which are found to be excessive in accordance with Medicare principles of provider reimbursement, and for reimbursable costs that are not included in the limitation amount (e.g., medical appliances). The total adjusted costs are then compared to the aggregate cost limit calculated in the manner described above. The lower of the total adjusted costs or the aggregate cost limit becomes the agency's total "reasonable cost." The agency is then reimbursed the lower of total reasonable costs or total charges, in accordance with 42 CFR 405.455.

(Secs. 1102, 1861(v)(1), 1866(a) and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395x(v)(1), 1395cc(a) and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13,773, Medicare—Hospital Insurance; No. 13,774; Medicare—Supplementary Medical Insurance.)

Dated: May 23, 1979.

Leonard D. Schaeffer,
Administrator, Health Care Financing Administration.

Approved: May 24, 1979.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc. 79-16781 Filed 5-31-79; 8:45 am]
BILLING CODE 4110-35-M

Federal Register

Friday
June 1, 1979

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

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 projects 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. 224–70) 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, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction 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.

New General Wage Determination Decisions

Florida.—FL79–1098.
Kentucky.—KY79–1095.
Tennessee.—TN79–1096, TN79–1097.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA78–5107	July 7, 1978.
District of Columbia:	
DC78–3098	December 15, 1978.
Florida:	
FL78–1070	August 25, 1978.
FL79–1017	January 26, 1979.
FL79–1030	February 9, 1979.
FL79–1039; FL79–1040; FL79–1041	February 16, 1979.
FL79–1064; FL79–1068	April 13, 1979.
FL79–1149	February 2, 1979.
Illinois:	
IL79–2036	May 11, 1979.
Kentucky:	
KY–76–1093	September 3, 1976.
Louisiana:	
LA79–4001; LA79–4002	January 5, 1979.
Ohio:	
OH79–2043	May 4, 1979.
OH79–2047; OH79–2048; OH79–2049; OH79–2050	May 11, 1979
Pennsylvania:	
PA78–3013	April 14, 1978.
PA78–3066	September 22, 1978.
PA78–3071	October 6, 1978.
PA79–3000	January 25, 1979.
PA79–3006	March 30, 1979.
Texas:	
TX78–4090	September 15, 1978.
TX79–4003; TX79–4004; TX79–4010; TX79–4011	January 5, 1979.
TX79–4033; TX79–4048	March 16, 1979.
TX79–4051	May 4, 1979.

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.

Florida:
FL76-1102(FL79-1094) ..... September 17, 1976.
Kansas:
MO78-4047(MO79-4065) ..... May 5, 1978.
Michigan:
MI78-2054(MI79-2020) ..... June 2, 1978.
Mississippi:
MS78-1020(MS79-1089) ..... February 17, 1978.
MS78-1017(MS79-1090); MS78-1018 (MS79-1091); MS78-1019 (MS79-1088); MS78-1021 (MS79-1092); MS78-1022 (MS79-1093) ..... March 3, 1978.
Missouri:
MO78-4047(MO79-4065) ..... May 5, 1978.
Texas:
TX78-4114(TX79-4037) ..... October 20, 1978.

Cancellation of General Wage Determination Decisions

None

Signed at Washington, D.C. this 25th Day of May 1979.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

MODIFICATIONS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4033 - Mod. #2 (44 FR 16326 - March 16, 1979) Jefferson & Orange Cos., Texas					
Change:					
Bricklayers & stonemasons	$13.29	.63	.60		.04
Tile setters	11.78	.63	.60		.04
DECISION NO. TX79-4048 - Mod. #2 (44 FR 16330 - March 16, 1979) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Electricians:					
Zone 1 - Electricians	11.28	.60	3%+.50		1/2%
Cable splicers	12.41	.60	3%+.50		1/2%
Zone 2 - Electricians	11.10	.50	3%		1/10%
Cable splicers	11.35	.50	3%		1/10%
Line construction:					
Zone 1:					
Lineman; Operator	11.10	.50	3%		1/2%
Cable splicers	11.35	.50	3%		1/2%
Groundman - 1st 6 months	50%JR	.50	3%		1/2%
Groundman - 2nd 6 months	60%JR				
Groundman - 1 year & over	70%JR				
Zone 2:					
Lineman	11.28	.60	3%+.50		1/2%
Cable splicers	12.41	.60	3%+.50		1/2%
Groundman:					
More than 1 yr. experience	7.44	.60	3%+.50		1/2%
Less than 1 yr. experience	6.52	.60	3%+.50		1/2%
Op.-hole digger, line truck	8.65	.60	3%+.50		1/2%
Flat bed truck drivers	6.52	.60	3%+.50		1/2%
DECISION NO. TX79-4051 - Mod. #1 (44 FR 26535 - May 4, 1979) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties, Texas					
Change:					
Laborers:					
Zone 2 - Group 1	$ 6.49	.30	.40		.02
Group 2	6.64	.30	.40		.02
Group 3	6.74	.30	.40		.02
Group 4	6.89	.30	.40		.02

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Dade
DECISION NUMBER: FL79-1094 DATE: Date of Publication
Supersedes Decision No. FL76-1102 dated September 17, 1976 in 41 FR 40365.
DESCRIPTION OF WORK: Heavy Construction Projects (excluding Storm, Sanitary, Sewer Line and Water Line Projects)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$10.55	.60	.54		.04
CARPENTERS	10.00	.80	.55		.02
CEMENT MASONS	10.55	.60	.54		.04
ELECTRICIANS	11.25	.51	.34	.96	
IRONWORKERS	10.00	.75	.83		.04
LABORERS:					
Unskilled	4.97				
Pipelayers	5.97				
MILLWRIGHTS	9.42	.55	.70		.08
PAINTERS	8.80	.55	.50	.12	.02
PILEDRIVERS	8.46	.55	.70		.02
PLUMBERS; PIPEFITTERS	10.42	.92	1.30		.09
STEAMFITTERS	11.03	1.08	1.00	.50	.09
TRUCK DRIVERS	4.65				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoes	8.26	.50	.45		.05
Combination Operators	8.26	.50	.45		.05
Cranes	9.30	.50	.45		.05
Draglines	6.51				
Front end loaders	7.96	.50	.45		.05
Graders	8.26	.50	.45		.05
Mechanics	6.94				
Oilers	5.49	.63	.50		7%
Rollers	7.06	.50	.45		.05
Scrapers	7.36	.50	.45		.05
Trenching Machines	7.36	.50	.45		.05

SUPERSEDEAS DECISION

STATE: Kansas & Missouri

COUNTIES: Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas.

DECISION NO: M079-4065

DATE: Date of Publication

Supersedes Decision No. M078-4047, dated May 5, 1978 in 43 FR 19550

DESCRIPTION OF WORK: Building Construction Projects, (does not include single family homes and garden type apartments up to and including 4 stories) and heavy and highway construction in Johnson and Wyandotte Counties, Kansas only.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.67	.60	1.55		.05
BOILERMAKERS	12.00	1.15	1.00		.03
BRICKLAYERS AND STONEMASONS	11.025	.80	.35	1.00	
CARPENTERS:					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Carpenter, Millwrights and Piledrivermen	11.00	.50	.30		.05
Zone 2 - Henry and Johnson Counties, Missouri					
Carpenters	10.625	.50	.30		.05
Millwrights and Piledrivermen	11.00	.50	.30		.05
CEMENT MASONS (Building Construction)					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Cement masons	11.675	.65	.50		
Zone 2 - Henry and Johnson Counties, Missouri	10.13				
CEMENT MASONS (Heavy and Highway Construction): Johnson & Wyandotte Counties, Kansas	12.50	.65	.50		
ELECTRICIANS:					
Zone 1 - Western half of Clay and Jackson Counties, Missouri not including Blue Springs; Northern half of Platte County, Missouri; Northwestern portion of Cass County, Missouri not including Pleasant Hill:					
Electricians	12.77	.54	3%+.51	.95	.10
Zone 2 - Henry, Johnson and Lafayette Counties, Missouri and remainder of Clay, Jackson, Platte and Cass Counties, Missouri					
Electricians (contracts exceeding 2000 man hours	12.77	.54	3%+.51	.95	.10

DECISION NO M079-4065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS - Zone 2 CONTD:					
Electricians (contracts not exceeding 2000 man hours	11.77	.54	3%+.51	.95	.10
Zone 3 - Ray County, Missouri:					
Electricians (contracts exceeding 2000 man hours	12.77	.54	3%+.51	.95	.10
Electricians (contracts not exceeding 2000 man hours	11.17	.54	3%+.51	.95	.10
Zone 4 - Johnson and Wyandotte Counties, Kansas	12.77	.54	3%+.51	.95	.10
ELEVATOR CONSTRUCTORS	11.97	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 6 paid holidays.

GLAZIERS	10.72	.61	.89	18.7%	.04
IRONWORKERS	11.60	.75	1.40	1.00	.05
LABORERS:					
Building Construction					
Zone 1 - Cass, Clay, Jackson and Platte Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
GROUP 1	9.65	.45	.40	.50	.10
GROUP II	9.80	.45	.40	.50	.10
GROUP III	9.95	.45	.40	.50	.10
Zone 2 - Lafayette and Ray Counties, Missouri					
GROUP I	9.35	.45	.40	.50	.10
GROUP II	9.50	.45	.40	.50	.10
GROUP III	9.65	.45	.40	.50	.10

MODIFICATIONS

DECISION No. PA79-3000 - Mod. # 3
(44 FR 5625 - January 25, 1979)
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, Huntington, Mifflin & Potter Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers:					
Structural, Ornamental & Reinforcing					
Zone 2	$12.105	1.14	1.35		.03

DECISION No. PA79-3006 - Mod. # 2
(44 FR 19099 - March 30, 1979)
Franklin County, Pennsylvania

Change:					
Bricklayers	10.57	.60	.57		.02
Ironworkers	12.105	1.14	1.35		.03
Plumbers	11.55	.85	.90		.12

MODIFICATIONS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX78-4090 - Mod. #6 (43 FR 31364 - September 15, 1978) Bowie County, Texas					
Change:					
Electricians	$11.17	.60	3%+.35		1/4%
DECISION NO. TX79-4003 - Mod. #6 (44 FR 1671 - January 5, 1979) Brazos County, Texas					
Change:					
Cement masons	11.50	.68	.72		.08
DECISION NO. TX79-4004 - Mod. #6 (44 FR 1673 - January 5, 1979) El Paso County, Texas					
Add:					
Glaziers	7.29	.30	.10		.02
Roofers	8.30	.35			
DECISION NO. TX79-4010 - Mod. #5 (44 FR 1681 - January 5, 1979) Wichita County, Texas					
Change:					
Electricians:					
Electricians	11.10	.50	3%		1/10%
Cable splicers	11.35	.50	3%		1/10%
Line Construction:					
Lineman; Lineman operator	11.10	.50	3%		1/10%
Cable splicer	11.35	.50	3%		1/10%
Groundman, 1st 6 months	50%JR	.50	3%		1/10%
Groundman, 2nd 6 months	60%JR	.50	3%		1/10%
Groundman, 1 year & over	70%JR	.50	3%		1/10%
DECISION NO. TX79-4011 - Mod. #6 (44 FR 1683 - January 5, 1979) Galveston & Harris Cos., Texas					
Change:					
Cement masons - Galveston Co.	11.50	.68	.72		
Harris Co.	11.50	.68	.72		.08
Marble masons-Galveston Co.	10.95				
Terrazzo workers-Galveston Co.	10.95				
Tile setters-Glaveston Co.	10.95				

NEW DECISION

STATE: Florida COUNTY: Dade
DECISION NUMBER: FL79-1098 DATE: Date of Publication
DESCRIPTION OF WORK: Storm, Sanitary, Sewer Line and Water Line Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$7.85				
CEMENT MASONS	6.31				
IRONWORKERS	6.90	.18	.41		
LABORERS:					
Unskilled	4.39				
Pipelayers	4.95				
MANHOLE BUILDERS	6.00				
PAINTERS	8.80	.55	.50	.12	.02
TRUCK DRIVERS	4.33				
WELDERS - Rate for Craft.					
POWER EQUIPMENT OPERATORS:					
Backhoes	7.00				
Bulldozers	7.96	.50	.45		.05
Cranes	6.69				
Front End Loaders	6.00				
Mechanics	6.52				
Trenching Machines	5.43				

NEW DECISION

STATE: KENTUCKY COUNTIES: ALLEN, BARREN, EDMONSON, HART, SIMPSON, & WARREN
DECISION NUMBER: KY79-1095 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes 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	$ 5.33				
BRICKLAYERS	6.89				
CARPENTERS	5.13				
CEMENT MASONS	4.99				
DRYWALL FINISHERS	6.00				
DRYWALL HANGERS	6.00				
ELECTRICIANS	4.77				
INSULATION INSTALLERS	5.00				
LABORERS:					
Unskilled	3.48				
Mason tenders	3.94				
Asphalt rakers	4.75				
PAINTERS	4.62				
PLUMBERS & PIPEFITTERS	5.50				
ROOFERS	5.31				
SHEET METAL WORKERS	5.48				
TRUCK DRIVERS	3.48				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	6.50				
Bulldozer	6.50				
Crane	6.50				
Front end loader	6.50				
Motor grader	6.50				
Pan - scraper	6.50				
Paving machine	4.50				
Roller	4.50				

NEW DECISION

STATE: TENNESSEE . COUNTIES: MONTGOMERY & STEWART
DECISION NUMBER: TN79-1096 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes 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	$ 5.00				
BRICKLAYERS	5.25				
CARPENTERS	5.00				
CARPET LAYERS	4.50				
CEMENT MASONS	6.25				
DRYWALL FINISHERS	5.00				
DRYWALL HANGERS	5.00				
ELECTRICIANS	5.50				
INSULATION INSTALLERS	4.00				
LABORERS	3.50				
PAINTERS	5.00				
PLUMBERS & PIPEFITTERS	5.00				
ROOFERS	4.81				
SHEET METAL WORKERS	6.00				
SOFT FLOOR LAYERS	4.50				
TILE SETTERS	5.25				
TRUCK DRIVERS	3.50				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.50				
Bulldozer	5.50				
Motor grader	5.50				

NEW DECISION

STATE: TENNESSEE
COUNTIES: BLEDSOE, COFFEE, FRANKLIN, GRUNDY, MARION, SEQUATCHIE, & WARREN.
DECISION NUMBER: TN79-1097 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes 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	$ 8.00				
CARPENTERS	5.55				
CEMENT MASONS	5.48				
DRYWALL FINISHERS	5.00				
DRYWALL HANGERS	5.55				
ELECTRICIANS	5.00				
IRONWORKERS	5.04				
LABORERS:					
Unskilled	3.94				
Mason tenders	4.00				
PAINTERS	5.00				
PLUMBERS & PIPEFITTERS	5.00				
ROOFERS	5.05				
SHEET METAL WORKERS	7.15				
SOFT FLOOR LAYERS	5.55				
TILE SETTERS	6.55				
TRUCK DRIVERS	5.00				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	7.25				
Bulldozer	5.02				
Front end loader	5.00				
Motor grader	5.25				
Scraper	5.00				

DECISION NO. CA78-5107 - Mod. #6
(43 FR 29444 - July 7, 1978)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California					
Change:					
Drywall Installers	$ 12.97	.90	$ 1.81	$1.575	.09
Painters:					
Sacramento, Sierra and Solano Counties (excluding portions of Counties in the Lake Tahoe Area)					
Brush	13.29	1.20	1.75	.80	.06
Spray	13.79	1.20	1.75	.80	.06
Tapers	14.09	1.20	1.75	.80	.06

DECISION No. DC78-3098 - Mod. # 5
(43 FR 58723 - December 15, 1978)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
District of Columbia; Maryland - Montgomery & Prince George's Counties, and D. C. Training School; Virginia - Independent City of Alexandria & Arlington					
Change:					
HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES:					
All Counties					
BUILDING CONSTRUCTION:					
Excluding Alexandria, Virginia					
Carpenters	$11.28	.80	.65		.05
Millwrights	11.81	.80	.65		.05
Piledrivermen	11.53	.80	.65		.05
Ironworkers:					
Structural, Ornamental and chain link fence	11.63	.90	.96		.07
Reinforcing	11.84	.72	1.05		.03
Marble Setters	12.35	.97	.65		.06
Stonemasons	12.35	.97	.65		.06
Sheet metal workers	11.99	g	1.29		.14

Footnote:
g. Employer Contributes to a Health and Welfare Fund $1.09, in District of Columbia, and $1.19, in all other areas.

PAVING AND INCIDENTIAL GRADING:					
(District of Columbia Only) except paving project where the grading is incidential to the paving:					
Cappenters	11.28	.80	.65		.05
WATER AND SEWER LINES:					
(District of Columbia and Montgomery County Only)					
Carpenters	11.28	.80	.65		.05
Ironworkers, Reinforcing	11.84	.72	1.05		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #FL78-1070 - Mod. #4					
(43 FR 38277 - August 25, 1978)					
Pinellas County, Florida					
Change:					
Bricklayers	10.20	.45	.50		.10
Electricians	8.80	5%	3% + 7%		1%
DECISION #FL79-1017 - MOD. #2					
(44 FR 5604 - January 26, 1979			—		
Duval County, Florida					
Change:					
Bricklayers & Stonemasons	$ 9.72	.45	.50		.06
Carpenters, Acoustical Ceiling & Drywall Installers	9.52	.65	.50		.06
Cement Masons	9.32	.45	.40		.01
Electricians:					
Wiremen	10.15	.50	3%+.81	.81	.07
Cable Splicers	10.50	.50	3%+.81	.81	.07
Ironworkers	9.65	.65	.85		.02
Laborers:					
Gunnite workers, Mechanical Tool Operators, Power Buggy Operator and Pipe-layers	5.99	.20	.20		
Unskilled	5.92	.20	.20		
Millwrights	9.83	.62	.60		.05
Painters	9.15	.40	.60		
Piledrivers	9.52	.62	.60		.05
Plumbers Pipefitters, & Steamfitters	11.75	.55	.55		.08
Soft Floor Layers	9.52	.62	.60		.05
Power Equipment Operators:					
Group I	10.13	.55	.40		.05
Group II	8.95	.55	.40		.05
Group III	6.86	.55	.40		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #FL79-1030 - Mod. #2					
(44 FR 8493 - February 9, 1979)					
Broward County, Florida					
Change:					
Plumbers; Pipefitters:					
Small Commercial: (Office bldgs of 1 or 2 stories, not over 14 fixtures & restarts)	$ 8.90	.60	.80		.10
All other work	11.30	.60	.80		.10
Power Equipment Operators:					
Group I	10.35	.50	.80		.10
Group II	10.20	.50	.80		.10
Group III	9.70	.50	.80		.10
Group IV	9.25	.50	.80		.10
Group V	9.10	.50	.80		.10
Group VI	8.75	.50	.80		.10
Group VII	8.50	.50	.80		.10
Group VIII	8.40	.50	.80		.10
Group IX	8.00	.50	.80		.10
Decision #FL79-1039 - Mod. #2					
(44 FR 10228 - February 16, 1979					
Volusia County (except Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Station), Florida					
Change:					
Ironworkers	10.03	.65	.75	.65	.05
Power Equipment Operators:					
Group I	10.13	.55	.40		.05
Group II	8.95	.55	.40		.05
Group III	6.86	.55	.40		.05
Decision #FL79-1040 - Mod. #2					
(44 FR 10230 - February 16, 1979					
Hillsborough County, Florida					
Change:					
Carpenters:					
Commercial	8.30	.50	.50		.04
Industrial	9.66	.50	.50		.04
Cement Masons	9.60	.45	.50		.10
Ironworkers	10.43	.65	.75	.60	.07
Millwrights	9.42	.55	.70		.08
Tile Setters	10.05	.45	.50		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #FL79-1041 - Mod. #2 (44 FR 10231 - February 16, 1979) Dade County, Florida					
Change:					
Plumbers	10.42	.92	1.30		.09
Decision #FL79-1064 - Mod. #1 (44 FR 22308 - April 13, 1979) Orange County, Florida					
Change:					
Ironworkers:					
Structural & Ornamental	10.03	.65	.75	.65	.05
Reinforcing	10.03	.65	.75	.65	.05
Power Equipment Operators:					
Backhoes	10.13	.55	.40		.05
Bulldozers	8.95	.55	.40		.05
Cranes	10.13	.55	.40		.05
Loaders	8.95	.55	.40		.05
Rollers	6.86	.55	.40		.05
Oilers	6.86	.55	.40		.05
Decision #FL79-1068 - Mod. #2 (44 FR 22309 - April 13, 1979) Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site, Florida					
Change:					
Ironworkers	10.03	.65	.75	.65	.05

Decision #FL79-1149- Mod. #2 (44 FR 6865 - February 2, 1979) Alachua County, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers	7.80	.30	.30		.03
Carpenters	9.52	.62	.60		.05
Ironworkers	9.65	.65	.85		.02
Laborers:					
Air tool operators; mortar mixers; pipelayers (concrete & clay)	5.99	.20	.20		
Unskilled	5.92	.20	.20		
Millwrights	9.83	.62	.60		.05
Piledrivers	9.52	.62	.60		.05
Soft floor layers	9.52	.62	.60		.05
Power Equipment Operators:					
Group I	10.13	.55	.40		.05
Group II	8.95	.55	.40		.05
Group III	6.86	.55	.40		.05
DECISION NO. IL79-2036 - MOD #1 (44 FR 27864 - May 11, 1979) Peoria and Tazewell Counties Illinois					
CHANGE:					
BRICKLAYERS and STONEMASONS	$12.40	.70	1.16		.01
MARBLE-TILE & TERRAZZO WORKERS	12.15	.70	1.16		.01
DECISION NO. KY76-1093 - Mod. #3 (41 FR 37472 - September 3, 1976) Adair, Cumberland, Green, Hart, Larue, Metcalfe, Monroe, & Taylor Counties, Kentucky					
OMIT:					
Hart County.					

DECISION NO. LA79-4001 - Mod. #7 (44 FR 1634 - January 5, 1979) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & stonemasons:					
Zone 5	$11.25				
Zone 6	10.50	.40	.55		
Cement masons (Building Construction):					
Zone 5	10.35				
Electricians:					
Zone 2 - Electricians	11.85	.35	3%		.02
Cable splicers	12.55	.35	3%		.02
Glaziers - Zone 4	9.08		.30		.04
Marble, tile & terrazzo workers & finishers:					
Zone 5 - Marble, tile & terrazzo workers	9.35	.40			
Zone 7 - Tile setters	11.25				
Plasterers - Zone 1	10.70				
DECISION NO. LA79-4002 - Mod. #6 (44 FR 1650 - January 5, 1979) Bossier, Caddo & Calcasieu Parishes, Louisiana					
Change:					
Bricklayers & stonemasons:					
Bossier & Caddo Parishes	10.50	.40	.55		
Glaziers:					
Bossier & Caddo Parishes	9.08		.30		.04
Marble setters:					
Bossier & Caddo Parishes	9.35	.40			
Terrazzo workers:					
Bossier & Caddo Parishes	9.35	.40			
Tile setters:					
Bossier & Caddo Parishes	9.35	.40			

DECISION NO. OH79-2043 - MOD #1 (44 FR 26504 - May 4, 1979) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS & STONE MASONS:					
ATHENS COUNTY	$12.35	.70	.60		.05
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Twps. of Dixon, Gratis, Israel, Lanier, & Somers), & WARREN COS.	13.595	.65	.45		.02
CLINTON & HIGHLAND COS.	10.00				
COSHOCTON, GUERNSEY, KNOX, LICKING, MORGAN, MUSKINGUM Counties	11.05	.70	1.30		.10
ERIE, HANCOCK & HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.) WYANDOT (Tymochtee, Crawford, Ridge & Richland Twps.) & ISLAND OF LAKE ERIE North of SANDUSKY Cos.	12.44	.70	1.10		.01
FAIRFIELD, HOCKING & PERRY COS.	11.05	.70	1.30		.10
LORAIN Co. & MEDINA Co. (Chatham, Harrisville, Homer, Litchfield, & Spencer Twps.)	13.60		.80	e	.01
MEDINA (Remainder of Co.), PORTAGE, SUMMIT & WAYNE COS. (Twps. of Milton & Chippewa) Bricklayers	12.91	.88	.80		.02
CARPENTERS & PILEDRIVERMEN					
ASHLAND, CRAWFORD, ERIE (East of B&O Railroad Tracks), HURON, LORAIN and RICHLAND Counties					
Carpenters	12.52	1.00	1.00	a	.08
Piledrivermen	13.60	.95	1.67		.05
ERIE (West of B&O Railroad Tracks), OTTAWA, SANDUSKY and SENECA Counties and City of Fostoria in WOOD and HANCOCK Counties					
Carpenters	12.52	1.00	1.00	a	.08
ASHTABULA, CUYAHOGA, GEAUGA and LAKE Counties					
Carpenters	13.87	.95	1.40		.05
Piledrivermen	13.60	.95	1.67		.05

DECISION NO. OH79-2043 Cont'd

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
MEDINA, PORTAGE and SUMMIT COUNTIES					
Carpenters	$12.85	.60	1.00		.02
Piledrivermen	13.60	.95	1.67		.05
ELECTRICIANS:					
ADAMS and SCIOTO COUNTIES, JACKSON COUNTY (All but Coal, Jackson, Liberty, Milton and Washington Twps.), PIKE County (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish and Union)	12.50	.50	3%+.60	1.00	.04
ASHLAND, CRAWFORD, MARION, MORROW & RICHLAND Cos., WYANDOT CO. (Remainder of County), KNOX CO. (North ½ including Clinton, Howard, Liberty, Monroe & Union Twps.), & HURON CO. (Twps. of Greenwich, New Haven, Richmond & Ripley	12.90	.60	3%+.50		.1%
ATHENS, MEIGS, MONROE, MORGAN, NOBLE and WASHINGTON Cos., and VINTON CO. (East of Clinton, Elk and Swan Twps.)	12.45	.50	3%+.80	1.25	.04
BELMONT CO.	12.60	.50	3%+.35	1.00	.04
BROWN, CLERMONT & HAMILTON COUNTIES					
Within 18 mi. of Hamilton County Court House	13.50	.70	3%+.60		½%
From 18 to 21 Miles	13.80	.70	3%+.60		½%
From 21 to 25 Miles	13.90	.70	3%+.60		½%
Over 25 Miles	14.05	.70	3%+.60		½%
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS. & WARREN CO. (Rem. of Co.)					
Within 11 Mi. Radius of 3rd & Main Streets, Dayton	13.28	.75	3%+1.00		.5%
Beyond 11 Mi. Radius	13.51	.75	3%+1.00		.5%

DECISION NO. OH79-2043 Cont'd

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
COSHOCTON CO., GUERNSEY, KNOX (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, and College Twps.), LICKING CO., MUSKINGUM, PERRY, TUSCARAWAS CO. (S½ incl. Twps. of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry and Bucks)	$12.10	.40	3%+1.02		.03
CUYAHOGA, GEAUGA (Twps. of Bainbridge, Chester, & Russell) & LORAIN (Columbia Twp.) COS.	14.62	.90	3%+.51		.02
GALLIA CO.	12.97	.50	3%+1.00	1.00	.04
LAWRENCE COUNTY	12.52	.50	3%+1.00	1.00	.04
LORAIN COUNTY (remainder of Co.) and MEDINA County (Twps. of Litchfield and Liverpool)	13.70	.75	3%+.80		.1%
IRONWORKERS:					
ADAMS (Part), BROWN, CLERMONT & HAMILTON Cos. & the South half of BUTLER & WARREN COS.					
Structural & Ornamental	13.08	1.00	1.45		.03
Reinforcing	12.18	1.00	2.25		.02
DEFIANCE, PAULDING, PUTNAM, VAN WERT & WILLIAMS COS.	12.35	1.00	1.70		.02
CUYAHOGA, ERIE, GEAUGA, HURON, LAKE, LORAIN, MEDINA & SUMMIT, COS., & ASHTABULA CO. (except the N/E ¼), PORTAGE CO. (except the Ravenna Ordnance Depot)	13.97	1.05	1.20		.03
PAINTERS:					
ADAMS, HIGHLAND, JACKSON, PIKE, And SCIOTO COUNTIES					
Brush	12.55		.60		
Spray	13.55		.60		
CARROLL, HOLMES, STARK, TUSCARAWAS & WAYNE COUNTIES					
Brush	11.46	.93	.60		.02
Spray	11.99	.93	.60		.02
Structural Steel	12.17	.93	.60		.02
ERIE, HANCOCK, HURON, SANDUSKY, SENECA and WYANDOT COUNTIES					
Brush	11.90	.70	.70		50.00p/yr
Structural Steel and Bridges	11.35	.70	.70		50.00p/yr

DECISION NO. OH79-2043 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PLUMBERS & STEAMFITTERS:					
ASHTABULA, CUYAHOGA, GEAUGA & LAKE COS., MEDINA CO. N. of RT. 18 & Smith Rd. & SUMMIT CO. N. of RT. 303					
Pipefitters	13.70	1.22	1.30		.10
BROWN, CLERMONT, HAMILTON & WARREN COS. (N. of Rte. #63 excluding Lebanon and S. Lebanon)					
Plumbers; Gas Fitters	$13.82	1.05	1.20		.07
BUTLER CO. (South Half) and Warren (S. of Rte. #63 including Lebanon and S. Lebanon) Cos.	14.12	.80	1.10		.02
DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MARION, PERRY, PICKAWAY, ROSS & UNION Cos. & MADISON (remainder of Co.)	13.77	.96	.82		.06
LINE CONSTRUCTION:					
ASHLAND, CRAWFORD, HURON (Twps. of Richmond, New Haven, Ripley & Greenwich), KNOX (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown & Jefferson), MARION, MORROW, RICHLAND & WYANDOT (Twps. of Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee) Cos.:					
Equipment Operators; Linemen	12.90	.60	3%+.50		½%
Line truck driver	8.00	.60	3%+.50		½%
Groundmen	7.38	.60	3%+.50		½%
BROWN, CLERMONT, & HAMILTON COS. ZONE I: Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine ops.	13.50	.70	3%+.60		½%
Groundmen	10.13	.70	3%+.60		½%

DECISION NO. OH79-2043 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION:					
ZONE II: Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine Ops.	$13.80	.70	3%+.60		½%
Groundmen	10.35	.70	3%+.60		½%
ZONE III: Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine Ops.	13.90	.70	3%+.60		½%
Groundmen	10.43	.70	3%+.60		½%
ZONE IV: Over 25 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine Ops.	14.05	.70	3%+.60		½%
Groundmen	10.54	.70	3%+.60		½%
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, WARREN (Wayne, Clear Creek, & Franklin Twps.), Cos.:					
Cable Splicers; Linemen	13.28	.75	3%+1.00		½%
Operators:					
Hole digging equipment, cranes, hydraulic lift or bucket	13.28	.75	3%+1.00		½%
Line truck with winch or pole & steel handling	9.96	.75	3%+1.00		½%
Non-specialized truck & misc. equipment	7.76	.75	3%+1.00		½%
Groundmen - Truck Driver:					
0 - 1 yr's experience	7.30	.75	3%+1.00		½%
Over 1 yr's experience	7.76	.75	3%+1.00		½%
LORAIN (Exclu. Columbia Twp.) & MEDINA (Litchfield & Liverpool Twps.) Cos.:					
Cable Splicers; Equipment ops. & Linemen	13.70	.75	3%+.80		½%
Beginning truck driver groundman; Beginning groundman	7.54	.75	3%+.80		½%

DECISION NO. OH79-2043 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
CHANGE:					
LINE CONSTRUCTION:					
Advanced truck driver (winch) groundman; Advanced groundman (over 2 yrs.' experience)	8.91	.75	3%+.80		½%
ADD:					
LINE CONSTRUCTION:					
BELMONT CO.:					
Equipment Operators; Linemen & Technicians	12.60	.50	3%+.35	1.00	½%
Cable Splicers; Welders	12.85	.50	3%+.35	1.00	½%
Groundman	10.08	.50	3%+.35	1.00	½%
FRANKLIN CO.:					
Groundmen:					
Beginning	6.17	.50	3%		½%
After 6 mos.	6.57	.50	3%		½%
After 12 mos.	7.02	.50	3%		½%
After 18 mos.	7.44	.50	3%		½%

DECISION NO. OH79-2047 - MOD #1
(44 FR 27889 - May 11, 1979)

Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Geauga, Greene, Hamilton, Highland, Lawrence, Licking, Madison, Meigs, Miami, Montgomery, Muskingum, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union & Warren Counties, Ohio	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS					
Adams, Brown, Butler (excluding Middletown & vic.), Clermont, Hamilton, Highland, & Warren (excluding Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	$14.26	.75	1.00		.02
BRICKLAYERS; CAULKERS; CLEANERS; Marble Setters; Pointers; Stonemasons; Terrazzo Workers; & Tile Setters:					
Brown, Butler, Clermont, Hamilton, Preble (Twps. of Dixon, Israel, Lanier, Somers, & Gratis), & Warren Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers & Stonemasons	13.595	.65	.45		.02
Clinton & Highland Cos.	10.00				
Fairfield & Perry Cos.	11.05	.70	1.30		.10
Licking & Muskingum Cos.	11.05	.70	1.30		.10
CARPENTERS; MILLWRIGHTS; Piledrivermen; & Soft Floor Layers:					
Brown, Butler, Clermont, Clinton, Hamilton, & Warren Cos.:					
Carpenters; Piledrivermen	13.20	.60	.65		.075
Millwrights	12.99	.60	1.10		.10
Soft Floor Layers	11.15	.75	.85		.05
Geauga Co.:					
Carpenters; Soft Floor Layers	13.87	.95	1.40		.05
Millwrights	13.60	.95	1.67		.05
Piledrivermen	13.60	.95	1.67		.05
CEMENT MASONS:					
Clinton & Highland Cos.	10.00				

DECISION NO. OH79-2047 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
Adams, Pike (S. part), & Scioto Cos.	$12.50	.50	3%+.60	1.00	.04
Brown, Clermont & Hamilton Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House	13.50	.70	3%+.60		½%
18 to 21 mi. radius from Hamilton Co. Court House	13.80	.70	3%+.60		½%
21 to 25 mi. radius from Hamilton Co. Court House	13.90	.70	3%+.60		½%
Over 25 mi. radius from Hamilton Co. Court House	14.05	.70	3%+.60		½%
Clinton, Darke, Greene, Miami, Montgomery, Preble, & Warren (Rem. of Co) Cos.:					
Electrical communications installers within 11 mi. radius of 3rd & Main Street, Dayton	13.28	.75	3%+1.00		.5%
Electrical communications installers beyond 11 mi. radius of 3rd & Main Street, Dayton	13.51	.75	3%+1.00		.5%
Gallia Co.	12.97	.50	3%+1.00	1.00	.04
Lawrence Co.	12.52	.50	3%+1.00	1.00	.04
Licking, Muskingum, & Perry Cos.	12.10	.40	3%+1.02		.03
Meigs Co.	12.45	.50	3%+.80	1.25	.04
IRONWORKERS:					
Adams (Part), Brown, Butler (S. ½ of Co.), Clermont, Hamilton & Warren (S. ½ of Co.) Cos.:					
Ornamental; Structural	13.08	1.00	1.45		.03
Reinforcing	12.18	1.00	2.25		.02
LATHERS:					
Clermont, Hamilton, Highland, & Warren (S.½) Cos.	14.12		.25		.025

DECISION NO. OH79-2047 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION:					
Brown, Clermont, & Hamilton Cos.					
Linemen up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati	$13.50	.70	3%+.60		½%
Linemen over 18 to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati	13.80	.70	3%+.60		½%
Linemen over 21 to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati	13.90	.70	3%+.60		½%
Linemen over 25 mi. radius from Hamilton Co. Court House, Cincinnati	14.05	.70	3%+.60		½%
Clinton, Darke, Greene, Miami, Montgomery, Preble & Warren (Twps. of Wayne, Clear Creek, & Franklin) Cos.:					
Linemen; Cable Splicers	13.28	.75	3%+1.00		½%
Operators:					
Hole Digging equipment; Crane; Hydraulic lift or bucket	13.28	.75	3%+1.00		½%
Line truck with winch or pole & steel handling	9.96	.75	3%+1.00		½%
Non-specialized truck & misc. equipment	7.76	.75	3%+1.00		½%
Groundman-Truck Drivers:					
0-1 yr.'s experience	7.30	.75	3%+1.00		½%
Over 1 yr.'s experience	7.76	.75	3%+1.00		½%
PAINTERS:					
Adams, Highland, Pike & Scioto Cos.:					
Brush; Paperhangers; Tapers; Wall covering, washing; Exterior buildings under 40'	11.55		.60		
Rollers; Floor Sanding; Power Tools	12.05		.60		
Sandblasting; Steamcleaning; & Burning	12.55		.60		

DECISION NO. OH79-2047 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PLASTERERS:					
Brown, Butler, Clermont, Hamilton, & Highland & Warren Cos.	$13.895		.75		.02
Clinton Co.	10.00				
PLUMBERS & STEAMFITTERS:					
Brown, Clermont, Hamilton, & Warren (N. of Rte #63 excl. Lebanon & S. Lebanon) Cos.:					
Plumbers; Gas Fitters	13.82	1.05	1.20		.07
Butler (S. ½) & Warren (S. of Rte. #63 incl. Lebanon & S. Lebanon) Cos.	14.12	.80	1.10		.02
Delaware, Fairfield, Franklin, Licking, Madison (E. of Rte. #38 not incl. city of London), Perry, Pickaway, Ross & Union Cos.	13.77	.96	.82		.06
ROOFERS:					
Brown, Butler, Clermont, Hamilton, Highland & Warren Cos.:					
Roofers	14.32		.85		.01
Pitch	15.32		.85		.01
Champaign, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Perry, Pickaway, Ross, & Union Cos.	12.80	.60	.65		.01
SHEET METAL WORKERS:					
Brown, Clermont, Hamilton, & Highland Cos.	13.835	1.06	.85		.06
Geauga Co.	13.85	.70	1.48		.06
LABORERS:					
Brown, Clermont, Clinton, & Hamilton Cos.:					
GROUP 1	11.15	.80	.80		.10
GROUP 2	11.25	.80	.80		.10
GROUP 3	11.30	.80	.80		.10
GROUP 4	11.35	.80	.80		.10
GROUP 5	11.50	.80	.80		.10
GROUP 6	11.65	.80	.80		.10
GROUP 7	11.90	.80	.80		.10
GROUP 8	10.62	.80	.80		.10
GROUP 9	10.77	.80	.80		.10

DECISION NO. OH79-2047 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS:					
Butler & Warren Cos.:					
Common Laborers	$10.44	.80	.80		.10
Asphalt Rakers; Tampers; Smoothers Hand Air Pump; Hand Air Tamper Chisel; Vibrator Power Tamper Op.	10.54	.80	.80		.10
Gunnite Operators; Sandblasters; Concrete Pumps & Hose Men	10.79	.80	.80		.10
Mason Tenders; Mortar Mixers; & Scaffold Builders	10.77	.80	.80		.10
Muskingum & Perry Cos.:					
Planters (landscape); Tree Trimmers; Plumbers' Helpers; Carpenters' Tenders; Building & Construction Laborers	9.32	.80	.80		.10
Air & Machine driven tool ops.; Asphalt Plant aggremeter ops.; Asphalt Plant Mixer Men; Brick Slingers; Car Pushers & Tunnel Laborers; Caulkers; Yarners & Wrenchmen; Cement Handlers; Concrete Puddlers (behind mixers); Curb Cutters & Setters; Hand Spikers ops.; Jackhammer ops.; Muckers; Mason Tenders; Mortar Mixers; Pipe Layers; Proportioning Plant Ops.; Pump Men (under 4"); Road form setters; Sewer Bottom Men; Stone Mason Tenders; Sheeting & Shoring Men; Vibrator op.; Plasterers' Tenders; Cutting with Burning Torches; Dumpmen (Batch Trucks)	9.42	.80	.80		.10
Brick Droppers; Lock Tenders; Powdermen or Blasters	9.57	.80	.80		.10
ADD:					
LINE CONSTRUCTION:					
Franklin Co.:					
Groundmen:					
Beginning	$ 6.17	.50	3%		½%
After 6 mos.	6.57	.50	3%		½%
After 12 mos.	7.02	.50	3%		½%
After 18 mos.	7.44	.50	3%		½%

MODIFICATIONS P. 19

DECISION NO. OH79-2048 - MOD #1
(44 FR 27901 - May 11, 1979)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark & Summit Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS; STONEMASONS:					
Lorain Co.	$13.60		.80	a	.01
Portage & Summit Cos.:					
Commercial Construction	12.91	.88	.80		.02
Residential Construction	10.91	.88	.80		.02
CARPENTERS; MILLWRIGHTS; Piledrivermen; Soft Floor Layers					
Ashtabula, Cuyahoga, & Lake Cos					
Carpenters; Soft Floor Layers	13.87	.95	1.40		.05
Millwrights	13.60	.95	1.67		.05
Piledrivermen	13.60	.95	1.67		.05
Portage & Summit Cos.:					
Millwrights	13.60	.95	1.67		.05
Piledrivermen	13.60	.95	1.67		.05
Lorain Co.:					
Carpenters; Soft Floor Layers	12.52	1.00	1.00	b	.08
Millwrights; Piledrivermen	13.60	.95	1.67		.05
CEMENT MASONS:					
Cuyahoga Co.	15.82				.02
Lorain Co.	13.60		.80	a	.01
ELECTRICIANS:					
Lorain (Except Columbia Twp.):					
Commercial Construction	13.70	.75	3%+.80		.1%
LATHERS:					
Portage, & Stark & Summit (So. part of Co.) Cos.	13.56	.88	.50		.01
LINE CONSTRUCTION:					
Lorain (Rem. of Co.) Co.:					
Cable Splicers; Equipment ops.; & Linemen	13.70	.75	3%+.80		½%
MARBLE SETTERS:					
Lorain Co.	13.60		.80	a	.01
Portage & Summit Cos.	12.02	.81	.60		
MARBLE SETTERS' FINISHERS:					
Portage & Summit Cos.	11.52	.81	.60		

MODIFICATIONS P. 20

DECISION NO. OH79-2048 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PAINTERS:					
Stark Co.: (Commercial)					
Brush; Roller	$11.16	.93	.60		.02
Paperhangers	11.26	.93	.60		.02
Drywall	11.56	.93	.60		.02
Spray	11.66	.93	.60		.02
Drywall with machines	11.91	.93	.60		.02
Stark Co.: (Residential)					
Brush; Roller	10.72	.93	.60		.02
Paperhangers	10.82	.93	.60		.02
Spray	11.22	.93	.60		.02
Drywall	11.12	.93	.60		.02
Drywall with machines	11.47	.93	.60		.02
PLASTERERS:					
Lorain Co.	13.60		.80	a	.01
SHEET METAL WORKERS:					
Ashtabula, Cuyahoga, & Lake Cos	13.85	.70	1.48		.06
TERRAZZO WORKERS:					
Lorain Co.	13.60		.80	a	.01
Portage & Summit Cos.	12.02	.81	.60		
TERRAZZO WORKERS' FINISHERS:					
Portage & Summit Cos.	11.52	.81	.60		
TILE SETTERS:					
Lorain Co.	13.60		.80	a	.01
Portage & Summit Cos.	12.02	.81	.60		
TILE SETTERS' FINISHERS:					
Portage & Summit Cos.	11.52	.81	.60		

DECISION NO. OH79-2049 - MOD #1
(44 FR 27906 - May 11, 1979)
Ashland, Carroll, Columbiana, Coshocton, Holmes, Medina, Tuscarawas & Wayne Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS; MARBLE SETTERS; Stonemasons; Terrazzo Workers; and Tile Setters:					
Coshocton County	$11.05	.70	1.30		.10
Medina (Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon) & Wayne (Chippewa & Milton Twps.) Cos.:					
Bricklayers; Stonemasons Marble Setters; Terrazzo Workers; & Tile Setters	12.91	.88	.80		.02
	12.02	.81	.60		
Medina (Twps. of Litchfield, Chatham, Harrisville, Homer & Spencer) Co.	13.60		.80	a	.01
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Ashland Co.:					
Carpenters; Soft Floor Layers	12.52	1.00	1.00	b	.08
Millwrights	13.60	.95	1.67		.05
Piledrivermen	13.60	.95	1.67		.05
Medina Co.:					
Millwrights	13.60	.95	1.67		.05
Piledrivermen	13.60	.95	1.67		.05
CEMENT MASONS; PLASTERERS:					
Coshocton Co.:					
Cement Masons	11.05	.70	1.30		.10
Medina Co. (Rem. of Co.):					
Cement Masons; Plasterers	13.60		.80	a	.01
ELECTRICIANS:					
Ashland Co.	12.90	.60	3%+.50		.1%
Coshocton & Tuscarawas (Auburn York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry & Bucks Twps.) Cos.	12.10	.40	3%+1.02		.03
Medina (Twps. of Litchfield & Liverpool) Co.	13.70	.75	3%+.80		.1%

DECISION NO. OH79-2049 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Medina (Rem. of Co.) & Wayne (Twps. of Milton & Chippewa)	$11.52	.81	.60		
PAINTERS:					
Carroll, Holmes, Tuscarawas, & Wayne Cos.:					
Brush; Roller	11.16	.93	.60		.02
Paperhanger	11.26	.93	.60		.02
Spray	11.66	.93	.60		.02
Drywall	11.56	.93	.60		.02
Drywall with machines	11.91	.93	.60		.02
LINE CONSTRUCTION:					
Ashland Co.:					
Equipment operators; Linemen	12.90	.60	3%+.50		½%
Line truck drivers	8.00	.60	3%+.50		½%
Groundman	7.38	.60	3%+.50		½%
Medina (NW part) County:					
Linemen; Cable splicers; Equipment Operators	13.70	.75	3%+.80		½%
Beginning truck driver groundman; Beginning groundman	7.54	.75	3%+.80		½%
Advanced truck driver (winch) groundman; Groundman (over 2 years' experience)	8.91	.75	3%+.80		½%
OMIT:					
LATHERS:					
Wayne Co.	13.56	.88	.50		.01
ADD:					
LATHERS:					
Columbiana, Coshocton (NE ⅓), Medina & Wayne (NW ⅓) Cos.	13.56	.88	.50		.01

DECISION NO. OH79-2050 - MOD #1
(44 FR 27913 - May 11, 1979)
Allen, Auglaize, Crawford, Defiance, Erie, Hancock, Hardin, Henry, Huron, Knox, Logan, Marion, Mercer, Morrow, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert, Williams, Wood, & Wyandot Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS; MARBLE SETTERS; Stonemasons; Terrazzo Workers; & Tile Setters:					
Erie, Hancock, Huron, Ottawa, Sandusky, Seneca, Wood, (Perry & Bloom Twps.), Wyandot (Tymochtee Crawford, Ridge, & Richland Twps.), & Island of Lake Erie North of Sandusky	$12.44	.70	1.10		.01
Knox Co.	11.05	.70	1.30		.10
CARPENTERS:					
Crawford, Erie, Hancock (Fostoria), Huron, Ottawa, Richland, Sandusky, Seneca, & Wood (Fostoria) Cos.	12.52	1.00	1.00	a	.08
CEMENT MASONS:					
Erie, Huron, Ottawa, Sandusky, Seneca, Wood (Perry & Bloom Twps.), & Wyandot (Twps. of Tymochtee, Crawford, Ridge, & Richland), & Island of Lake Erie North of Sandusky	12.44	.70	1.10		.01
ELECTRICIANS:					
Crawford, Huron (Twps. of Richmond, New Haven, Ripley & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown & Jefferson), Marion, Morrow, Richland & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt & Antrim) Cos.	12.90	.60	3%+.50		.1%
Knox (Twps. of Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant & College) Co.	12.10	.40	3%+1.02		.03

DECISION NO. OH79-2050 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
MILLWRIGHTS:					
Crawford, Huron & Richland Cos.	$12.60	.95	1.67		.05
Erie (E. of B & O RR Tracks) Co	13.60	.95	1.67		.05
PAINTERS:					
Erie, Hancock, Huron, Sandusky, Seneca, & Wyandot Cos.:					
Old Commercial					
Brush; Roller; Wash; Clean	10.00	.70	.70		$50.00p/yr
Drywall; Paperhanging; 30' to 60'	10.25	.70	.70		50.00p/yr
60' or over	11.10	.70	.70		50.00p/yr
Sandblasting; Spray; Swing Stage; Boatswain Chair; Needle Beam	10.50	.70	.70		50.00p/yr
Hazardous work & Material; Stacks, Tanks, Towers over 40' in ht.	11.00	.70	.70		50.00p/yr
New Commercial					
Brush; Roller; Wash; Clean	10.90	.70	.70		50.00p/yr
Drywall; Paperhanging	11.15	.70	.70		50.00p/yr
Structural Steel; 30' to 60'	11.35	.70	.70		50.00p/yr
60' & over	11.75	.70	.70		50.00p/yr
Sandblasting; Spray; Swing Stage; Needlebeam; Boatswain Chair	11.40	.70	.70		50.00p/yr
Hazardous Work & Material; Stacks, Tanks, & Towers over 40' in ht.	11.90	.70	.70		50.00p/yr
PILEDRIVERMEN:					
Crawford, Huron & Richland Cos.	13.60	.95	1.67		.05
Erie (E. of B & O RR Tracks)	13.60	.95	1.67		.05
PLASTERERS:					
Erie, Huron, Ottawa, Sandusky, Seneca, Wood (Perry & Bloom Twps.), Wyandot (Tymochtee, Crawford, Ridge, & Richland Twps.), & Island of Lake Erie N. of Sandusky	12.44	.70	1.10		.01
PLUMBERS; STEAMFITTERS:					
Marion Co.	13.77	.96	.82		.06

DECISION NO. OH79-2050 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ROOFERS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	$12.80	.60	.65		.01
LINE CONSTRUCTION:					
Crawford, Huron (Twps. of Richmond, New Haven, Ripley & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown & Jefferson), Marion, Morrow, Richland, & Wyandot Twps. of Sycamore, Crane, Eden, Pitt, & Antrim) Cos.:					
Linemen; Equipment Operators	12.90	.60	3%+.50		½%
Line Truck Drivers	8.00	.60	3%+.50		½%
Groundman	7.38	.60	3%+.50		½%

DECISION No. PA78-3013 - Mod. # 10
(43 FR 16097 - April 14, 1978)
Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pa.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers					
Zone 3	$13.00	1.86	1.01		.15
Roofers					
Zone 1	11.39	.60	.30		.05
Plumbers & Steamfitters:					
Zone 2	12.82	.75	1.05		.06

DECISION No. PA78-3066 - Mod. # 7
(43 FR 43228 - September 22, 1978)
Columbia, Montour, and Snyder Counties, Pennsylvania

Change:					
Ironworkers:					
Zone 1	12.105	1.14	1.35		.03

DECISION No. PA78-3071 - Mod. # 2
(43 FR 46477 - October 6, 1978)
Erie County, Pennsylvania

Change:					
Asbestos workers	12.89	.55	1.00		.04
Ironworkers:					
Structural	13.00	1.86	1.01		.15
Ornamental	13.00	1.86	1.01		.15
Reinforcing	13.00	1.86	1.01		.15
Painters:					
Brush	10.00	.60	.50		.02
Structural steel	10.75	.60	.50		.02
Spray	10.50	.60	.50		.02
Plumbers	12.82	.75	1.05		.06
Steamfitters	12.82	.75	1.05		.06
Roofers	11.39	.60	.30		.05

CLASSIFICATION DEFINITIONS

LABORERS

GROUP I - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)

GROUP II - Plumber laborers (conduit pipe, sewer work, drain tile and duck lines, digging and backfilling), power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; goergia buggies (self-propelled) fork lift; hoseman; insulation man

GROUP III - Fork lift (masonry); brick tender; plaster tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 3 - Henry and Johnson Counties, Missouri					
GROUP I	7.225	.60	.60	.50	.10
GROUP II	7.325	.60	.60	.50	.10
GROUP III	7.55	.60	.60	.50	.10

CLASSIFICATION DEFINITIONS

LABORERS:

GROUP I - Carpenter tenders, track men, wreckers (alterations or entire projects); reinforcing rod carriers; flagmen; signal men; all other general laborers

GROUP II - Plumber laborers; stonemason tenders; air tool operators, sewer work, water lines, conduit pipe, drain tile and duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; Jackhammer & chipping hammer operators; material batch hopper man; scaleman; spreader or screed man on asphalt machine; chain or concrete sawman; brush feeders on pulverizers; swinging scaffold; cement handlers (bulk or sack); laser beam man

GROUP III - Plaster tenders; hod carriers; brick tender; cutting torch & burner men; asphalt rakers; barco tamper; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzlemen; head pipe layer on sewer work; men working in tunnels; head form setters & stringline men; hot tar applicator.

DECISION NO. MO79-4065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: Site preparation and grading, Heavy and Highway Construction Zone 4 - Johnson and Wyandotte Counties, Kansas					
GROUP I	9.65	.60	.60	.75	.10
GROUP II	9.80	.60	.60	.75	.10
GROUP III	9.95	.60	.60	.75	.10
GROUP IV	10.15	.60	.60	.75	.10
GROUP V	10.45	.60	.60	.75	.10

CLASSIFICATION DEFINITIONS

LABORERS:

GROUP I - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagman; loading trucks under bins, hoppers and conveyors track men and all other general laborers

GROUP II - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skip-man on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connectin with sewer, water, gas gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only)

GROUP III - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used.

GROUP IV - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operator; manhole builders helpers and mortar menon brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels

GROUP V - Manhole builder (brick or block); dynamite and powder man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	12.55	.40			
LINE CONSTRUCTION:					
Zone 1 - Cass, Clay, Jackson, Platte and Ray Counties, Missouri; Wyandotte and remainder of Johnson Counties, Kansas					
Linemen	13.26	.45	3%+.15		½%
Linemen operator	12.34	.45	3%+.15		½%
Groundman	8.74	.45	3%+.15		½%
Groundman (1st 6 mos)	7.48	.45	3%+.15		½%
Zone 2 - Western 3/4 of Johnson County, Kansas					
Linemen	11.07	.45	3%		½%
Cable splicers	11.62	.45	3%		½%
Groundman, over 1 year	6.89	.45	3%		½%
Groundman, 1st year	5.22	.45	3%		½%
Powderman	9.18	.45	3%		½%
Line truck and equipment operators:					
1st year	7.05	.45	3%		½%
2nd year	8.43	.45	3%		½%
Over 2 years' experience	9.18	.45	3%		½%
MARBLE AND TILE SETTERS	12.65	5%	4.25%		
MARBLE AND TILE SETTERS' HELPERS	10.85				
PAINTERS:					
Zone 1 - Cass, Clay, Henry, Jackson, Johnson (excluding Whiteman Air Force Base), Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Brush and tapers	11.53	.55	.70		.08
Spray	12.53	.55	.70		.08
Zone 2 - Johnson Co., Missouri (Whiteman Air Force Base only)					
Brush	10.75				
Spray	11.75				
PLASTERERS:					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas	13.10				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 2 - Henry and Johnson Counties, Missouri	9.00				
PIPEFITTERS	12.89	.67	1.50		.10
PLUMBERS	13.82	.97	1.15		.12
POWER EQUIPMENT OPERATORS:					
Building Construction					
GROUP I	12.20	.75	1.00	.75	.10
GROUP II	11.85	.75	1.00	.75	.10
GROUP III	9.45	.75	1.00	.75	.10
GROUP IV	9.95	.75	1.00	.75	.10
GROUP V	10.20	.75	1.00	.75	.10
GROUP VI	12.45	.75	1.00	.75	.10
GROUP VII	12.70	.75	1.00	.75	.10
GROUP VIII	12.10	.75	1.00	.75	.10
GROUP IX	13.20	.75	1.00	.75	.10
GROUP X	12.70	.75	1.00	.75	.10
GROUP XI					
(a)	11.95	.75	1.00	.75	.10
(b)	11.70	.75	1.00	.75	.10
(c)	9.70	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe, all types; barber-greene loader (similar type); blade-power, all types; boats-power; boilers (2); boring machines (all types); cableways; cherry pickers (all types); chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders - all types; mechanic and welder; mucking machine; orange peels; pumps - material all types; push cats; scoops all types; self-propelled rotary drill; shovel, power side boom; skimmer scoop; testhole machine; throttle man

GROUP II - Boilers (1); brooms - power operated (all types); chip spreader (front man); clef plane operator; compressors (1) 150' or over; concrete saws, self-propelled); crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser hoist; hoist, endless chain - power operated; hopper - power operated; hydra hammer (all types); lad-a-vator - similar type; rollers - all types; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 105 ft. or over not more than 20' apart; compressors-tandem (any sizes); compressors single, truck mounted; elevator; finishing machine

GROUP III - Oiler

GROUP IV - Fork lift-masonry; oiler drivers - all types

GROUP V - Tractors (except when hauling material) less than 50 h.p.; "A" frame trucks; fork lift-all types & sizes (except masonry); mixers (with side loaders); pumps (with well points) dewatering systems, test or pressure pumps

GROUP VI - Clamshells, 80 ft. of boom or over (including jib); crane or rigs 80 ft. of boom or over (including jib); draglines, 80 ft. of boom or over (including jib); piledrivers, 80 ft. of boom or over (including jib

GROUP VII - Crane or rigs, over 200 ft. of boom

GROUP VIII - Hoists each additional drum over 1 drum

GROUP IX - Master mechanic

GROUP X - Crane - tower or climbing

GROUP XI - Ready mixed concrete plants;
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Contd:) Site preparation and grading, Heavy and Highway Construction Zone 1 - Johnson and Wyandotte Counties, Kansas					
GROUP I	11.90	.75	1.00	.75	.10
GROUP II	11.65	.75	1.00	.75	.10
GROUP III	10.95	.75	1.00	.75	.10
GROUP IV	9.45	.75	1.00	.75	.10
GROUP V	9.95	.75	1.00	.75	.10
GROUP VI	12.15	.75	1.00	.75	.10
GROUP VII	11.90	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS
GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders, field or shop; maintenance operator; mucking

DECISION NO. M079-4065

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS - GROUP I (CONT'd)
machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2

Group II - A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p.
Group III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader oprator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; roller opr., other than dredge; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator -1
Group IV - Mechanic's helpers; oilers
Group V - Oiler driver, all types
Group VI - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib);, shovels & backhoes, 3 yds. capacity or over
Group VII - Hoists (each additional drum over 1 drum)

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	11.60	.75	.75		.14
SHEET METAL WORKERS	12.355	.75	.825		.08
SOFT FLOOR LAYERS	9.21	.50	.75	10%	1%
SPRINKLER FITTERS	13.28	.75	1.05		.06
SPRINKLER FITTERS (Henry, Johnson and Lafayette Counties, Missouri)	11.93	.75	1.05		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	12.31	5%	4.25%		
TRUCK DRIVERS:					
Building Construction:					
GROUP I	10.925	.75	1.00		
GROUP II	10.975	.75	1.00		
GROUP III	11.05	.75	1.00		
GROUP IV	11.175	.75	1.00		
GROUP V	11.075	.75	1.00		
GROUP VI	11.275	.75	1.00		
GROUP VII	11.125	.75	1.00		
GROUP VIII	11.025	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS
Group I - Warehousemen and stock man

Group II - Flat beds; pick-ups; dump trucks, under 10 yds.

Group III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers

Group IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumpter, euclid, etc.); double bottom units (20 tons capacity and over)

Group V - Distributor truck drivers and oprators; oilers, greasers and mechanics' helpers

GROUP VI - Mechanics

GROUP VII - Transit mix, 5 yds. and over

GROUP VIII - Transit mix, under 5 yds.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Site preparation and grading, Heavy and Highway Construction					
Zone 1 - Johnson and Wyandotte Counties, Kansas					
GROUP I	10.24	.75	1.00	.75	
GROUP II	10.44	.75	1.00	.75	
GROUP III	10.75	.75	1.00	.75	
GROUP IV	10.90	.75	1.00	.75	
GROUP V	10.015	.75	1.00	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS
Group I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle
Group II - Material trucks, tandem; two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers; single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedade; euclids and other similar excavating equipment
Group III - A-frame, lowboy, and boom truck driver
Group IV - Mechanics and welders
Group V - Mechanics' helpers, oilers and greasers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO. MI79-2020
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. MI78-2054, dated June 2, 1978 in 43 FR 24200
DESCRIPTION OF WORK: Highway, Bridge, Airport and Sewer Construction Projects exclusive of Buildings

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
ZONE 1					
MACOMB, MONROE, OAKLAND, ST. CLAIR & WAYNE COUNTIES: in LIVINGSTON COUNTY The Townships of Brighton, Deerfield, Genoa, Hartland, Osceola & Tyrone, in SANILAC COUNTY That part East of a line projected North & continuing the East Lapeer & West St. Clair county lines to South Huron County line	$12.78	1.00	11%	11%	.04
ZONE 2E					
ARENAC, BAY, CLARE, CLINTON, GENESSE, GLADWIN, GRATIOT HURON, INGHAM, ISABELLA, IOSCO, JACKSON, LAPEER, LENAWEE, MIDLAND, OGEMAW, SAGINAW, SHIAWASSEE, TUSCOLA & WASHTENAW COUNTIES; the Remainder of LIVINGSTON & SANILAC COUNTIES; in EATON COUNTY, All but the Townships of Bellevue, Kakamo, Vermontville & Walton; in IONIA COUNTY, the Townships of Danby, Orange Portland & Sevewa	10.98	.60	.70		.01
ZONE 2W					
ALLEGAN, BARRY, BRANCH, CALHOUN CASS, HILLSDALE, KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MESOCTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OTTAWA, ST. JOSEPH & VAN BUREN COUNTIES; the Remainder of EATON & IONIA COUNTIES; in BERRIEN COUNTY, all but the Townships of Chicaming, New Buffalo & 3 Oaks; in BENZIE COUNTY, the Townships of Blaine, Colfax, Crystal, Lake Gimore, Joyfield & Weldon	10.85	.60	.70		.01

DECISION NO. MI79-2020

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D)					
ZONE 3LP					
ALCONA, ALPENA, ANTRIM, CHARLEVOIX, CHEBOYGAN, CRAWFORD, EMMET, GRAND TRAVERSE, KALKASKA, LEELANAU, MISSAUKEE, MONTMORENCY, OSEOLA, OSCADA, OTSEGO, PRESQUE, ISLE ROSCOMMON & WEXFORD COUNTIES & The remainder of BENZIE COUNTY	$10.74	.60	.70		.01
ZONE 3UP					
ALGER, BARAGA, CHIPPEWA, DELTA DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MONOMINEE, ONTONAGON & SCHOOLCRAFT COUNTIES	10.69	.60	.70		.01
ZONE 4					
THE REMAINDER OF BERRIEN COUNTY	13.43	.75	.82		.05
CEMENT MASONS:					
ZONE 1					
GENESEE, LIVINGSTON, MACOMB, MONROE, OAKLAND, SAGINAW, WASHTENAW & WAYNE COUNTIES-Cement masonry related to Highway, Road & Street Construction	12.27	.70	.50		.02
ZONE 2 - Remainder of State	11.92	.70	.50		.02
PAINTERS:					
KENT, MONTCALM, MECOSTA & the West ½ of IONIA COUNTIES only:					
Brush	8.55	.50	.25		.02
Bridges over Highway or Railroads	8.80	.50	.25		.02
Steam Cleaning/Sandblasting; Bridge Work over Rivers or Lakes, Spray & Pressure Roller	9.05	.50	.25		.02

DECISION NO. MI79-2020

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Structural & Reinforcing					
ZONE 1					
Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon Schoolcraft Counties	$11.05	.70	1.00	1.70	.04
ZONE 2					
Emmet, Charlevoix, Antrim, Leelanau, Benzie, Grand Traverse, Kalkaska, Mason, Manistee, Wexford, Missaukee, Lake, Osceola, Oceana, Mecosta, Newaygo, Muskegon, Kent, Montcalm, Ottawa, Ionia, Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun, St. Joseph, Branch & Hillsdale Counties	11.86	6%	8%		.03
ZONE 3					
Remainder of State					
Structural	11.90	8%	15%	18%	.09
Reinforcing	10.97	1.23	15%	15%	.07

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LABORERS: HIGHWAY CONSTRUCTION	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 2A	Basic Hourly Rates ZONE 3	Basic Hourly Rates ZONE 3A
CLASS A	$10.33	9.71	9.40	9.27	9.09
CLASS B	10.07	9.42	9.14	8.91	8.73
CLASS B-1	9.91	9.54	9.23	9.24	9.06
CLASS B-2	9.69	9.32	9.01	9.03	8.85
CLASS C	9.83	9.23	8.93	8.85	8.67
CLASS D	9.69	9.04	8.74	8.61	8.43
CLASS E	9.60	8.98	8.67	8.49	8.31
CLASS F	9.57	8.87	8.57	8.43	8.25
CLASS G	9.57	8.87	8.57	8.43	8.24
CLASS H	6.57	5.87	5.57	5.43	5.24
$.65 Health & Welfare .35 Pension .65 Vacation and Holiday .04 Apprentice Training					

CLASS A - Line form setter for curb or pavement
CLASS B - Pipe Layers, oxygen gun
CLASS B-1 - Asphalt Raker
CLASS B-2 - Asphalt Tamper and Asphalt Raker Helper
CLASS C - Tunnel miner (highway work only), finishers tenders, guard rail builder, highway and median barrier installer, fence erector, bottom man, powderman, wagon drill and air track operators, curb and side rail setters' helpers, diamond and core drills.
CLASS D - Mixer operator (less than 4 sacks), air or electric tool operator (jack hammer, etc.) spreader, boxman (asphalt, stone, gravel, etc.), concrete paddler power chain saw operator, paving batch truck dumper, asphalt screed chacker, grade checker and tunnel mucker (highway work only), concrete saw (under 40 h.p.) and dry pack machine
CLASS E - Cement handler or dockman, topman, asphalt dust handler
CLASS F - Asphalt shoveler, or loader, asphalt palt misc., axe man, batch bin (no power), burlap man, carpenters, helpers, subgrade labor (hand tools), yard man, guard rail builder's helper, highway and median barrier installer's helper, fence erector helper, dumper (wagon, truck, etc.), jetting labor, joint filling labor, misc. unskilled labor, powder monkey (helpers) sprinkler labor, form setting labor, pavement reinforcing, handling and placing (e.g. wire mesh, steel mats, dowell boards, etc.), masons or bricklayer tender on manholes, headwall, etc.
CLASS G - Pavement Markers
CLASS H - Cone Setters

ZONE DEFINITIONS
ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw & Wayne Counties
ZONE 2 - Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, St. Clair, Clinton, Eaton, Gratiot, Hillsdale, Huron, Ingham, Jackson, Kalamazoo, Lapeer, Lenawee, Livingston, Midland, Muskegon, St. Joseph, Saginaw, Sanilac, Shiawassee, Tuscola, & Van Buren
ZONE 2A - Ionia, Kent Montcalm, & Ottawa Counties
ZONE 3 - Alcona, Alger, Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Geogebic Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweenaw, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, Menominee, Missauke, Montmorency, Newaygo, Oceana, Ogemaw, Ontonagon, Oscoda, Otesego, Presque Isle, Roscommon, Schoolcraft, and Wexford Counties
ZONE 3A - Mecosta and Osceola Counties

DECISION NO. MI79-2020 SW LAB OC

LABORERS: OPEN CUT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - WAYNE, OAKLAND & MACOMB COUNTIES					
CLASS 1	$ 8.81	.90	.75	.85	.04
CLASS 2	8.89	.90	.75	.85	.04
CLASS 3	8.94	.90	.75	.85	.04
CLASS 4	8.99	.90	.75	.85	.04
CLASS 5	9.04	.90	.75	.85	.04
ZONE 2 - WASHTENAW & SOUTH EAST PART OF LIVINGSTON COUNTY					
CLASS 1	8.40	.65	.35	.55	.04
CLASS 2	8.48	.65	.35	.55	.04
CLASS 3	8.53	.65	.35	.55	.04
CLASS 4	8.58	.65	.35	.55	.04
CLASS 5	8.63	.65	.35	.55	.04
ZONE 3 - SANILAC, ST. CLAIR & MONROE COUNTIES					
CLASS 1	8.40	.65	.35	.55	.04
CLASS 2	8.50	.65	.35	.55	.04
CLASS 3	8.60	.65	.35	.55	.04
CLASS 4	8.65	.65	.35	.55	.04
CLASS 5	8.75	.65	.35	.55	.04
ZONE 4 - JACKSON, HILLSDALE & LENAWEE COUNTIES					
CLASS 1	8.10	.65	.35	.55	.04
CLASS 2	8.20	.65	.35	.55	.04
CLASS 3	8.30	.65	.35	.55	.04
CLASS 4	8.25	.65	.35	.55	.04
CLASS 5	8.45	.65	.35	.55	.04
ZONE 5 - CLINTON, EATON, INGHAM, WESTERN PART OF LIVINGSTON & CITY OR PORTLAND IN IONIA COUNTY					
CLASS 1	8.40	.65	.35	.55	.04
CLASS 2	8.50	.65	.35	.55	.04
CLASS 3	8.60	.65	.35	.55	.04
CLASS 4	8.65	.65	.35	.55	.04
CLASS 5	8.75	.65	.35	.55	.04

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LABORERS: OPEN CUT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 6 - GENESEE, LAPEER & SHIAWASSEE COUNTIES					
CLASS 1	$ 8.10	.65	.65	.55	.04
CLASS 2	8.20	.65	.65	.55	.04
CLASS 3	8.30	.65	.65	.55	.04
CLASS 4	8.35	.65	.65	.55	.04
CLASS 5	8.45	.65	.65	.55	.04
ZONE 7 - SAGINAW, BAY, MIDLAND GRATIOT, TUSCOLA, ISABELLA, HURON, CLARE, GLADWIN, ARENAC, ROSCOMMON & OGEMAW COUNTIES					
CLASS 1	8.35	.65	.35	.55	.04
CLASS 2	8.45	.65	.35	.55	.04
CLASS 3	8.55	.65	.35	.55	.04
CLASS 4	8.60	.65	.35	.55	.04
CLASS 5	8.70	.65	.35	.55	.04
ZONE 8 - BARRY, CALHOUN, BRANCH, ALLEGAN, KALAMAZOO, ST. JOSEPH, VAN BUREN, BERRIEN, CASS, MUSKEGON, OCEANA, NEWAYGO, S.W. PART OF EATON TO CITY OF OLIVET & EASTERN PART OF LAKE COUNTY					
CLASS 1	7.35	.65	.35	.55	.04
CLASS 2	7.45	.65	.35	.55	.04
CLASS 3	7.55	.65	.35	.55	.04
CLASS 4	7.60	.65	.35	.55	.04
CLASS 5	7.70	.65	.35	.55	.04
ZONE 9 - OSCELA, MECOSTA, KENT, MONTCALM, OTTAWA, IONIA (EXCEPT CITY OF PORTLAND) COUNTIES					
CLASS 1	6.80	.65	.35	.55	.04
CLASS 2	6.90	.65	.35	.55	.04
CLASS 3	7.00	.65	.35	.55	.04
CLASS 4	7.05	.65	.35	.55	.04
CLASS 5	7.15	.65	.35	.55	.04

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SW LAB OC

LABORERS: OPEN CUT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 10 - MANISTEE, MASON, EMMET, CHEBOYGAN, ANTRIM, CHARLEVOIX, OTESGO, LEELANAU, BENZIE, GRAND TRAVERSE, KALKASKA, CRAWFORD, WEXFORD, MISSAUKEE, PRESQUE ISLE, MONTMORENCY, ALPENA, OSCODA, ALCONA & IOSCO COUNTIES					
CLASS 1	$ 6.45	.65	.35	.55	.04
CLASS 2	6.55	.65	.35	.55	.04
CLASS 3	6.65	.65	.35	.55	.04
CLASS 4	6.70	.65	.35	.55	.04
CLASS 5	6.80	.65	.35	.55	.04
ZONE 11 - ENTIRE UPPER PENINSULA					
CLASS 1	7.47	.65	.35	.55	.04
CLASS 2	7.57	.65	.35	.55	.04
CLASS 3	7.67	.65	.35	.55	.04
CLASS 4	7.72	.65	.35	.55	.04
CLASS 5	7.77	.65	.35	.55	.04

LABORERS: OPEN CUT CONSTRUCTION

CLASS 1 - Construction Laborer
CLASS 2 - Mortar & Material Mixers, Concrete form man, Signal Man, Well Point Man, Manhole, Headwall & Catch Basin builder, Guard Rail Builders & Fence Erectors
CLASS 3 - Air, Gasoline, Electric Tool Opr., Vibrator Opers., Driller, Pumpman Tar Kettle Opr., Bracers, Rodder, reinforced Steel or mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench or Excavating Grade Man
CLASS 5 - Pipelayers (inclu. crock, metal pipe, multi-plate or other couduits)

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SW LAB TSC

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - WAYNE, OAKLAND & MACOMB COUNTIES					
CLASS 1	$ 8.81	.90	.75	.85	.04
CLASS 2	8.89	.90	.75	.85	.04
CLASS 3	8.94	.90	.75	.85	.04
CLASS 4	9.09	.90	.75	.85	.04
CLASS 5	9.29	.90	.75	.85	.04
CLASS 6	9.54	.90	.75	.85	.04
ZONE 2 - ALL COUNTIES IN THE UPPER & LOWER PENINSULA OF MICHIGAN EXCLUDING WAYNE, OAKLAND, MACOMB, GENESEE, SHIAWASSEE & LAPEER COUNTIES					
CLASS 1	9.03	.65	.35	.55	.04
CLASS 2	9.11	.65	.35	.55	.04
CLASS 3	9.16	.65	.35	.55	.04
CLASS 4	9.31	.65	.35	.55	.04
CLASS 5	9.51	.65	.35	.55	.04
CLASS 6	9.76	.65	.35	.55	.04

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LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3 - GENESEE, SHIAWASSEE & LAPEER COUNTIES					
CLASS 1	$ 8.73	.65	.65	.55	.04
CLASS 2	8.81	.65	.65	.55	.04
CLASS 3	8.86	.65	.65	.55	.04
CLASS 4	9.01	.65	.65	.55	.04
CLASS 5	9.21	.65	.65	.55	.04
CLASS 6	9.46	.65	.65	.55	.04

CLASS 1 - Tunnel, Shaft & Caisson Laborer, Dump Man, Shanty Man, Hog House Tender, Testing Man (on gas)

CLASS 2 - Manhole, Headwall, Catch Basin Builder, bricklayer tender, Mortar Man, Material Mixers, Fence Erector & Guard rail Builder

CLASS 3 - Air Tool Operator (Jackhammerman, brush Hammerman, & Grinding Man) Forst Bottom Man, Second Bottom Man, Gage Tender, Car Pusher, Carrier Man, Concrete Man, Concreete form Man, Concrete Repair Man, Cement Invert Laborer, Cement Finisher, Concrete Shoveler, Conveyor Man, Floor Man, Gasoline & Electric Tool Operator, Gunnite Operator, Pump Man, Outside Lock tender, Scaffold Man, Top Signal Man, Switch Man, Track Man, Tugger Man, Utility Man, Winch Operator Concrete Saw Operator Under 40 H.P.)

CLASS 4 - Tunnel, Shaft & Caisson Mucker, Bracer, Man, Under plate Man, Long Haul Dinky driver & Well Point Man

CLASS 5 - Tunnel, Shaft & Caisson Miner, drill Runner, Keyboard Operator, Power Knife Operator, reinforced Steel or Mesh Man (Waire Mesh, sTeel Mats, Dowell Bars, ETc.)

CLASS 6 - dynamite Man & Powederman

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HIGHWAY CONSTRUCTION: PLANTING OF TREES & SHRUBS ONLY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE LABORERS:					
ZONE 1 Washtenaw, Genesee, Lapeer, Shiawassee, Oakland, Wayne, Monroe, Livingston, St. Clair & Macomb Counties					
ZONE 2 Remainder of Counties					
CLASS A Landscape Specialist, including air, gas, diesel, electric tool and/or equipment					
Zone 1	$ 7.21				
Zone 2	6.79				
CLASS B Landscape Laborer, Truck Driver, Material Haulers & Small Power Equipment					
Zone 1	5.46				
Zone 2	5.04				

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LINE CONSTRUCTION

HWY LC Z-I & II

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - Huron, Lapeer, Macomb, St. Clair, Sanilac, Tuscola & Wayne Counties; Ingham County - The townships of Leroy, Locke, Wheatfield, White Oak, & Williamson; Lenawee County - Townships of Clinton & Macon; Livingston County - All but the Townships of Tyrone, Cohoctah, Deerfield and Unadilla Monroe County - all but the Townships of Bedford, Erie, Lasalle and Whiteford Washtenaw County - all but the Townships of Lyndon, Manchester, Sharon & Sylvan & Remainder of Oakland County.					
Linemen - Techician	$13.37	1.40	9%		½%
Cable Splicer	13.95	1.40	9%		½%
Combination Equip. Operator & Groundman	10.71	1.40	9%		½%
Combination Drivers - Groundman	10.08	1.40	9%		½%
Groundman	9.28	1.40	9%		½%
ZONE 2 - Remainder of State					
Linemen & Technician	11.00	.45	3%	a	.5%
Cable Splicer	11.44	.45	3%	a	.5%
Combination Digger Operator-Tractor Operator					
1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment Operator; Groundman; Distribution Line Truck Driver Operator Groundman					
1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.53	.45	3%	a	.5%
Combination winch Truck Driver Groundman					
1st 6 months	6.28	.45	3%	a	.5%
Over 6 months	7.18	.45	3%	a	.5%
Combination Truck Driver - Groundman	6.08	.45	3%	a	.5%

FOOTNOTE: a - 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day & Christmas Day

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MICH-10-PEO-3

HIGHWAY CONSTRUCITON

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 Wayne, Monroe, Washtenawu, Oakland, Macomb & Genesee					
CLASS 1	$10.44	.95	1.50	11%	.05
CLASS 2	10.22	.95	1.50	11%	.05
CLASS 3	9.77	.95	1.50	11%	.05
CLASS 4	9.63	.95	1.50	11%	.05
ZONE 2 - Remainder of State					
CLASS 1	10.44	.95	1.50	11%	.05
CLASS 2	10.10	.95	1.50	11%	.05
CLASS 3	9.65	.95	1.50	11%	.05
CLASS 4	9.40	.95	1.50	11%	.05

CLASS 1 - Asphalt plant, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile driver, roller (asphalt), blade grader, trenching mach. (ladder ro wheel), auto-grader, slip form paver, self-propelled or tractor drawn scraper, conveyor loader (euclid type), endloader (1 yd. & over), bulldozer, hoisting Eng., tractor, finishing (asphalt), mechanic, pump (6" discharge or over, gas, diesel powered or generator 300 amp or more), shouldering or gravel dist. Mach. (self- propelled), backhoe (over 3.8 yd. bucket), side boom tractor (type D-4 or larger), tube finisher (slip form paving), gradall & similar mach., self-propelled asphalt planer, concrete batch plant, asphalt slurry Mach., self-propelled asphalt paver, concrete pump 3" and over

CLASS 2 - Sweeper (wayne type & similar equip.), screening plant, washing plant, crusher, backhoe (3/8 yd. bucket or less), side boom tractor (smaller than D-4 or equvilent

CLASS 3 - Air compressor (600 cu. ft. per min or more), air compressor (2 or more less than 600 cfm), wagon drill, concrete breaker, farm tractor w/attachments.

CLASS 4 - Oiler, firemen, Mechanic helper; Trencher (service), flecplanes, cleftpanne, graders selfpropelled fine grade form (concrete), concrete finishing Mach., boom or winch hoist truck, endloader under 1 yd. cap., roller (other than asphalt), curing equipment (self-propelled), concrete saw 40 HP up, power bin, asphalt plant driver, vibratory compaction equip., power driver guard post driver, mulching equipment, stump remover, boiler firemen, concrete pump under 3", self propelled mesh installer, farm type tractor

DECISION NO. MI79-2020

MICH-8-PEO-U-Z-1

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Wayne, Oakland, Macomb, Monroe Lenawee, Hillsdale, Branch, Calhoun, Jackson, Washtenaw, Livingston, Ingham, Eaton, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Sanilac, Tuscola, Saginaw, Gratiot, Midland, Bay & Huron Counties					
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05
ZONE 2 - Remainder of State					
CLASS I	9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power Shovel, crane (crawler, Truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging cpapcity), mechanic, endloader (over 1½ cu. yd. cap.), scraper sel-propelled or tractor drawn), dozer (9 blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equvalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant oper., concrete), backfiller tamper, well drilling rig, slip form paver, slope paver conveyor loader (euclid type) grader

CLASS II - Trencher (8' digging capacity & smaller), endloader 1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller or diesel powered or powered by generator of 300 amps or more - inclusive of other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors (600 cu. ft. per min or larger), pumpcrete machine (and similar equipment) (mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more-300 amp or larger - gas or diesel powered), pump (2 or more 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day - gas or diesel powered - ex cluding equipment, self propelled (6' widepr over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt, curing machine (self-propelled), concrete saw (40 H. P. or over)

DECISION NO. MI79-2020

SIGN INSTALLERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A					
Performs all necessary labor and uses all tools & equipment required to construct & set concrete forms required in the installation of highway street signs:					
ZONE 1	8.32	a20.00	a22.00	.15	
ZONE 2	7.73	a20.00	a22.00	.15	
CLASS B					
Performs all miscellanious labor, uses all hand and power tools and operates all other equipment mobile or otherwise, required for the complete installation of highway and street signs:					
ZONE 1	8.07	a20.00	a22.00	.15	
ZONE 2	7.48	a20.00	a22.00	.15	

FOOTNOTE:

a. Per week Per employee

ZONE 1 - Genesee, Macomb, Monroe Oakland, Washtenaw & Wayne
ZONE 2 - Remainder of State

DECISION NO. MI79-2020 MICH-SWH-TD

TRUCK DRIVERS - HIGHWAY CONST. ZONE 1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Genesee, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw & Wayne					
CLASS 1	$10.58	a32.50	a31.00	.50	
CLASS 2	10.68	a32.50	a31.00	.50	
CLASS 3	10.83	a32.50	a31.00	.50	
ZONE 2					
Remainder of State					
CLASS 1	10.48	a32.50	a31.00	.50	
CLASS 2	10.58	a32.50	a31.00	.50	
CLASS 3	10.73	a32.50	a31.00	.50	

TRUCK DRIVERS - ZONES 1 & 2

CLASS 1 - Truck driver (on all trucks except dump trucks of 8 cubic yds. capacity or over, tandem axle trucks, transit mix and semis, euclid type equipment, double bottoms and low boys)

CLASS 2 - Truck drivers on dump trucks of 8 cubic yards capacity or over (including tandem axle trucks, tandem axle water trucks, transit mix and semis.)

CLASS 3 - Euclid type equipment, double bottoms and low boys for hauling heavy equipment.

FOOTNOTE:
a. Per week, Per employee

DECISION NO. MI79-2020 MICH-SWH-TD

TRUCK DRIVERS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Wayne, Oakland, Macomb, Washtenaw, Monroe, St. Clair & Genesee Counties					
CLASS 1	9.08	a24.00	a28.00		
CLASS 2	9.21	a24.00	a28.00		
CLASS 3	9.41	a24.00	a28.00		
Lapeer & Shiawassee Counties:					
CLASS 1	8.98	a24.00	a28.00		
CLASS 2	9.11	a24.00	a28.00		
CLASS 3	9.31	a24.00	a28.00		
Jackson, Lenawee & Hillsdale Counties					
CLASS 1	7.30	a19.00	a22.00		

CLASS 1 - Truck driver (except dump trucks of 8 cubic yards capacity or over, Pole Trailers, Semis, Low Boys, euclid, Double Bottom & Fuel Trucks.
CLASS 2 - Truck Driver on Dump Trucks of 8 cubic yards capacity or over, Pole Trailers, Semis & Fuel Trucks.
CLASS 3 - Low Boy, Euclid & Double Bottom Driver

FOOTNOTE:
a. Per week Per employee

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *See Below
DECISION NUMBER: MS79-1088 DATE: Date of Publication
Supersedes Decision No. MS78-1019 date March 3, 1978, in 43 FR-9080.
DESCRIPTION OF WORK: Highway Construction Projects (Does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction)
Area I Counties:
*Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union and Webster.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	5.50				
Carpenters	5.35				
Cement Mason/Finishers	5.07				
Electricians	5.50				
Ironworkers reinforcing and Structural	5.75				
Laborers:					
Unskilled	3.54				
Mason Tender	3.63				
Asphalt Raker	3.54				
Grade Checker	3.75				
Air Tool Operator	3.54				
Concrete Saw	4.50				
Painters, Structural Steel	4.75				
Pipelayers	4.50				
Truck Drivers	3.76				
Welders - Rate for Craft					
POWER EQUIPMENT OPERATORS					
Aggregate Spreader Operator	3.54				
Air Compressor Operator	3.54				
Asphalt Distributor-Spreader Operator	4.02				
Asphalt Plant	4.60				
Backhoe or Shovel Operator	5.00				
Bulldozer Operator	5.00				
Concrete Batch Plant Operator	5.50				
Concrete finishing Machine Op.	5.19				
Curing Machine Operator	3.54				
Concrete Paving Machine Operator	5.50				
Concrete Spreader Machine Op.	5.50				
Crane, Dragline Operator	6.00				
Guard Rail Post Driver	3.54				
Earth Auger	4.00				
Fireman	5.00				
Joint filler	3.54				
Joint Setter	3.54				
Loader Operator (All types	4.56				
Mechanic	5.28				
Mixer Operator (All types)	3.65				
Motor Patrol Operator	5.21				
Mulcher Operator	3.54				

MS79-1088 (Continued)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Oiler-Greaser	4.26				
Piledriver Operator	4.75				
Roller Operator (Self-propelled)	3.92				
Scales (All Types)	3.54				
Scraper Operator	5.00				
Striping Machine Operator	4.25				
Tractor Operator (Track Type)	3.75				
Tractor Operator (Wheel Type)	3.54				
Trenching Machine	5.00				
Concrete Breaker & Hydro-Hammer Operator	3.54				
Subgrade Machine Operator	3.54				

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS79-1089 DATE: Date of Publication
Supersedes Decision No.: MS78-1020 dated February 17, 1978, in 43 FR-7128,
DESCRIPTION OF WORK: Highway Construction Projects (does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$7.00				
Carpenters	5.00				
Cement Masons/Finisher	5.00				
Electrician	6.00				
Ironworker Reinforcing/Structural	4.75				
Laborers:					
Unskilled	2.90				
Asphalt Raker	2.90				
Mason Tender	3.67				
Grade Checker	3.66				
Air Tool Operator	3.25				
Concrete Saw Operator	4.25				
Pipelayer	3.50				
Painter, Structural Steel	4.50				
Truck Driver	2.90				
Welder - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Aggregate Spreader Operator	3.25				
Air Compressor Operator	2.90				
Asphalt Distributor-Spreader Operator	3.25				
Asphalt Plant	3.00				
Backhoe or Shovel Operator	4.68				
Bulldozer Operator	5.00				
Concrete Batch Plant Operator	4.00				
Concrete Finishing Machine Operator	3.50				
Curing Machine Operator	3.00				
Concrete Paving Machine Operator	3.50				
Concrete Spreader Machine Operator	3.00				
Crane, Dragline Operator	6.00				
Guard Rail Post Driver	3.50				
Earth Auger	3.00				
Fireman	3.00				
Joint Filler	2.90				
Loader Operator (All types)	4.44				
Mechanic	4.10				
Mixer Operator (All Types)	3.50				
Motor Patrol Operator	5.00				

POWER EQUIPMENT OPERATORS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mulcher Operator	2.90				
Oiler-Greaser	4.00				
Piledriver Operator	5.50				
Roller Operator (Self-propelled)	2.90				
Scales (All types)	4.00				
Scraper Operator	5.00				
Striping Machine Operator	5.00				
Tractor Operator (Track Type)	2.90				
Tractor Operator (Wheel Type)	3.24				
Trenching Machine	4.00				
Concrete Breaker &Hydo-Hammer Operator	2.90				
Subgrade Machine Operator	4.00				
Crusher Feeder Operator	3.00				

Area II Counties:
Bolivar, Carroll, Coahoma, DeSoto, Grenada, Leflore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, & Yalobusha.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS79-1090 DATE: Date of Publication
Supersedes Decision No.: MS78-1017 dated March 3, 1978, in 43 FR 9078
DESCRIPTION OF WORK: Highway Construction Projects (does not included Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$5.00				
Carpenters	4.89				
Cement Masons/Finisher	4.96				
Electrician	10.65				
Ironworkers, reinforcing	4.72				
Laborers:					
Unskilled	3.00				
Grade Checker	3.75				
Asphalt Raker	3.25				
Masons Tender	4.07				
Pipelayer	4.50				
Painter, Structural Steel	5.00				
Truck Driver	3.50				
Welder Rate for Craft					
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	5.00				
Aggregate Spreader Operator	3.50				
Air Compressor Operator	3.25				
Asphalt Distributor-Spreader Operator	3.50				
Asphalt Plant	4.00				
Backhoe or Shovel Operator	5.02				
Bulldozer Operator	5.00				
Concrete Batch Plant Operator	4.25				
Concrete Finishing Machine Operator	5.25				
Curing Machine Operator	3.00				
Concrete Paving Machine Operator	3.80				
Concrete Spreader Machine Operator	4.25				
Crane, Dragline Operator	6.00				
Guard Rail Post Driver	3.50				
Earth Auger	5.00				
Fireman	3.60				
Joint Filler	3.00				
Joint Setter	3.95				
Loader Operator (All Types)	5.10				
Mechanic	4.50				
Mixer Operator (All Types)	3.60				
Motor Patrol Operator	5.70				
Mulcher Operator	3.00				
Oiler-Greaser	3.25				

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POWER EQUIPMENT OPERATORS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Piledriver Operator	3.70				
Roller Operator (Self-propelled)	3.71				
Scales (All types)	4.00				
Scraper Operator	5.73				
Striping Machine Operator	4.00				
Tractor Operator (Track Type)	4.00				
Tractor Operator (Wheel Type)	3.00				
Trenching Machine	3.00				
Concrete Breaker & Hydo-Hammer Operator	3.00				
Crusher Feeder Operator	3.00				

Area III Counties:
Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison. Rankin, Sharkey, Simpson, Warren and Yazoo.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS79-1091 DATE: Date of Publication
Supersedes Decision No.: MS78-1018 dated March 3, 1978, in 43 FR-9079.
DESCRIPTION OF WORK: Highway Construction Projects (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Water, Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$5.50				
Carpenters	4.50				
Cement Masons/ Finisher	4.25				
Electrician	7.00				
Ironworker, reinforcing	4.50				
Laborers:					
Unskilled	2.90				
Grade Checker	4.10				
Asphalt Raker	3.65				
Air Tool Operator	3.00				
Mason Tender	3.88				
Concrete Saw Operator	4.00				
Pipelayer	3.00				
Painter, Structural Steel	6.00				
Truck Driver	2.90				
Welder Rate for Craft					
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	3.75				
Aggregate Spreader Operator	3.25				
Air Compressor Operator	3.65				
Asphalt Distributor-Spreader Op.	4.19				
Asphalt Plant	3.88				
Backhoe or Shovel Operator	4.75				
Bulldozer Operator	4.30				
Concrete Batch Plant Operator	3.10				
Concrete Finishing Machine Op.	4.50				
Curing Machine Operator	3.00				
Concrete Paving Machine Op.	3.50				
Concrete Spreader Machine Op.	3.25				
Crane, Dragline Operator	5.50				
Guard Rail Post Driver	3.20				
Earth Auger	3.13				
Fireman	3.00				
Joint Setter	3.00				
Loader Operator (All Types)	4.29				
Mechanic	5.04				
Mixer Operator (All types)	4.00				
Motor Patrol Operator	4.00				
Mulcher Operator	2.90				
Oiler-Greaser	3.00				
Piledriver Operator	4.25				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
Roller Operator (Self-propelled)	$3.50				
Scales (All types)	2.90				
Scraper Operator	4.75				
Striping Machine Operator	4.25				
Tractor Operator (Track Type)	2.90				
Tractor Operator (Wheel Type)	2.99				
Trenching Machine	4.35				
Crusher Feeder Operator	3.50				

Area IV Counties:
Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston.

SUPERSEDEAS DECISION

STATE: Mississippi
DECISION NUMBER: MS79-1092
COUNTIES: *SEE BELOW
DATE: Date of Publication
Supersedes Decision No.: MS78-1021 dated March 3, 1978, in 43 FR-9082
DESCRIPTION OF WORK: Highway Construction Projects (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Waters, Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$5.00				
Carpenters	5.00				
Cement Masons/Finisher	5.03				
Electricians	9.70				
Ironworkers, Reinforcing	5.05				
Ironworkers, Structural	6.00				
Laborers:					
Unskilled	3.17				
Asphalt Raker	3.68				
Grader Checker	3.75				
Air Tool Operator	3.50				
Mason Tenders	4.00				
Concrete Saw Operator	4.25				
Painter, Structural Steel	4.00				
Piledriverman	4.25				
Truck Driver	3.25				
Welder Rate for Craft					
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	3.75				
Aggregate Spreader Operator	3.50				
Air Compressor Operator	4.88				
Asphalt Distributor-Spreader Operator	3.82				
Asphalt Plant	4.88				
Backhoe or Shovel Operator	4.93				
Bulldozer Operator	4.68				
Concrete Batch Plant Operator	4.50				
Concrete Finishing Machine Operator	3.75				
Concrete Paving Machine Op.	3.17				
Concrete Spreader Machine Op.	3.17				
Crane, Dragline Operator	6.00				
Guard Rail Post Driver	3.25				
Earth Auger	3.25				
Fireman	3.17				
Joint Filler	3.17				
Joint Setter	3.75				
Loader Operator (All Types)	4.05				
Mechanic	5.09				
Mixer Operator (All Types)	3.50				
Motor Patrol Operator	4.50				
Mulcher Operator	3.17				
Oiler-Greaser	3.64				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
Piledriver Operator	$4.75				
Roller Operator (Self-propelled)	3.25				
Scales (All types)	3.38				
Scraper Operator	4.00				
Striping Machine Operator	4.00				
Tractor Operator (Track Type)	3.75				
Tractor Operator (Wheel Type)	3.17				
Trenching Machine	3.75				
Crusher Feeder Operator	3.25				

Area V Counties:
Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson.

SUPERSEDEAS DECISION

STATE: Mississippi
COUNTY: *SEE BELOW
DECISION NUMBER: MS79-1093
DATE: Date of Publication
Supersedes Decision No.: MS78-1022 dated March 3, 1978 in 43 FR-9083
DESCRIPTION OF WORK: Highway Construction Projects (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Waters, Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$7.00				
Carpenters	5.66				
Cement Masons/Finisher	5.06				
Electricians	6.00				
Ironworkers, reinforcing	8.50				
Laborers:					
Unskilled	3.00				
Asphalt Raker	3.25				
Pipelayer	3.00				
Mason Tender	4.50				
Air Tool Operator	4.18				
Concrete Saw Operator	5.00				
Grade Checker	4.00				
Painter (Structural Steel)	5.43				
Piledriverman	5.52				
Truck Driver	3.00				
Tugboat Operator	5.50				
Welder Rate for Craft					
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	4.50				
Aggregate Spreader Operator	3.50				
Air Compressor Operator	3.00				
Asphalt Distributor-Spreader Operator	4.00				
Asphalt Plant	4.00				
Backhoe or Shovel Operator	4.74				
Bulldozer Operator	5.33				
Concrete Batch Plant Operator	5.30				
Concrete Finishing Machine Operator	6.50				
Curing Machine	3.00				
Concrete Paving Machine Op.	3.55				
Concrete Spreader Machine Op.	3.25				
Crane, Dragline Operator	6.00				
Guard Rail Post Driver	3.50				
Earth Auger	4.00				
Fireman	3.00				
Joint Filler	3.00				
Loader Operator (All Types)	4.50				
Mechanic	6.13				
Mixer Operator (All Types	3.25				
Motor Patrol Operator	5.42				
Mulcher Operator	3.00				

DECISION NO. MS79-1093

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATOR: (CONT'D)					
Oiler-Greaser	$4.50				
Piledriver Operator	6.25				
Roller Operator (Self-propelled)	3.20				
Scales (All types)	3.40				
Scraper Operator	5.00				
Striping Machine Operator	4.00				
Tractor Operator (Track Type)	5.00				
Tractor Operator (Wheel Type)	3.00				
Trenching Machine	4.00				
Sub Grade Machine Operator	3.60				
Crusher Feeder Operator	3.25				

Area VI Counties:
George, Hancock, Harrison, Jackson, Pearl River, and Stone.

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Lubbock
DECISION NO.: TX79-4037 DATE: Date of Publication
Supersedes Decision No. TX78-4114, dated October 20, 1978, in 43 FR 49208.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes & garden type apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.50	.80	.95		.07
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS & STONEMASONS	10.27		.30		.03
CARPENTERS	9.50	.48	.50		.01
CEMENT MASONS	8.15				
ELECTRICIANS:					
Electricians	11.10	.60	3%		1/10%
Cable splicers	11.35	.60	3%		1/10%
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
LABORERS:					
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all construction laborers except those named below	5.525	.275	.27		
GROUP 2 - Air tool op. (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete & clay & all non-metallic pipe); handling, laying & cleaning pumperate pipe	5.80	.275	.27		
GROUP 3 - Mortar mixers, mason tenders, plasterer tenders, cement finisher tender, lather tenders	5.725	.275	.27		
GROUP 4 - Wagon drill	5.875	.275	.27		
GROUP 5 - Blasters & powder men	6.125	.275	.27		
LATHERS	6.75	.20			.01
LINE CONSTRUCTION:					
Linemen	11.10	.60	3%		1/10%
Operators	80%JR	.60	3%		1/10%
Groundmen (more than 1 year experience)	55%JR	.60	3%		1/10%
Groundmen (less than 1 year experience)	50%JR	.60	3%		1/10%
Flat bed truck driver	70%JR	.60	3%		1/10%
PAINTERS:					
Brush	8.59				
Spray; Sandblasters	9.34				
PLASTERERS	7.00				
PLUMBERS & STEAMFITTERS	10.70	.50	.45		.04
ROOFERS	3.50				
SHEET METAL WORKERS	10.89	.50	.55		.11
TRUCK DRIVERS	3.00				

DECISION NO. TX79-4037

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	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

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; Hoist, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixer, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 ft. of boom); Derricks; power operated (all types); Gradall; Hy-Ho; Hoe-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractorvators; 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

[FR Doc. 79-16898 Filed 5-31-79; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
June 1, 1979

Part IV

Endangered Species Scientific Authority

American Ginseng; Export of Appendix II Species; Proposed Export Findings for the 1979 Season

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

[50 CFR Part 810]

American Ginseng: Export of Appendix II Species; Proposed Export Findings for the 1979 Season

AGENCY: Endangered Species Scientific Authority.

ACTION: Proposed rulemaking.

SUMMARY: The Endangered Species Scientific Authority (ESSA) proposes findings on a State-by-State basis as to whether export of American ginseng roots harvested in 1979 will not be detrimental to the survival of that species. These findings are meant to satisfy ESSA's responsibilities under Article IV, paragraph 2 of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 1087. Federal export permits may be issued only for roots of this species that were harvested in States for which ESSA has found no detriment. The ESSA seeks public comment in order to base such determinations on the best available information.

DATES: Comments are due on or before July 31, 1979.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets NW., Washington, D.C. 20240. Forthcoming comments and comments already received will be available for public inspection at 1717 H Street NW., Washington, D.C., Room 536, 7:45 a.m. to 5:30 p.m., Mondays through Fridays except federal holidays.

FOR FURTHER INFORMATION CONCERNING BIOLOGICAL FINDINGS CONTACT: Roger E. McManus, Staff Specialist, Endangered Species Scientific Authority, 18th and C Streets NW., Washington, D.C. 20240 (202/653–5948).

FOR INFORMATION CONCERNING FINDINGS BY THE MANAGEMENT AUTHORITY AND STATE CONTROLS CONTACT: Ronald Singer, Staff Biologist, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2418).

FOR INFORMATION CONCERNING FEDERAL EXPORT PERMITS CONTACT: Bob Batky, Staff Biologist, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

FOR INFORMATION CONCERNING PROCEDURES FOR EXPORTING SHIPMENTS CONTACT: Thomas McIntyre, Staff Specialist, USDA Animal and Plant Health Inspection Service, Federal Building, Hyattsville, Maryland 20782 (301/436–8297).

SUPPLEMENTARY INFORMATION: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and its implementing regulations, 50 CFR Part 23, control international trade in animal and plant species included in any of three appendices, listed in § 23.23. The CITES appendices are distinct from the list of species issued under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq. American ginseng is included in Appendix II to the CITES. Appendix II includes generally those species not necessarily now threatened with extinction, but which may become so unless trade in them is subject to strict regulation. In addition, Appendix II may include species for which trade needs to be regulated to control effectively trade in species included because of biological jeopardy. The CITES requires Parties to control trade in Appendix II specimens through export permits. National management authorities are to administer permit and enforcement activities and national scientific authorities are to ensure that permitted trade will not be detrimental to the species concerned.

The Endangered Species Scientific Authority (ESSA) serves as the U.S. Scientific Authority; the Secretary of the Interior through the Director of the U.S. Fish and Wildlife Service serves as the U.S. Management Authority (MA) for the CITES. Before the MA can issue permits for foreign export of Appendix II species, such as American ginseng, taken from the wild, the MA must be satisfied that specimens were not obtained in violation of State or federal law and in addition the ESSA must advise the MA that the export will not be detrimental to the survival of the species (CITES, Article IV, paragraph 2). Although this proposal refers to ESSA "approval" of export, the term indicates that the ESSA has no objection to issuance of export permits by the MA and in no way suggests limitation of the authority of the MA to withhold permits on other grounds. Note also that CITES certificates are required for export of cultivated American ginseng, but that no CITES documentation is required for harvest, transport, or sale of wild or cultivated ginseng within the United States. However, harvest of wild American ginseng from public lands usually requires written permission from the administrating agency, and harvest, transport, and commerce in this species are subject to control in some States.

Since 1977, the ESSA has made export findings for American ginseng on a state-by-state basis. We propose to continue this approach for the 1979 harvest.

The ESSA published an advance notice of proposed rulemaking in the April 30, 1979 **Federal Register** (44 FR 25383). The notice, in part, states generally what types of information the ESSA will need to make findings in favor of export of legally obtained specimens of American ginseng harvested in 1979.

Environmental Assessment

The environmental consequences of extreme alternative standards for findings by the ESSA were discussed for American ginseng in proposed findings for the 1978 harvest season (43 FR 29469). That environmental analysis concluded that neither extreme finding (no export versus export without restriction by the ESSA) would be a major Federal action significantly affecting the quality of the human environment. That analysis applies equally well to these proposed standards and findings and will not be repeated.

Proposed Standards

The ESSA proposes to follow the guidelines for findings on detriment published in the April 10, 1978 **Federal Register** (43 FR 15097). These guidelines are intentionally general. A combination of biological information and management initiatives can potentially satisfy the ESSA that export will not be detrimental to a species' survival, and the ESSA does not want to constrain unnecessarily state agencies in the manner by which they may endeavor to conserve this species and help to fulfill U.S. obligations under the CITES.

The ESSA proposes to approve export of wild American ginseng from those states that have implemented substantial programs to conserve the species, whose populations can support the harvest. Acceptable conservation programs generally must include some form of research and regulation designed to monitor the status of the state's wild populations, to provide annual harvest estimates, and to control exploitation. The ESSA recognizes the recency of wild plant management in many states, and the frequent lack of management authority in state agencies. Consequently, we propose to approve export from certain states whose management agencies lack authority to limit exploitation provided those states

have substantial plans for 1979 under existing authority, and provided available information indicates that populations of the state can support the harvest. Several state agencies are seeking additional authority from their legislatures. The ESSA wishes to be supportive of new state programs; however, our proposals to approve export for roots harvested in 1979 should not be construed as a precedent for approval in the future.

A number of state agencies did not supply the ESSA with information concerning the past season or their management programs for 1979 in time for this proposal. We have not proposed to approve export in these instances. However, many of these state agencies have indicated that additional information will be forthcoming, and our final determinations in August will reflect this information and any other comment on our proposal.

Tables: American Ginseng

The following tables summarize by state the information concerning American ginseng received by the ESSA. Only those states where the plant has been known to occur are listed. Many states have recently initiated programs to clarify the status of this species, to monitor its harvest, and to control its exploitation. Without such State programs it is doubtful that adequate information would be available to support approval of export by the ESSA.

Descriptions of the table categories follow, along with explanations of abreviations used. More detailed state-by-state summaries of comments are available from the ESSA.

State Classification

Most states have trespass statutes addressing the protection of private and public plant resources. At minimum these laws usually require oral permission from the land owner or administrator before the resources may be removed. Although these statutes may help conserve American ginseng, they were not considered in determining the state classifications. The state classifications are based on state statutes, regulatory authorities, or initiatives specifically concerned with American ginseng.

C=Conservation program: A state agency has implemented or has initiated a program to help conserve American ginseng even though the State agency has no express regulatory authority.

M=Management program: A state agency has regulatory authority to limit exploitation of American ginseng and has initiated a program to help conserve the species.

N=No conservation program: No state agency has been charged with the conservation of this species or has regulatory authority to limit exploitation.

Reported Harvest

All of the states approved for export in 1978 indicated that they would develop harvest estimates. Usually these estimates are based on voluntary or mandatory dealer reporting (VDR, MDR), or voluntary or mandatory collector reporting (VCR, MCR). In some cases these estimates are based on state export permits or certificates (SED). The reliability of such estimates of the harvest differs because of a variety of factors, including the methods used by the states in collecting the data.

Reported Export

ESSA's findings in favor of export of the 1978 harvest were made on the condition that the "Roots must be documented as to state of origin and season of collecting." The MA is responsible for ensuring compliance with any conditions on ESSA findings of no detriment. In addition, the CITES requires that "a Management Authority of the State of export is satisfied that the specimen(s) (were) not obtained in contravention of the laws of that State for the protection of fauna and flora" (Article IV, paragraph 2(b)). Export statistics compiled by the MA with respect to these responsibilities are based on documents submitted to USDA port officials by exporters prior to export. Export statistics included in the tables are based on exports recorded by the MA between September 1, 1978 and April 15, 1979. The reliability of these statistics is primarily determined by the degree of accurate reporting by collectors and dealers, the degree of compliance by exporters, the efficiency of reporting by USDA, and the methods and procedures used by the MA in ensuring compliance with trade controls.

As data and other relevant information become available, the ESSA will develop analyses on the reliability of harvest and export data, the relationship between harvest and export, and the effectiveness of trade controls. These analyses first will be conducted for harvest and export data for 1977 and 1978. Results of these analyses will be made available to the public, and will be considered in future findings by the ESSA.

State Population

A sampling of opinions concerning American ginseng's abundance and status in the states is provided in the tables. Few of these opinions are supported by data.

As discussed in our August 30, 1977 **Federal Register** notice (42 FR 43729), qualitative opinions concerning the plant's abundance and status must be viewed critically. Such terms as "endangered", "rare", and "stable" are often used imprecisely, without guidelines or criteria. In addition, the plant's status undoubtedly varies with local conditions, further complicating evaluation of its status and abundance.

In the tables, information concerning American ginseng's status and abundance is followed by brief explanations as to how those determinations were made. In some cases, no grounds for a qualitative opinion were given so no explanation is provided in the "How Determined" column. When available, grounds are stated with the following abbreviations:

B=Biologists' opinions: Either an opinion expressed by a biologist to U.S. Fish and Wildlife Service or to the ESSA, or an opinion expressed by one or more biologists which was cited as a basis for a state comment or a state endangered species list.

CC=Collectors comments: Comments from collectors received by the U.S. Fish and Wildlife Service or the ESSA.

FO=Field observations: Included when field observations were specifically referred to as a basis for the determination.

HR=Herbarium records: Based on information recorded with herbarium specimens.

LS=Literature survey: Based on information in the literature.

SC=Survey of collectors: State survey of individuals who collect American ginseng in the State.

SD=Survey of dealers: State survey of dealers who purchase roots harvested in the state.

Findings and Conditions for 1979 Season.

The ESSA's proposed findings and conditions concerning export of roots from the 1979 collecting season are given here. These proposed findings and conditions are subject to change as further information is received, and final findings and conditions will be published about August 10. The ESSA may publish revised, proposed findings on or about July 10 based on information not considered in this proposed

rulemaking. The proposed findings and conditions are abbreviated as:

A=Approved: Export is approved for roots legally obtained during the 1979 season. The ESSA considers that harvest in the state will not be detrimental to the survival of the species in that state.

Roots must be documented as to state of origin and season of collecting. Methods and procedures to be followed by the MA to ensure compliance with this condition must be provided to the ESSA on a state-by-state basis prior to the forthcoming rulemaking addressing this species.

NEA=No export approved: Available information does not support an ESSA finding in favor of export of the 1979 harvest. Several states not approved anticipate providing additional information which may support approval of export.

Comments

Other information relevant to the findings is given here.

American Ginseng

State	Classification	Harvest: Reported 1978 (lbs.)	Harvest: How reported	Export reported 9/1/78 to 4/15/79 (lbs.)	State population—estimates of abundance or status	How determined	Findings	Comments
Alabama	N				Endangered [1]		NEA	State comments for 1979 not yet received.
					"Good numbers" in north? [2]	B		
Arkansas	M			700	Depleted but locally abundant [3]		NEA	Additional information being sought from the State.
					Increased abudance and distribution.	SC		
Connecticut	N				Rare and local [4]	HR and FO	NEA	State comments for 1979 not yet received.
					Endangered [5]	HR and FO		
Delaware	N				Rare [7]		NEA	State comments for 1979 not yet received.
Georgia	M			131	Endangered [8]	LS and B	NEA	Additional information being sought from State.
Illinois	C			2,884	Rare [10]		NEA	State comments for 1979 not yet received.
					Decreasing [11]	SC and SD		
					Threatened [12]	LS, HR and B		
					Stable, or increasing, or decreasing	CC		
Indiana	N			6,675	Decreasing [13]	FO	NEA	State comments for 1979 not yet received.
					Not Rare [14]			
					Stable or decreasing	CC		
Iowa	N	7 [15]	VDS	1,492	Stable, or increasing, or decreasing	CC	NEA	State comments for 1979 not yet received.
Kentucky	C	22,075	VDS	14,103	Increasing; not endangered [16]			Kentucky has initiated field surveys to better establish the species' status and has implemented a voluntary program to monitor and manage the harvest pending express legislative authority in 1980.
					Threatened [17]			
					Frequent to abundant, but decreasing [18]			
					Endangered [19]			
					Stable, or increasing, or decreasing	CC		
Louisiana	N				Rare and local, and threatened to endangered [20]	HR	NEA	State comments for 1979 not yet received.
Maine	C				Depleted—14 stations have been documented [21]	HR and FO	NEA	State comments for 1979 not yet received.
Maryland	M			8	Decreasing [22]	Collector reports	NEA	State comments for 1979 not yet received.
					Locally Common [23]			
					Stable	CC		
Massachusetts	N				Rare [17]		NEA	State comments for 1979 not yet received.
					Endangered or threatened [24]			
					"Exceedingly rare and Local" [25]	HR		
Michigan	M			10	Threatened [26]	HR, FO and B	NEA	Additional information being sought from the State.
Minnesota	C	443 [15]	VDR	633	Rare and endangered [17]		NEA	State comments for 1979 not yet received.
					"Species of Special Interest" [27]			
					Stable	CC		
Mississippi	N				Rare and endangered [28]	B	NEA	State comments for 1979 not yet received.
Missouri	C			5,347	Not included in "Rare and Endangered Species of Missouri" [29].		NEA	State comments for 1979 not yet received.
					Stable	CC		
Nebraska	N				Occurs in three eastern countries [30]	HR	NEA	State comments for 1979 not yet received.
New Hampshire	N				Rare and endangered [31]	LS, HR and FO	NEA	State comments for 1979 not yet received.
New Jersey	N				Rare [32]	LS and B	NEA	State comments for 1979 not yet received.

American Ginseng—Continued

State	Classification	Harvest: Reported 1978 (lbs.)	Harvest: How reported	Export reported 9/1/78 to 4/15/79 (lbs.)	State population—estimates of abundance or status	How determined	Findings	Comments
New York	M			507	Decreasing and protected [33]	FO	NEA	State comments for 1979 not yet received.
					Increasing, or decreasing	CC		
North Carolina	M			7,117	Threatened [34]	B	NEA	State comments for 1979 not yet received.
					Stable [35]			
					Decreasing [36]	Survey of Foresters.		
					Increasing [16]			
					Decreasing and threatened [37]			
					Threatened [38]			
					Increasing, or decreasing	CC		
Ohio	M				Rare and endangered [39]	LS	NEA	State comments for 1979 not yet received.
					Locally common but decreasing [40]			
					Stable to decreasing [41]	B		
					Stable	CC		
Oklahoma	N				Extremely rare [42]	HR	NEA	State comments for 1979 not yet received.
					Rare [43]			
Pennsylvania	N			3,685	Stable [44]		NEA	State comments for 1979 not yet received.
					Rare in western Pennsylvania [45]			
					Rare in Perry County, Pennsylvania [46].	FO		
					Rare in southeastern Pennsylvania [47].			
					Not endangered or threatened [48]	Because of harvest technique.		
					Decreasing [49]			
					Decreasing in Northhampton County, Pennsylvania [50]			
					Stable, or increasing	CC		
Rhode Island	N				Probably extirpated [51]	Unpublished literature and FO.	NEA	State comments for 1979 not yet received.
South Carolina	N				Threatened [52]	B	NEA	The State has no programs to conserve wild plants.
					Endangered [53]	FO		
					Endangered [54]			
					Decreasing and threatened [55]	FO		
Tennessee	C			5,057	Rare [56]		NEA	State comments for 1979 not yet received
					Rare [17]			
					Threatened [57]	HR and B		
					Decreasing [58]	HR and FO		
					Threatened [59]	B, and other individuals familiar with the plant.		
					Stable, or increasing, or decreasing	CC		
Vermont	N				Decreasing [60]		NEA	State comments for 1979 not yet received
Virginia	M	5,512 SED		8,152	"Endangered in only a few localities if at all" [61]	B	NEA	Additional information being sought from the State
					Endangered [62]			
					Endangered [63]			
					Stable	CC		
West Virginia	M			11,132	Rare to frequent in occurence in different codsunties, not endangered [64].	B	NEA	State comments for 1979 not yet received
					Fairly common [65]			
					Stable or increasing	CC		
Wisconsin	M	2,404 VDR		7,363	Threatened [66]	HR, LS and FO A.		The Wisconsin Department of Natural Resources is supporting research to better establish the species' status and has implemented a program to monitor and manage the harvest. Additional regulatory authority is expected in 1979.
					Declined, but "still occurs in harvestable quantity" [12].			
					Rare [67]			
					Decline in population size. Population consists of younger plants [68].	CC		
					Stable	CC		

1. Thomas, J. L. 1976. Plants In Endangered and Threatened Plants and Animals of Alabama. University of Alabama. University, Ala. 93 pp.
2. Letter dated October 18, 1977 from Governor George C. Wallace.
3. Tucker, G. E. 1974. Threatened Native Plants of Arkansas. In Arkansas Natural Area Plan. Arkansas Department of Planning. Little Rock, Ark. p. 39–65.
4. Barkley, S. January 6, 1978. Public Input Received in Response to Proposed Listing of American Ginseng (*Panax quinquefolius*) As A Federally-Endangered Or Threatened Species. Unpublished report. Arkansas Game and Fish Commission. 6 pp.
5. Dowhan, J. J. Status Report: Ginseng. Unpublished report. 4 pp.
6. Dowhan, J. J. and R. J. Craig. 1976. Rare and Endangered Species of Connecticut and Their Habitats. Department of Environmental Protection. Report of Investigations, No. 6. The Natural Resources Center, State Geological and Natural History Survey of Connecticut. Hartford, Conn. 137 pp.
7. Oral statement by Dr. C. W. Dunham, University of Delaware.
8. Letter dated March 9, 1979 from H. L. Alexander, Jr., Delaware Department of Natural Resources and Environmental Control.
9. McCollum, J. L. (Editor). 1974. Endangered Species of Georgia. Georgia Department of Natural Resources. Atlanta, Ga. 66 pp.
10. Mohlenbrock, D. H. and J. W. Voigt. 1959. A Flora of Southern Illinois. Southern Illinois University Press, Carbondale, Ill. 390 pp.
11. Letter dated September 7, 1978 from J. Schwegman, Illinois Department of Conservation.
12. Memorandum, Semi-final list of Endangered and Threatened Plants, dated January 16, 1978 from C. J. Sheviak, Director, Endangered Plants Project, Illinois Natural Land Institute.
13. Correspondence dated December 29, 1976 from R. D. Feldt, Indiana Department of Natural Resources.
14. Letter dated October 4, 1977 from J. D. Cloud, Indiana Department of Natural Resources.
15. Letter dated March 27, 1979 from Anthony S. Earl, Wisconsin Department of Natural Resources.
16. Letter dated May 26, 1977 from A. Krochmal, USDA Forest Service.
17. Kartesz, J. T. and R. Kartesz. 1977. The Biota of North America part 1: Vascular Plants. Volume I: Rare Plants, Biota of North America Committee. Pittsburgh, Pa. 361 pp.
18. Letter dated September 7, 1977 from R. Cranfill, University of Kentucky.
19. Letter dated September 29, 1977 from W. H. Martin, Eastern Kentucky University.
20. Letter dated July 14, 1977 from Mary Curry, VTN Louisiana Inc.
21. Eastman, L. M. 1976. Ginseng, *Panax quinquefolius* L., in Maine and its relevance to the Critical Areas Program. Maine State Planning Office, Planning Report No. 16, Augusta, Maine Unpublished Report.
22. Letter dated October 7, 1977 from W. Jabine II, Maryland Department of Natural Resources.
23. Letter dated November 7, 1977 from W. F. Gimpel, Jr., Maryland Department of Agriculture.
24. Letter dated August 26, 1977 from F. Winthrop, Jr., Massachusetts Department of Food and Agriculture.
25. Letter dated September 6, 1977 from B. G. Blodgett, Massachusetts Division of Fisheries and Wildlife.
26. Letter dated March 29, 1979, from S. M. Taylor, Michigan Department of Natural Resources.
27. Minnesota Department of Natural Resources. 1975. "Animals and Plants Which Merit Special Consideration and Management * * * the Uncommon Ones." 32 pp.
28. Pullen, T. M. 1975. Rare and Endangered Plant Species in Mississippi. A Preliminary Unpublished List. 2 pp.
29. Nordstrom, G. R., F. W. Pflieger, K. C. Sadler, and W. H. Lewis. 1977. Rare and Endangered Species of Missouri. Missouri Department of Conservation and USDA Soil Conservation Service. 130 pp.
30. Letter dated July 19, 1977 from C. M. Twedt, Nebraska Game and Parks Commission.
31. Letter dated September 30, 1977 from G. E. Crow, University of New Hampshire.
32. Fairbrothers, D. E. and M. Y. Hough. Rare or Endangered Vascular Plants of New Jersey. New Jersey State Museum Science Notes, No. 14. 53 pp.
33. Letter dated October 4, 1977 from H. Jamnback, New York State Science Service.
34. Hardin, J. W. 1977. Vascular Plants. In Endangered and Threatened Plants and Animals of North Carolina. J. E. Cooper, S. S. Robinson, and J. B. Funderburg (Editors). North Carolina Museum of Natural History, Raleigh, N.C. 444 pp.
35. Letter dated October 11, 1977 from E. H. McGee, Wilkes County Forester, North Carolina.
36. Correspondence dated September 22, 1977 from B. A. Sanders, USDA Forest Services, NFsNC.
37. Letter dated August 29, 1977 from J. D. Pittillo, Western Carolina University.
38. Letter dated October 29, 1977 from D. M. Dumond, University of North Carolina at Wilmington.
39. Cooperrider, T. S. 1975. Preliminary List of Rare and Endangered Species in Ohio—Dicotyledoneae. Unpublished List. 8 pp.
40. Letter dated August 26, 1977 from R. E. Mosely, Jr., Ohio Department of Natural Resources.
41. Letter dated July 20, 1977 from D. Anderson, Ohio Natural Heritage Program.
42. Letter dated July 18, 1977 from J. J. Crockett, Oklahoma State University.
43. Rare and Endangered Species of Oklahoma Committee.1975. Rare and Endangered Vertebrates and Plants of Oklahoma. USDA Soil Conservation Service. 44 pp.
44. Letter dated August 17, 1977 from M. K. Goddard, Pennsylvania Department of Environmental Resources.
45. Letter dated August 17, 1977 from W. E. Buker, Carnegie Museum.
46. Letter dated August 25, 1977 from J. Adams, Morris Arboretum.
47. Letter dated August 26, 1977 from J. M. Frogg, Arboretum of the Barnes Foundation.
48. Letter dated August 26, 1977 from E. J. Wherry.
49. Letter dated August 29, 1977 from C. L. Bryner, Waynesburg College.
50. Letter dated October 26, 1977 from K. A. Friedman, LeHigh Valley Conservancy, Inc.
51. Letters dated August 19, and September 1, 1977 from I. H. Stuckey, University of Rhode Island.
52. Letter dated July 19, 1977 from K. B. Stansell, South Carolina Wildlife and Marine Resources Department.
53. Letter dated September 6, 1977 from S. M. Jones, Clemson University.
54. Letter dated September 14, 1977 from R. C. Clark, Erskine College.
55. Letter dated September 27, 1977 from D. C. Rayner, South Carolina Wildlife and Marine Resources Department.
56. Sharp, A. J. 1974. Rare Plants of Tennessee. The Tennessee Conservationist. 40(1):20–21.
57. Collins, J. L., H. R. DeSelm, A. M. Evans, R. Kral, B. E. Wofford. No date. The Rare Vascular Plants of Tennessee. Unpublished manuscript. 26 pp.
58. Letter dated August 23, 1978 from E. T. Browne, Jr., Memphis State University.
59. Letter dated May 9, 1978 from B. R. Allison, Tennessee Department of Conservation.
60. Seymour, F. C. 1969. The Flora of Vermont. Fourth Edition. Agriculture Experiment Station Bulletin 660. The University of Vermont. Burlington, Vt. 393 pp.
61. Letter dated September 6, 1977 from E. J. Shiflet, Virginia Secretary of Commerce and Resources.
62. Letter dated September 15, 1977 from D. M. Porter, Virginia Polytechnic Institute and State University.
63. Letter dated October 12, 1977 from W. M. Lofits, Jr., Shenandoah National Park.
64. Letter dated February 21, 1978 from D. E. Carter, West Virginia Department of Natural Resources.
65. Letter dated September 26, 1977 from F. L. Pogge, USDA Forest Service.
66. Read, R. H. 1976. Endangered and Threatened Vascular Plants in Wisconsin. Scientific Areas Preservation Council Technical Bulletin 92. Wisconsin Department of Natural Resources. 58 pp.
67. Letter dated August 26, 1977 from P. J. Salamum, University of Wisconsin, Milwaukee.
68. Moths, S. 1978. Population Dynamics, Life History, and Management Recommendations for Wild American Ginseng. Interim, unpublished report. 21 pp.

Remarks. American ginseng is often protected on federal and state lands. Hypothetically, this protection should provide population reservoirs and serve as a buffer against overexploitation. Unfortunately, it appears that prohibitions against harvest on public lands are not generally observed, probably because of the small amounts of resources devoted to enforcement. In fact, in some areas of the country most of the harvest is reported to take place on public lands.

Proposed Regulations Promulgation

Accordingly, it is proposed to add a new Annex A to 50 CFR Part 810 to read as follows (1978 findings are taken from the present Annex to Part 810):

Annex A—American ginseng

State populations for which the ESSA has found that export of the indicated season's harvest will not be detrimental to the survival of the species.

1978 Harvest: Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin. *Conditions on findings:* Roots must be documented as to state of origin and season of collecting.

For further information: see 43 FR 29469, July 7, 1978; 43 FR 35013, August 7, 1978; 43 FR 36293, August 16, 1978; and 43 FR 39305, September 1, 1978.

1979 Harvest: Wisconsin and Kentucky. *Conditions on findings: Roots must be documented as to state of origin and season of collecting. Methods and procedures to be followed by the MA to ensure compliance with this condition must be provided to the ESSA on a state-by-state basis prior to the final rulemaking addressing this species. For further information:* see 44 FR 3107, June 1, 1979

Publication of these proposed findings has been approved unanimously by the members of the Endangered Species Scientific Authority.

Dated: May 25, 1979.

William Y. Brown,

Executive Secretary.

[FR Doc. 79-16960 Filed 5-31-79; 8:45 am]

BILLING CODE 4310-55-M

federal register

Friday
June 1, 1979

Part V

Environmental Protection Agency

Interagency Testing Committee; Receipt of Fourth Report and Request for Comments

ENVIRONMENTAL PROTECTION AGENCY

[OTS-410001; FRL 1237-1]

Fourth Report of the Interagency Testing Committee; Receipt of the Report and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: This Notice requests comments on recent additions to the Interagency Testing Committee's (ITC) priority list of chemical substances recommended for testing under section 4(a) of the Toxic Substances Control Act (TSCA). In addition, a change in ITC procedure for transmitting dossiers of support information is described.

SUMMARY: The ITC, established under section 4(e) of TSCA, has transmitted its Fourth Report to the Administrator of EPA. This report revises and updates the Committee's Priority List of chemicals. The Report identifies those additional chemical substances the Committee is recommending to EPA for priority consideration for promulgation of test rules under section 4(a) of the Act.

The Fourth Report is being published with this Notice. The Agency invites interested persons to submit comments on the Report.

SUPPLEMENTARY INFORMATION:

Background

Section 4(a) of TSCA authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances in order to develop data relevant to determining the risks that such chemical substances may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee to make recommendations of chemical substances to the Administrator of EPA to be given priority consideration for proposing test rules under section 4(a). The Committee may at any one time designate up to 50 of its recommendations for special priority consideration by EPA. Within 12 months of that designation, EPA must initiate rulemaking to require testing or publish in the **Federal Register** its reasons for not doing so.

The Committee's initial recommendations to the Priority List, of four substances and six categories of substances, were published in the **Federal Register** on October 12, 1977 (42 FR 55026). EPA's response to the initial recommendations appeared in the **Federal Register** on October 26, 1978 (43 FR 50134). The ITC's revisions to the initial list appeared in the Committee's Second Report and were published in the **Federal Register** on April 19, 1978 (43 FR 16684). Those revisions were the addition of four substances and four categories of substances to the Priority List. EPA's response to the second ITC Report was signed by the Deputy Administrator of EPA on May 8, 1979 (see 44 FR 28095, May 14, 1979). In its Third Report, published in the **Federal Register** on October 30, 1978 (43 FR 50631), the Committee recommended the addition of one chemical substance and two categories of chemical substances to the Priority List. Subsequently, on March 29, 1979, the Agency published a Notice of a correction made by the ITC in the material under the heading "Carcinogenicity" and a definition of the term "derivatives" as it appears for the category "Glycidol and Its Derivatives" (43 FR 18733).

In this Fourth Report, the Committee is recommending the addition of 11 individual chemicals and one category to its Priority List. Each of these new recommendations has been designated by the Committee for priority consideration by EPA. The format of this Report differs from that of the earlier reports. In the past, the Committee presented summary rationales for its recommendations in the Report to the Administrator and provided separate dossiers of support information that were transmitted to EPA following the Agency's receipt of a Report. The heading "Reasons for Recommendations" now appears in the Report for each designated substance. This rationale section presents the Committee's review of information from the scientific literature and other sources used to arrive at the ITC designations. No separate dossiers will be forwarded to EPA by the Committee.

Availability

The ITC's Fourth Report appears following this Notice.

Request for Comments

EPA invites interested persons to submit comments on the Committee's new recommendations. The Agency requests that comments be submitted no later than July 31, 1979. All comments received by that date will be considered by the Agency in determining whether to propose test rules in response to the Committee's new recommendations.

Comments should bear the identifying notation OTS-410001 and should be submitted to the Document Control Officer, Chemical Information Division, Office of Toxic Substances (TS-793), Room 447, EPA, 401 M Street SW., Washington, D.C. 20460. All written comments will be available for public inspection in Room 447, East Tower, at the same address, between 8:30 a.m. and 4:30 p.m., weekdays.

Dated: May 18, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

Toxic Substances Control Act, Interagency Testing Committee.

Honorable Douglas M. Costle,

Administrator, Environmental Protection Agency (A-100), Room 1200 W, 401 M Street, SW., Washington, D.C. 20460.

Dear Mr. Costle: On behalf of the TSCA Interagency Testing Committee, I am transmitting to you the Committee's Fourth Report. This Report revises the Section 4(e) Priority list with the addition and designation of eleven individual chemicals and one category.

You will note that the format of this Report differs from earlier reports in that the Committee's recommendations and reasons for recommendations are contained in rationales on the designated substances. Dossiers of supporting information will not be transmitted separately, as the rationales contain the key information from the scientific literature and other sources used by the Committee in making its decisions on the designations. The Committee hopes that this new format provides a more timely presentation of relevant information than our previous practice of sending dossiers to you several months after the report.

During the past six months, the Office of Toxic Substances has increased the level of staff support to the Committee. This has aided us in our work and is greatly appreciated.

Sincerely yours,

Carter Schuth,

Chairperson, TSCA Interagency Testing Committee.

Fourth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency

April 1979.

Summary

A major section (Sec. 4) of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94-469) provides for the testing of chemicals in commerce which may pose an unreasonable risk to human health or the environment. This section of the Act also provides for establishment of a Committee, composed of representatives from eight designated Federal agencies, to recommend chemical substances or mixtures to which the Administrator of the U.S. Environmental Protection Agency (EPA) should give priority consideration for the promulgation of testing rules. The Committee makes

such revisions in the Section 4(e) Priority List as it determines to be necessary and transmits them to the Administrator, at least every six months.

As a result of its deliberations during the past six months, the Committee is revising the TSCA Section 4(e) Priority List by the addition of eleven individual substances and one category all designated for action by EPA within twelve months. The Committee considers each newly designated addition to be equal priority with those previously designated. The additions to the Priority List are presented alphabetically, together with the types of studies recommended, as follows:

Substances and categories designated	Recommended studies
Acetonitrile	Carcinogenicity, Mutagenicity, Teratogenicity, Chronic Effects, Epidemiology
Aniline and Chloro-, Bromo-, and/or Nitro-Anilines.	Carcinogenicity, Mutagenicity, Teratogenicity, Chronic Effects, Environmental Effects, Epidemiology
Antimony	Carcinogenicity, Mutagenicity, Teratogenicity, Chronic Effects, Environmental Effects, Epidemiology
Antimony Sulfide	Carcinogenicity, Mutagenicity, Teratogenicity, Chronic Effects, Environmental Effects, Epidemiology
Antimony Trioxide	Carcinogenicity, Mutagenicity, Teratogenicity, Chronic Effects, Environmental Effects, Epidemiology
Cyclohexanone	Carcinogenicity, Mutagenicity, Teratogenicity, Chronic Effects, Environmental Effects, Epidemiology
Hexachlorocyclo-pentadiene.	Carcinogenicity, Mutagenicity, Teratogenicity, Chronic Effects, Environmental Effects
Isophorone	Carcinogenicity, Mutagenicity, Teratogenicity, Chronic Effects, Epidemiology
Mesityl oxide	Carcinogenicity, Mutagenicity, Teratogenicity, Chronic Effects, Epidemiology
4,4'-Methylenedianline	Carcinogenicity, Mutagenicity, Teratogenicity, Chronic Effects, Environmental Effects, Epidemiology
Methyl ethyl ketone	Chronic Effects, Epidemiology
Methyl isobutyl ketone	Mutagenicity, Teratogenicity, Chronic Effects, Epidemiology.

TSCA Interagency Testing Committee

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Acknowledgments

The Committee members acknowledge the support and invaluable contributions of the many individuals and groups who have significantly aided us in preparing this report. These include:

The Federal agencies who have cooperated by providing support through the liaison members;

Clement Associates, Inc., technical support contractor;

The U.S. Environmental Protection Agency (EPA) for funding the technical support contract and the National Institute for Occupational Safety and Health, the Council on Environmental Quality, and the National Cancer Institute for assisting in the funding;

EPA staff members who assisted the Committee in a variety of activities, in particular:

John W. Lyon, Office of General Counsel
Ralph C. Northrop, Jr., Office of Toxic Substances
Amy Rispin, Office of Toxic Substances
Justine Welch, Office of Toxic Substances
Ronald Stanley, Office of Toxic Substances
David Lynch, Office of Toxic Substances

The numerous experts who prepared presentations and material for the Committee;

The industries that responded to the Contractor's request for information on specific chemical substances and categories; and

The many individuals and organizations who responded to the Committee's previous reports.

Fourth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, April 1979

Chapter 1. Introduction

1.1 *Background*

The Interagency Testing Committee (Committee) was established under Section4(e) of the Toxic Substances Control Act of 1976 (TSCA, P.L. 94–469). The specific mandate of the Committee is to identify and recommend to the Administrator of the U.S. Environmental Protection Agency (EPA) chemical substances or mixtures in commerce which should be tested to determine their potential hazard to human health and/or the environment. The Act specifies that the Committee's recommendations to the Administrator will be in the form of a list [Section 4(e) Priority List] to be published in the **Federal Register.** The Committee also is directed to make such revisions in the list as it determines to be necessary and transmit them to the Administrator, at least every six months after submission of its initial list.

The current Committee members, alternates, and liaison representatives are identified in the front of this report. The Committee's chemical review procedures and previous reports have been detailed elsewhere (Reference Nos. 1–4) and are not reiterated herein.

1.2 *Committee Activities in this Reporting Period*

During the past six months, the Committee has completed a review of all chemical substances and categories on its Preliminary List (Reference No. 1), with the exception of some chemicals whose consideration has been deferred pending receipt of additional information. The Committee has initiated several actions in an attempt to obtain the information necessary for evaluation of deferred chemicals. These actions include having the Committee's technical support contractor directly request production, use and other available data from chemical manufacturers; requesting of the EPA Administrator that the Committee have access to the TSCA Inventory data; and requesting that the Administrator assist the Committee in obtaining information through TSCA Section 8(a) or by other appropriate means.

The Committee has also completed an update of its master file of chemicals and has scored exposure and biological activity of chemicals selected from the master file (see Reference No. 2 for methodology). This update has included incorporating the most recently available version of some of the source

* Dr. Bates replaced Dr. Falk as member on April 1, 1979.

** Until March 24, 1979.

*** Commencing April 2, 1979.

lists, e.g., government sponsored data bases, and scoring the exposure potential for chemicals whose production volumes were not previously available. A number of these newly scored chemicals and others to be selected during the next six months will be reviewed in detail for the purpose of making future recommendations to the EPA Administrator.

Other activities since the last report include a Committee initiated review of its chemical scoring system through a workshop (February 25–28, 1979). Approximately one-hundred invited experts from academia, industry, public interest groups and government were asked to critically evaluate and make recommendations for improving the current chemical scoring system. Workshop participants, selected on the basis of their knowledge on scoring systems or components thereof, accomplished their task through a series of plenary and concurrent working sessions devoted to specific factors which compose the overall scoring system. A report of the workshop (to be available in late summer 1979) will be used by the Committee to determine if changes are needed in its chemical scoring system.

In order to accomplish its work in a more timely fashion, the Committee has initiated some changes in the format for reporting to the Administrator. In place of dossiers of supporting material which were forwarded to the Administrator following each of the previous reports, the fourth report contains rationales, which are found in Section 2.2. Each of these rationales contains a brief description of the physical and chemical characteristics of the chemical, selected information from the scientific literature and from government reports, the Committee's recommendations concerning specific effects of concern and a bibliography. In some instances listing of background references is provided in addition to those cited in the rationale.

In contrast to the dossiers, the rationales do not contain reference to planned or ongoing studies, although the Committee may be aware of such studies. In this regard, the Committee's reasoning in the present or future designation of substances on which studies are planned or ongoing remains the same as stated and explained in Section 3.2 of the Third Report (4): "The Committee generally does not regard knowledge that studies are planned or ongoing as a sufficient basis to defer consideration of a substance for designation for the effect under investigation or for any other effect. The Committees judgment as to whether a substance has been adequately tested for health and environmental effects must rest with the data that are presently available. Such data do not exist for planned studies and may be in various stages of generation for ongoing studies."

1.3 *EPA's Response to the Committee's First Report*

In this Report, several chemical substances and categories appear on the Section 4(e) Priority List with designations for action by October 1978. These chemicals were designated for action by the Administrator in the Committee's First Report in October 1977. As announced in the Federal Register (43 FR 50134–50138, October 26, 1978), EPA has initiated review and evaluation of these initial recommendations. These chemicals are still retained on the Section 4(e) Priority List as shown in Table 1.

Chapter 2. Recommendations of the Committee

2.1 *Chemical Substances Designated for Action by EPA Within Twelve Months*

The Committee is revising its TSCA Section 4(e) Priority List by the addition of eleven individual substances and one category for which initiation of testing rules is recommended. These chemicals were selected after consideration of: the factors identified in TSCA Section 4(e)(1)(A), including the reasonably foreseeable availability of facilities and personnel for performing the recommended tests (see Reference Nos. 3–4 for detailed discussion); other relevant factors identified by the Committee; and the knowledge and professional judgment of Committee members. The recommended studies deemed appropriate for determining the potential hazard(s) of each new entry and the reasons for such recommendations are described in Section 2.2 of this report and summarized in Table 2. As in the case of the Committee's previous recommendations, these chemical substances are being designated by the Committee for action by EPA within twelve months. The Committee assigns equal priority to all newly designated entries. Therefore, each of the new entries should be given the same priority for purposes of initiating action under TSCA Section 4(a).

Unless stated otherwise, the chemical substance recommended for toxicological testing is the product to which the population is exposed. In some cases, the Committee has refrained from recommending environmental effects studies because information concerning the fate of the chemical is insufficient to establish whether significant environmental concentrations are likely to occur. Where testing for environmental effects is recommended the appropriate tests will depend on the predicted environmental fate of the chemical in question. Information available to the Committee generally does not permit recommendation of specific effects tests, or tests on particular indicator organisms for specific ecosystems. Therefore, while specific health effects tests can be recommended, the recommendation to perform environmental effects testing must necessarily remain general.

Where epidemiological studies are recommended the Committee has not determined if the appropriate cohorts can be identified.

Antimony, antimony sulfide and antimony trioxide are being listed separately, (see Table 1); but one rationale in Section 2.2 contains the Committee's recommendations and reasons for designation for all three chemicals.

Table 1. *The TSCA Section 4(e) Priority List.*

	Designated for action by: *
Acetonitrile	April 1980
Acrylamide	April 1979
Alkyl epoxides	(October 1978)
Alkyl phthalates	(October 1978)
Aniline and bromo, chloro, and/or nitroanilines	April 1980
Antimony (metal)	April 1980
Antimony sulfide	April 1980
Antimony trioxide	April 1980
Aryl phosphates	April 1979
Chlorinated benzenes, mono- and di-	(October 1978)
Chlorinated benzenes, tri-, tetra- and penta-	October 1979
Chlorinated naphthalenes	April 1979
Chlorinated paraffins	(October 1978)
Chloromethane	(October 1978)
Cresols	(October 1978)
Dichloromethane	April 1979
1,2-Dichloropropane	October 1979
Cyclohexanone	April 1980
Glycidol and its derivatives	October 1979
Halogenated alkyl epoxides	April 1979
Hexachloro-1,3-butadiene	(October 1978)
Hexachlorocyclopentadiene	April 1980
Isophorone	April 1980
Mesityl oxide	April 1980
4,4'-Methylenedianiline	April 1980
Methyl ethyl ketone	April 1980
Methyl isobutyl ketone	April 1980
Nitrobenzene	(October 1978)
Polychlorinated terphenyls	April 1979
Pyridine	April 1979
Toluene	(October 1978)
1,1,1-Trichloroethane	April 1979
Xylenes	(October 1978)

*Chemicals followed by dates in parenthesis were designated by the Committee (Ref. 2) and responded to by the Administrator in 43 FR 50134–50138.

Table II.—*Summary of Studies Recommended in This Report*

Substance or category	Carcinogenicity	Mutagenicity	Teratogenicity	Chronic effects	Environmental effects	Epidemiology
Acetonitrile	×	×	×	×		×
Aniline and Bromo: Chloro; and/or Nitroaniline	×	×	×	[a,b] ×	×	×
Antimony	×	×	×	[f] ×	×	×
Antimony Sulfide	×	×	×	[f] ×	×	×
Antimony Trioxide	×	×	×	[f] ×	×	×
Cyclohexanone	×	×	[b] ×	[a,f] ×	×	×
Hexachlorocyclopentadiene	×	×	×	[a,b] ×	×	×
Isophorone	×	×	×	[a,b] ×		×
Mesityl Oxide	×	×	×	[b] ×		×
4,4'=Methylenedianiline	×	×	×		×	×
Methyl Ethyl Ketone				[a] ×		×
Methyl Isobutyl Ketone		×	×	×		×

[a] With emphasis on neurological effects.
[f] With emphasis on reproductive effects.
[b] Including behavioral effects in offspring.
[b] With emphasis on hematopoietic effects.

References

1. Preliminary List of Chemical Substances for Further Evaluation, Toxic Substances Control Act Interagency Testing Committee, July 1977.

2. Initial Report to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, October 1, 1977. Published in the Federal Register, Vol. 42, No. 197, Wednesday, October 12, 1977, pp. 55026–55080. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–78/001, January 1978.

3. Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, April 1978. Published in the **Federal Register**, Vol. 43, No. 76, Wednesday, April 19, 1978, pp. 16684–16688. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–78/002, July 1978.

4. Third Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, October 1978. Published in the **Federal Register**, Vol. 43, No. 210, Monday, October 30, 1978, pp. 50630–50635.

2.2 *Rationales*

Acetonitrile

Recommended Studies:
Carcinogenicity
Mutagenicity
Teratogenicity
Other Chronic Effects
Epidemiology

Physical and Chemical Information:
CAS No. 75–05–8
Structural Formula: $H_3C\text{-}C \equiv N$
Empirical Formula: C_2H_3N
Molecular Weight: 41.05
Boiling Point: 81.6° C
Vapor Pressure: 100 mm @ 27°C
Log Partition Coefficient: −0.34

Acetonitrile is a polar solvent with a high dielectric constant. It is miscible with water, methanol, ethanol, carbon tetrachloride, acetamide, ethyl acetate, ethylene dichloride, ethyl ether, and acetone.

Reasons for Recommendations

Production, Release, and Exposure: Acetonitrile is produced as a by-product during the synthesis of acrylonitrile. This synthetic process known as the SOHIO process involves the high temperature catalytic reaction between propylene and ammonia (Stobaugh et al., 1971). The SOHIO process is the principal route to both acrylonitrile and acetonitrile which is produced at the rate of 0.035 lb/lb of acrylonitrile (Lowenheim and Moran, 1975). The production volume for acetonitrile for 1977 has been given as 57.8 million pounds (ITC, 1977). Since the growth rate of acrylonitrile is projected at 6 to 8% for the next five years, 1982 production of acetonitrile could range between 77 to 85 million pounds (Anon., 1975).

Commercially, acetonitrile finds its greatest use as a volatile solvent and as an extracting fluid for fatty acids, animal and vegetable oils, fish liver oils, and unsaturated petroleum hydrocarbons (Hawley, 1971). In addition, acetonitrile is a starting material in the synthesis of specialty chemicals such as acetophenone, alpha-naphthalene acetic acid, thiamine, and acetamidine (Hawley, 1971).

The greatest potential for exposure to acetonitrile occurs in the workplace. Synthesis of acetonitrile is carried out in a closed system so that exposure would occur as the result of accidental escapes during production, transfer and storage. Since much of the chemical has noncaptive uses, such as an extracting solvent, many more people could be exposed besides those engaged in synthesis operations. Exposure could occur via inhalation or absorption though the skin (Fassett, 1963). NIOSH estimates that 23,000 workers may be exposed to acetonitrile (NIOSH, 1979).

Effects of Concern

Carcinogenicity

No studies were found in the searched literature which could be used in assessing the carcinogenic potential of acetonitrile. In rabbits, thyroid hyperplasia and resulting abnormal protrustion of the eyeball was observed after 14 to 60 days of daily intramuscular injection of 0.05–0.1 ml of acetonitrile (Marine et al., 1933). As discussed below, a wide range of tissue changes has been observed in rats, monkeys, dogs and humans after exposures ranging from single doses to ninety daily doses. Because of the short duration of the reported studies, none is adequate to establish the carcinogenic potential of acetonitrile. Possible contamination of acetonitrile by acrylonitrile, a carcingen (NIOSH, 1978a), should be investigated. Because of the wide range of degenerative tissue changes observed even in these studies of short duration, the Committee recommends that acetonitrile be tested for carcinogenic potential.

Mutagenicity

No studies on the possible mutagenicity of acetonitrile were found in the searched literature. The Committee recommends that acetonitrile be tested for mutagenicity.

Teratogenicity

No studies on the possible teratogenicity of acetonitrile were found in the searched literature. The Committee recommends that acetonitrile be tested for teratogenicity.

Chronic Effects

The metabolism and pharmacokinetics of acetonitrile presents a complicated picture. In all species studies to date (rat, monkey, dog, human), great individual differences have been observed; and generalizations are tenuous regarding the fate of acetonitrile in mammals and humans. The major toxic effects of exposure to acetonitrile apparently result from the produciton of hydrogen cyanide which then acts to inhibit

cytochrome oxidase, thus impairing cellular respiration. This hypothesis is supported by the work of Lang (1894, as cited in Pozzani et al., 1959) who reported that formate and cyanide are the metabolic products of acetonitrile in dogs. Giacosa (1883, as cited in Pozzani et al., 1959) reported the metabolites as acetic acid and ammonia. The formation of cyanide in mammals and humans after acetonitrile exposure is supported by the autopsy reports of two human poisoning victims which showed high levels of cyanide in various organs, blood and urine (Amdur, 1959; Dequidt et al., 1974) and by studies in rats, monkeys and dogs showing urinary thiocyanate in all three species after inhalation of acetonitrile and free cyanide in the blood of the monkeys and dogs (Pozzani et al., 1959). After intraperitoneal (i.p.) injection of acetonitrile, rats excreted acetonitrile, and free and conjugated hydrogen cyanide in the urine. After lethal i.p. doses to rats, acetonitrile and free and conjugated cyanide were found in various organs (Haguenoer et al., 1975a, b, c). In three human volunteers who inhaled acetonitrile for four hours, only one showed measurable urinary thiocyanate (Pozzani et al., 1959). The delay of onset of symptoms in humans (Amdur, 1959; Pozzani et al., 1959) suggests that acetonitrile is only slowly metabolizd to free cyanide.

Inhalation of 655 ppm of acetonitrile vapor by rats during five seven-hour days of exposure per week for 13 weeks (90 days) produced significant tissue changes in the kidney, liver and lung. One rat had a cerebal hemorrhage. Monkeys who inhaled 2510 or 350 ppm of acetonitrile vapor, on autopsy, showed cerebral hemorrhage and lung congestion. Dogs who inhaled 350 ppm of acetonitrile showed significant weight loss and lung changes (Pozzani et al., 1959). Rats who inhaled 2800 ppm of acetonitrile vapors for 2 hours per day for 5 days displayed difficulty in breathing, impairment of renal function, paralysis of extremities, severe loss of body weight, and hemorrhages in the lung and brain (Haguenoer et al., 1975b).

The wide range of acute toxic effects of acetonitrile and the degenerative tissue changes seen in subacute studies raise a level of concern regarding the possiblity of adverse effects of acetonitrile upon prolonged exposure. The Committee recommends that acetonitrile be tested for possible chronic effects.

Epidemiology

The Committee recommends that epidemiological investigations be carried out on persons involved in the production and use of acetonitrile.

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Anon. 1975. Chemical Marketing Reporter. July 14, p. 3, 17.

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Stobaugh, R. B., et. al. 1971. Acrylonitrile: How, where, who-future. Hydrocarbon Processing 40(1):109–120.

Szabo, S. and E. S. Reynolds. 1975. Structure-activity relationships for ulcerogenic and adrenocorticolytic effects of alkyl nitrile, amines, and thiols. Environ. Hlth. Perspec. 11:135–140.

Williams, R. T. 1959. Detoxication metabolism. 2nd Ed. John Wiley and Sons, Inc. New York.

Aniline and Chloro-, Bromo-, and/or Nitro- Anilines

Recommended Studies:
- Carcinogenicity
- Mutagenicity
- Teratogenicity
- Other Chronic Effects
- Environmental Effects
- Epidemiology

Category Identification:

This category includes aniline and aniline substituted in one or more positions with a chloro, bromo, or nitro group, or any combination of one or more of these substituent groups. Excluded from the category are anilines substituted in one or more positions with a group other than a chloro, bromo, and/or nitro group, irresepctive as to whether a chloro, bromo, and/or nitro group also is present. This category includes, but is not limited to, those chemicals listed in Table A. Physical and chemical information is found in Table A.

Reasons for Recommendations:

In general, none of the chemicals in this category has been adequately tested for human health or environmental effects. The results from limited studies, however, raise a level of concern regarding their potential for producing toxic effects. Most category members probably have the ability to induce methemoglobinemia. The parent aniline compound has been reported to be carcinogenic in laboratory animals and other category members have a high suspicion of carcinogenicity. A number of the members have been shown to be mutagenic. Given these demonstrated adverse health effects, the untested and inadequately tested members of the category must be regarded as suspect until each has been appropriately studied. Based on the suspect nature of the category members, on the relatively high production volumes (see Table B) and on the potential for environmental release and human exposure, the following studies are recommended.

Effects of Concern

Carcinogenicity

Aniline has been reported to be carcinogenic in both sexes of treated rats (NCI, 1978b). A tumor similar to that produced by aniline was observed in rats treated with *p*-chloroaniline, although the incidence was not statistically significant (NCI, 1979). 2,4,6-Trichloroaniline has been reported to induce a significant increase in vascular tumors in male mice (Weisburger et al.,

1978). The chemical 4-chloro-2-nitroaniline is regarded with special suspicion since it is a nitro analog of the carcinogen 4-chloro-o-phenylenediamine (NCI, 1978a). The suspect nature of aromatic amines (Clayson and Garner, 1976), in general, and the high level of suspicion of certain specific category members, in particular, raises sufficient concern that the Committee recommends that chemicals within this category be tested for carcinogenicity.

Mutagenicity

A number of category members have been reported to be mutagenic (Prasad and Pramer, 1969; Prasad, 1970; Garner and Nutman, 1977; Romanova and Rapoport, 1971; Kappas, 1978). These findings cast suspicion on the remaining untested or inadequately tested members. The Committee recommends that appropriate tests, which consider both somatic and germinal effects, be undertaken to assess the mutagenic potential of members of this category.

Teratogenicity

No studies were found in the literature on the teratogenic effects of members in this category. Although minimal cyanosis may not produce overt effects in exposed pregnant women, possible adverse consequences on the fetus and embyro are unstudied. Because of the potential of occupational exposure of pregnant women coupled with the known toxicity and systemic absorption of many category members, teratogenic effects should be assessed. The Committee recommends that appropriate tests, which consider both morphological and functional effects, be undertaken to assess the potential teratogenicity of members of this category.

Other Chronic Effects

Aromatic amino and nitro compounds are effective inducers of methemoglobinemia, although the intensity of induction is related to the toxicity of individual compounds, experimental species, and conditions of test. Humans are particularly sensitive to compounds that induce methemoglobinemia. Methemoglobinemia has been reported in humans from exposure to aniline, *m*-nitroaniline, and *p*-nitroaniline (de Bruin, 1976). Systemic absorption may occur by inhalation or through intact skin. The Committee recommends that members of this category be assessed for adverse chronic health effects, with particular emphasis on blood and nervous system disorders.

Environmental Effects

The halogenated anilines, certain nitroanilines and all halogenated nitroanilines appear to have potential for adverse effects on plant and animal life (Schafer, 1972; Corke and Thompson, 1970; Julin and Sanders, 1978; Rashid and Mayandon, 1974; Rusakov, 1968; Thompson and Corke, 1969; Verschueren, 1977). Bioaccumulation varies considerably with members of this category; the octanol-water partition coefficients are intermediate in value (log P ranges up to about 3.0). The occurrences of residues and their persistence in water and soil suggest a continuous and highly dispersive discharge into the environment (Anagnostopoulos et al., 1978; Bollag and Russell, 1976; Corke and Thompson, 1970; Fuchsbichler et al., 1978; Greve and Wegman, 1975; Iliseasn and Stefanescu, 1974; Kaufman et al., 1973; Korte et al., 1978; Meijers and Van der Leer, 1976; Minard et al., 1977; Mueller and Korte, 1974; Smith and Sheets, 1966; Thompson and Corke, 1969; and Verschueren, 1977).

Studies are needed to establish the potential for exposure of each member of this category in water, fish and wildlife, food chain organisms and primary producers. Since conflicting reports of the ability of animals, plants and microbes to metabolize and tolerate these chemicals appear in the literature cited above, further study is recommended by the Committee to clarify the fate, persistence and biotransformation products of these substances in the environment. Where significant exposures exist, the Committee recommends short and long term testing to characterize the nature of toxicity of the bromo-, chloro-, and/or nitro substituted anilines that are released into the environment.

Epidemiology

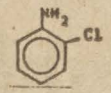
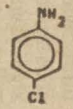
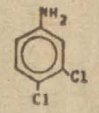
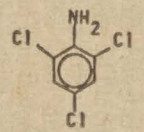
No information is available on the chronic effects produced in humans exposed to members of this category. The Committee recommends that epidemiologic studies be undertaken to assess the possible adverse, chronic health effects for those category members where there has been or is significant human exposure.

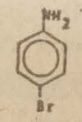
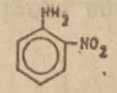
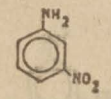
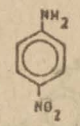
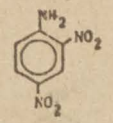
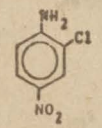
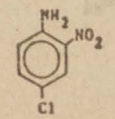
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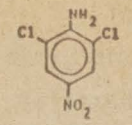
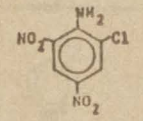
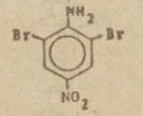
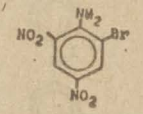
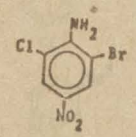
Table A

Aniline and Chloro-, Bromo-, and/or Nitro- Anilines

Selected Properties

Compound	CAS No.	Structure	Molecular Weight	Log Octanol/Water Partition Coefficient[a]	Vapor Pressure[b]
Aniline	142-04-1		93.12	0.90-0.98	1 mm at 34.8°C
o-Chloroaniline	95-51-2		127.57	1.90	1 mm at 46.3°C
m-Chloroaniline	108-42-9		127.57	1.89	1 mm at 63.5°C
p-Chloroaniline	106-47-8		127.57	1.83	1 mm at 59.3°C
3,4-Dichloroaniline	95-76-1		162.03	2.69	?
2,4,6-Trichloroaniline	634-93-5		196.475		1 mm at 124°C

p-Bromoaniline	106-40-1		172.04	2.26	?
o-Nitroaniline	88-74-4		138.12	1.44-1.83	1 mm at 104°C
m-Nitroaniline	99-09-2		138.12	1.37	1 mm at 119.3°C
p-Nitroaniline	100-01-6		138.12	1.39	1 mm at 142.4°C
2,4-Dinitroaniline	97-02-9		183.12	?	?
2-Chloro-4-nitroaniline	121-87-9		172.57	?	?
4-Chloro-2-nitroaniline	89-63-4		172.57	?	?

2,6-Dichloro-4-nitroaniline	99-30-9		207.02	?	?
2-Chloro-4,6-dinitroaniline	3531-19-9		217.57	?	?
2,6-Dibromo-4-nitroaniline	827-94-1		295.94	?	?
2-Bromo-4,6-dinitroaniline	1817-73-8		262.03	?	?
2-Bromo-6-chloro-4-nitroaniline	99-29-6		251.48	?	?

Footnotes

a. Leo et al. 1971. Partition coefficients and their uses. Chem. Rev. 71:526-616.

b. Handbook of Chemistry and Physics. 1976. 57th Ed. Weast, R.C., Ed. Chemical Rubber Co., Cleveland, O.

Table B

Aniline and Chloro-, Bromo-, and/or Nitro- Anilines

Chemical-Economic Information

Compound	U.S. Production lbs./yr.	Imports lbs./yr.	Occupational Exposure[a] (Persons)	Major Uses	Comments
Aniline	400 million[b]	Unknown	1,258,600 Rank: 158	Dye intermediate	Exposure to aniline hydrochloride causes methemoglobinemia and cyanosis (Hamblin, 1963; Windholz, 1976). Aniline hydrochloride is carcinogenic to male and female Fischer 344 rats (NCI Tech. Rpt. 78-1385, 1978).
o-Chloroaniline	Unknown	368,861[e]	18,138 Rank: 2263	Dye and agricultural chemical intermediate	Methemoglobin formation was reported in rats (Watanabe, 1976) and cats (McLean, 1969) exposed to *o*-chloroaniline. A moderate increase in the frequency of back mutation in Aspergillus nidulans was reported (Prasad, 1969)
m-Chloroaniline	> 1,000[c]	210,319[e]	Unknown	Dye and agricultural chemical intermediate	Methemoglobin was reported in mice (Nomura, 1975) and rats (Vasilenko, 1972) after exposure to *m*-chloroaniline. An increased rate of back mutations in Aspergillus nidulans was reported (Prasad, 1970).
p-Chloroaniline	> 2,000[c]	104,631[e]	Unknown	Dye and agricultural chemical intermediate	Methemoglobin was reported in cats (McLean, 1969), mice (Nomura, 1975), and rats (Zvezdai, 1972) after exposure to *p*-chloroaniline. An increased rate of back mutations in Aspergillus nidulans was reported (Prasad, 1970). A bioassay produced suggestive evidence for the carcinogenicity of *p*-chloroaniline in rats and mice (NCI Tech. Rpt. 79-1745, 1979).
3,4-Dichloroaniline	Unknown	Unknown	Unknown	Dye and agricultural chemical intermediate	An increased rate of back mutations in Aspergillus nidulans after exposure to 3,4-dichloroaniline was reported (Prasad, 1970).
2,4,6-Trichloroaniline	Unknown	Unknown	Unknown	Dye intermediate	A significant increase in vascular tumors was reported in male mice exposed to 2,4,6-trichloroaniline (Weisburger, 1978).

p-Bromoaniline	Unknown	Unknown	1,744 Rank:5,991	Dye intermediate	Methemoglobin was reported in cats after exposure to *p*-bromoaniline (McLean, 1969).
o-Nitroaniline	> 1,000 (c)	Unknown	400 Rank: 5895	Dye intermediate	Methemoglobin was reported in rats after exposure to *o*-nitroaniline (Watanabe, 1976). The compound was reported to be mutagenic in Salmonella typhimurium TA 1538 (Garner, 1977).
m-Nitroaniline	5,000 (c)	42,046 (e)	Unknown	Dye intermediate	*m*-Nitroaniline was reported to induce methemoglobin in humans and experimental animals (de Bruin,1976). The mutagenicity of the compound was reported in Salmonella typhimurium TA 1538 (Garner, 1977) and Actinomyces sphaeroides (Romanova, 1971).
p-Nitroaniline	8.6 million (c)	2.9 million (c)	800 Rank: 5282	Intermediate for antioxidants, dyes, and gasoline gum inhibitors	Exposure to *p*-nitroaniline was reported to produce methemoglobin formation in rats (Watanabe, 1976) and dogs (Patty, 1963). The compound was reported to be mutagenic in Salmonella typhimurium TA 1538 (Garner, 1977).
2,4-Dinitroaniline	1,000 (d)	300,000 (e)	Unknown	Dye intermediate	2,4-Dinitroaniline was reported to be mutagenic in Salmonella typhimurium TA 1538 (Garner, 1977
2-Chloro-4-nitroaniline	> 2,000 (d)	485,000 (e)	2,739 Rank:4,054	Chemical intermediate	—
4-Chloro-2-nitroaniline	5,000 (d) 211,000 (d,f)	90,000 (e) 156,000 (e,f)	Unknown	Pigment intermediate	4-Chloro-2-nitroaniline is a nitro analog of the carcinogen 4-chloro-*o*-phenylenediamine (NCI Tech. Rpt. 78-1313, 1978).
2,6-Dichloro-4-nitroaniline	Unknown	Unknown	Unknown	Fungicide and dye intermediate	2,6-Dichloro-4-nitroaniline was reported to induce somatic recombination in Aspergillus nidulans (Kappas, 1978).

2-Chloro-4,6-dinitroaniline	Unknown	24,000 (e)	Unknown	Unknown	—
2,6-Dibromo-4-nitroaniline	> 5,000 (d)	Unknown	Unknown	Unknown	—
2-Bromo-4,6-dinitroaniline	> 150,000 (d)	Unknown	Unknown	Dye intermediate	—
2-Bromo-6-chloro-4-nitroaniline	> 1,000 (d)	Unknown	Unknown	Unknown	—

Footnotes

[a]National Occupational Hazards Survey (NOHS). National Institute for Occupational Safety and Health, Cincinnati, Ohio, 1977.

[b]U.S. International Trade Commission (Reported 1975 Data), 1977.

[c]Toxicology Data Bank (Reported 1975 Data), National Library of Medicine, National Institutes of Health.

[d]U.S. International Trade Commission, Synthetic Organic Chemicals, U.S. Production and Sales (1977), 1978.

[e]U.S. International Trade Commission, Imports of Benzenoid Chemicals and Products.

[f]Reported as Azoic Diazo Component 9 Base.

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*Antimony, Antimony Sulfide, Antimony Trioxide**

Recommended Studies:
Carcinogenicity
Teratogenicity
Mutagenicity
Other Chronic Effects, including reproductive effects
Environmental Effects
Epidemiology

Physical and Chemical Information:
Antimony, CAS No. 7440–36–0, At. Weight: 121.75.
Antimony sulfide, CAS No. 1345–04–6, Molecular Weight: 339.6.
Antimony trioxide, CAS No. 1309–64–4, Molecular Weight: 291.5.

Reasons for Recommendations:

Production, Release, and Exposure:

In the U.S. production of antimony in 1976 was over 29 million pounds from ore and approximately 40 million pounds from recycled metal (NIOSH, 1978). For antimony trioxide, U.S. production for 1978 was projected to be 70 million pounds (Hishida, 1977). No data on antimony sulfide were found. The amount of environmental release of antimony, antimony sulfide and antimony trioxide is not known.

NIOSH estimates that 1,350,000 workers are exposed to antimony, 81,793 workers to antimony trioxide, and 1,221,000 to antimony sulfide (NIOSH 1977, 1978). Besides the occupational exposure of antimony and antimony-containing compounds, there are other human exposures. Antimony may be released to the atmosphere from the mining, hauling, and smelting or ore, from the use and disposal of products containing antimony, and from petroleum and petroleum products, coal, and concrete. Ninety percent of the antimony trioxide consumed annually in the United States is used as a flame retardant. A possible measure of exposure is a recent report wherein antimony has been measured in hair of residents of Canada with the following

* Although this rationale supports the designation of antimony, antimony sulfide and antimony trioxide, each of these substances is listed individually on the Section 4(e) Priority List.

results for mean levels in ppm: rural residents, 7.9; urban residents, 9.7; and Canadians residing near lead smelters, 14.6. (Chattopadhyay et al., 1977).

Physical and chemical characteristics suggest that antimony trioxide, when released, will largely accumulate in the soil/sediment system. Monitoring data confirm this prediction with the highest concentrations in solid wastes from processing (Elinder and Friberg, 1977; Schwitzgebel et al., 1978) and in the soil around processing locations (Crecelius et al. 1974). In aquatic sites, concentrations in water are low (A.D. Little Inc., 1976; Shuman et al., 1977) or are associated with particles larger than 0.45 um (Strohal et al., 1975). In polluted sites, sediments can have 10–150 times the concentration as in unpolluted sites (De Goeij et al., 1974; Skei et al., 1972).

Effects of Concern

Carcinogenicity

A large number of animal studies have been reported on various antimony compounds (NIOSH, 1978). Although no carcinogenic effects were demonstrated, the studies are considered to be inadequate by today's testing standards for detecting carcinogenic activity. One study of exposed antimony workers suggests that they may be at increased risk to lung cancer (NIOSH, 1978). No other information was found regarding the potential carcinogenic effects resulting from exposure to antimony compounds. The long-term effects of low-level exposure are of particular concern because of the use of antimony trioxide as a flame retardant in consumer goods, which may lead to widespread human exposure.

Based on the lack of adequate carcinogenicity data on antimony compounds coupled with the opportunity for their wide human exposure, the Committee recomments these substances be tested for carcinogenicity.

Mutagenicity

Antimony trioxide, antimony pentachloride, and antimony trichloride were tested for mutagencity by the rec-assay procedure and found to be positive; that is, they inhibited more strongly cellular growth of a recombinant-deficient strain of *B. subtilis* (M45) than that of a wild one (H17). These results indicate DNA-damaging capacities of these compounds (Kanemutsu and Kada, 1978).

Paton and Allison (1972) report that some compounds of antimony cause chromosome aberrations in plants, insects and cultured human cells. Coupled with the possible reproductive effects in humans reported by Belyayeva and discussed below, these data suggest that antimony compounds may be mutagenic. The Committee, therefore, recommends that antimony, antimony sulfide and antimony trioxide be tested for mutagenicity, including both germinal and somatic effects.

Teratogenicity

Only limited animal data are available on the possible teratogenicity of antimony, antimony trioxide and antimony sulfide. Bradley and Frederick (1941) noted frequent abortions in rabbits given repeated high oral doses of metallic antimony. Belyayeva (1967) reported that rats repeatedly exposed to 250 mg/cubic meter of antimony trioxide by inhalation produced fewer offspring than controls. No changes were observed in the maternal reproductive system. However, Casals (1972) reported that no antimony was detected in rat fetuses whose mothers had received antimony dextran glycoside intramuscularly during gestation. James et al. (1966) reported on four yearling ewes fed antimony potassium tartrate at 2 mg/kg of body weight for 45 days or throughout gestation. All ewes fed the antimony gave birth to normal, full term lambs. Upon autopsy, no adverse effects were observed in the ewes.

Suggestive evidence of possible adverse effects in humans was reported by Belyayeva (1967) who observed an excess incidence of spontaneous abortions, premature births and gynecologic problems in female workers exposed to dusts of antimony metal, antimony trioxide and antimony pentasulfide.

Based on the lack of adquate data and possible widespread human exposure, the Committee recommends teratogenicity testing on antimony, antimony trioxide, and antimony sulfide.

Other Chronic Effects

Pneumoconiosis and skin irritation have been reported in humans exposed chronically to antimony trioxide (NIOSH, 1978). Although two reports (NIOSH, 1978; Elinder and Friberg, 1977) summarize a number of adverse effects (e.g., shortened life span and respiratory disorders in rats, degeneration of the myocardium in rats and rabbits, and degeneration of the kidney and liver in rabbits) in experimental animals exposed to various antimony compounds, there have been no adequate long-term studies to assess the chronic health effects resulting from exposure to antimony compounds.

Given the suggestion of reproductive effects, the general lack of data on other health effects and the potential for wide human exposure, the Committee recommends that antimony and the antimony compounds be tested for their chronic health effects, including reproductive effects.

Environmental Effects

High levels of antimony trioxide observed in soil suggest the possibility of risk to terrestrial plants, to other food chain organisms and to soil microorganisms. The basis for this possibility is the presence in soil of antimony at concentrations higher than levels known to cause toxicity to aquatic organisms. There is insufficient antimony toxicity data on terrestrial plants and soil microorganisms. If terrestrial plants bioconcentrate antimony, testing of other organisms in terrestrial food chains would be appropriate. If testing on soil microorganisms shows a risk of interference with nutrient cycling, then further study may be needed.

Considerable data exist which indicate that acute toxicity to aquatic organisms occurs at concentrations which are generally higher than expected environmental levels (A.D. Little, Inc., 1976; Hildebrand et al., 1976). However, acute toxicity is commonly within two orders to magnitude of levels expected in the environment, and chronic toxic effects can occur at 100–1000 times lower concentrations of some chemicals than acute toxic effects (Biesinger and Christensen, 1972; Brungs et al., 1977; Claus, 1976; Benoit, 1976). In addition, antimony is persistent and may bioaccumulate (A.D. Little, Inc., 1976).

Since antimony and antimony compounds are likely to be released to the environment during production and use, and because of their persistence, the Committee recommends that these chemicals be tested for possible environmental effects. The use of antimony trioxide as a flame retardant in many applications may lead to environmental release upon use and disposal of the flame retarded materials.

Epidemiology

Occuptional studies have been conducted predominantly on the acute toxic effects of antimony, antimony trioxide and antimony sulfide. There is little information on chronic effects in humans from exposure to low levels of antimony, antimomy trioxide, and antimony sulfide over an extended

period of time. Because of its long-term use, high human exposure, and demonstrated effects in animals, epidemiological studies may be particularly important in assessing the human health effects of antimony, antimony trioxide and antimony sulfide.

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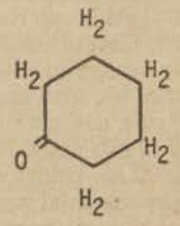
Cyclohexanone

Recommended Studies:
Carcinogenicity
Mutagenicity
Teratogenicity, including behavioral studies in the offspring
Other Chronic Effects, including reproduction and neurological studies
Environmental Effects
Epidemiology

Physical and Chemical Identification

CAS Number: 108–94–1

Structural Formula



Vapor Pressure: 10 mm at 38.7°C.
Log Octanol/Water Partition Coefficient: 0.81 (Leo et al., 1971)
Empirical Formula: $C_6H_{10}O$
Molecular Weight: 98.15
Boiling Point: 155.65°C

Soluble in water, alcohol, ether, acetone, benzene and chloroform.

Reasons for Recommendations:

Production, Release and Exposure

Cyclohexanone is produced in very large quantities with 783 million pounds in 1972 (ITC, 1974); 651 million pounds in 1974 (ITC, 1976); 554 million pounds in 1975 (NIOSH, 1978) and 641 million pounds in 1976 (ITC, 1977). Because of its widespread use as an industrial solvent, as well as a multiplicity of other uses, cyclohexanone has a high occupational exposure.

NIOSH estimates that 1,190,000 workers are potentially occupationally exposed (NIOSH, 1977). The estimated annual environmental release of cyclohexanone is 51 million pounds (Lande et al., 1976). General population exposure is potentially high since cyclohexanone is used as a solvent in numerous consumer products (e.g. stain, spot and paint removers; lacquer thinner; polishes; adhesives). It is also used in resins and lubricating oils.

Effects of Concern

Carcinogenicity

No carcinogenicity studies of cyclohexanone were found. Due to the potentially large human exposure and the indication of biological activity, as seen in the teratogenic and cytogenic activity discussed below, the Committee recommends carcinogenicity testing.

Mutagenicity

Possible cytogenic activity of cyclohexanone was demonstrated by means of human leukocyte cultures, according to the work of Collin (1971). Further studies are needed to assess mutagenicity including possible germinal and somatic effects. The Committee recommends mutagenicity testing.

Teratogenicity

Fertilized chicken eggs were utilized by Griggs et al. (1971) to study exposure to cyclohexanone vapor at an undescribed concentration. Three groups of eggs were incubated for 96 hours along with appropriate controls. The experimental groups were then exposed to cyclohexanone vapors for 3, 6, and 12 hours respectively (Study A). Two other groups were exposed for 3

and 6 hours prior to incubation (Study B). Both of the latter groups and the 6-hour exposed embryos of the former weighed significantly less than their controls. Chemical studies of the 12-hour exposed embryos revealed decreased serum calcium and elevated inorganic phosphate and SGOT; which suggested to the authors a condition of tetany and perhaps liver dysfunction. Four groups, two from each of Studies A and B, were permitted to hatch at 21 days incubation. The mortality of the experimental subjects ranged from 20% to 50% while the control chick mortality was only 10% to 20%. Survivors of the 3-hour exposed chicks of Study A could not maintain posture; could not walk; and, when disturbed, attempted to escape with a violent, somewhat spastic, sliding motion. All chicks were normally alert and normal in appearance, except for inward-curled toes. The authors stated that "no animals had gross abnormal anatomical difficulties, such as would be expected with other chemical teratogens." They concluded that these chicks suffered from what may well be an upper motor neuron lesion which produced marked neurological damage or covert embryopathy. The authors summarized by stating that cyclohexanone is functionally, rather than morphologically, teratogenic in the developing chick.

Weller and Griggs (1973), in a separate study, exposed two groups of embryonated eggs at 0 and 96 hours incubation age for 3, 6, and 12 hours to cyclohexanone vapors, and the controls to normal air. The results were the same as the previous study, except that the experimental group chicks that hatched were normal at first, and then developed severe locomotor difficulties within a few hours. In the paper they stated that the functional, rather than gross, teratogenic effect in the chick embryo may be clinically significant for man. Because of the extremely high production and release of this compound, and the significant occupational and general human exposure, teratogenicity studies including behavioral studies in the offspring are recommended by the Committee.

Other Chronic Effects

Cyclohexanone has been shown to produce irreversible changes in animal studies by Rengstorff et al. (1972). During a guinea pig skin sensitization study with acetone and cyclohexanone, the formation of cataracts by both agents in subcutaneous and cutaneous routes was an unexpected finding. This finding was confirmed in a subsequent study with cataracts appearing at three months when cyclohexanone was administered subcutaneously, and six months with cutaneous application. Both the controls and an additional 500 guinea pigs from the same animal colony receiving similar animal care were negative.

In addition to the neurological indications of the studies in chicks by Weller and Griggs (1973) and Griggs (1971) described above, neurological effects are suggested by other studies, summarized by Treon et al. (1943). Effects observed include rhythmic clonic convulsions, paralysis, and death in rabbits and excitation, tremors, *paresis* of the hind quarters, marked hypothermia and muscular convulsions, which did not cease until death, in mice. Also erythema, nerve irritation, wheal formation, and hyperemia following application of cyclohexanone upon human skin.

Dobrinskiy (1971) studied inhalation of low levels of cyclohexanone vapor in human subjects and found a threshold reflex of electrical activity at 0.06 mg/m^3 1n EEG measurements.

Adequate long term studies on cyclohexanone are needed. The Committee recommends chronic effects testing with particular emphasis on neurological and reproductive effects.

Epidemiology

Due to the irreversible changes reported in animal studies and the high production and human exposure estimates cited above the Committee recommends that epidemiological studies be conducted.

Environmental Effects

Although cyclohexanone has been detected in both air and water, environmental effects information is incomplete, at best.

Crisp et al. (1967) found that cyclohexanone produced narcosis in the barnacle larvae *Elininius modestus* at water saturation levels within 15 minutes.

Saslavasky and Ishay (1973) reported 25 to 50 percent mortality among the oriental hornet *Vespa orientalis* in both 2–12 day old and 12–30 day old colonies exposed to cyclohexanone (although the precise route of exposure could not be ascertained from the publication).

Verschueren (1977) reported that cyclohexanone began to inhibit cell multiplication in *Microcystis aeruginosa* at 52 mg/liter; and that cyclohexanone begins to inhibit cell multiplication in *Pseudomonas putida* at 180 mg/liter of water.

While the potential for bioaccumulation may be low (Neely et al., 1974; Leo et al., 1971), actual experimental data on rate of uptake and depuration could not be found. Since the quantity estimated to be released to the environment is relatively high and represents a continuous exposure to both terrestrial and aquatic life, the Committee recommends environmental effects testing.

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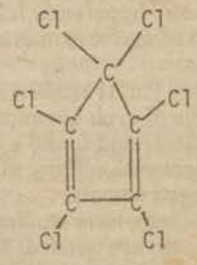
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Hexachloroeyclopentadiene

RECOMMENDED STUDIES
Carcinogenicity
Mutagenicity
Teratogenicity
Other Chronic Effects
Evironmental Effects
Substance Identification: CAS No. 77–47–4

Structural Formula



Molecular formula C_5Cl_6
Molecular weight: 272.8
Boiling point: 239°C
Melting point: 9.6°C

Hexachlorocyclopentadiene (hex) is a pale yellow nonflammable liquid with very pungent odor. It solubility in water is 2.10 ppm at 25°C and 2.25 ppm at 35°C. Hex is a highly reactive compound that undergoes substitution and addition reactions to give many products.

Reasons for Recommendations

Production, Release, and Exposure

Hexachlorocyclopentadiene is a highly reactive, highly chlorinated, important intermediate with no uses of its own (Ungrade and McBee, 1958). The current major uses of hex are as an intermediate in the manufacture of cyclodiene pesticides, primarily endosulfan and Pentac(R); and flame retardants for resins and plastics. Numerous other uses are listed in the patent literature but seem to be of technological interest only. Before restrictions were placed on some of the major cyclodiene insecticides (chlordane, aldrin, dieldrin, heptachlor, isodrin, endrin, mirex and kepone) an estimate was made that over 50 million pounds per year of hex were used as an intermediate (Whetsone, 1964). Current production for this use must be much lower since only endosulfan and Pentac(R) are in use. On the other hand, the manufacture of flame-retardant polyester resin formulations seems to be increasing at the rate of 10 percent annually. An estimated 8.3 million pounds of hex was used to produce chlorendic acid and anhydride in 1974 for flame retardants. (EPA, 1978).

The most likely route of entry into the environment is from the manufacturing process of hex or products made from hex. It has been detected in factory air and plant effluents, (Spehar, et al. 1977; EPA 8EHQ–0378–109)) In addition, the disposal of large quantities of hex presents a serious problem. Recently, sewage treatment plant workers were exposed to high doses of hex resulting from clandestine diposal of this compound (NIOSH, 1978).

Effects of Concern

Carcinogenicity

No carcinogenicity test data were found in the searched literature. The Committee, therefore, recomends that hex be tested in view of its high exposure potential and suspect chemical structure. Chemically related compounds—dieldrin, heptachlor and chlordane—were found to induce liver tumors in mice following oral administration (NCI, 1977a; NCI, 1977b; NCI, 1977c).

Mutagenicity

Although hex was reported to be non-mutagenic in *Escherichia coli* K12 in the presence of a mammalian metabolic activation system containing mouse liver microsomes (Bonse et al., 1977), additional testing employing other systems is required to evaluate the mutagenic potential of this chemical.

Teratogenicity

No teratogenicity test data are found in the searched literature. The Committee, therefore, recommends that the appropriate teratogenicity studies be undertaken.

Other Chronic Effects

The acute toxicity of hex in mammals and man is relatively well documented (Treon et al, 1955; EPA, 1978; NIOSH, 1978; EPA 8EHQ–0278–0064). It is concluded from the results of several studies that hex is a highly toxic material by inhalation (Treon et al., 1955). No adequate chronic toxicity studies have been identified in the searched literature. Treon et al. (1955) observed degenerative changes in the brain, heart, liver, kidney and adrenal glands in the various species tested but the number of animals and duration of

experiments were inadequate for evaluation.

Environmental Effects

Information on the behavior of hex in aquatic and terrestrial ecosystems is inadequate for an assessment of hex's environmental impact (NRC, 1978). Hex seems to persist in sludge, ground water and aquatic environments associated with its use and disposal (NIOSH, 1978; EPA, 1978; EPA 8EHQ-0178-0037; EPA 8EHQ-0578-0147). Bioaccumulation in fish and other organisms has been reported (Spehar et al., 1977; Lu et al., 1975; EPA 8EHQ-1177-0013; EPA 8EHQ-0378-0054; EPA 8EHQ-0278-0061; EPA 8EHQ-0378-0099). The potential for biological uptake and ecological magnification of this compound suggest the need for further testing to determine the biological significance of exposure to fish, wildlife and food chain organisms (EPA, 1978). Acute effects on fish, wildlife and food chain organisms are insufficient indicators of the nature of toxicity of hexachlorocyclopentadiene. Since it appears to be persistent and to bioaccumulate, particular emphasis of testing should be placed upon long-term chronic effects.

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Isophorone

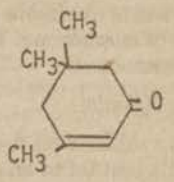
Recommended Studies

Carcinogenicity
Mutagenicity
Teratogenicity
Other Chronic Effects
Epidemiology

Physical and Chemical Identification

CAS number: 78-59-1

Structural formula



Molecular formula: $C_9H_{14}O$
Molecular weight: 138.2
Melting point: −8.1° C
Boiling point: 215.2° C
Vapor pressure: 0.31mm Hg @ 20° C

Isophorone (3,5,5-trimethylcyclohex-2-ene-1-one) is an unsaturated cyclic ketone. It is a clear liquid with a peppermint-like odor and a cooling taste. It is very slightly soluble in water.

Reasons for Recommendations

Production, Release, and Exposure

Isophorone is used as a solvent for vinyl resins, lacquers, and finishes; as a chemical intermediate in dyes, plasticizers, inhibitors, rubber chemicals, and flotation agents and as a pesticide (Hawley, 1971; NIOSH 1978a). Although production figures are not available estimated worker exposure is over 1.5 million (NIOSH, 1977). Isophorone has been identified in several water supplies, including one drinking water supply at 1.5–2.9 ug/liter (Shackelford and Keith, 1976; EPA, 1975).

Effects of Concern

Carcinogenicity

As an *alpha, beta-* unsaturated ketone isophorone is expected to have a strong tendency to undergo nucleophilic addition to its carbon-carbon double bond, i.e., it may behave as a direct alkylating agent. This expected reactivity may be lessened somewhat by steric hindrance by the methyl group on the double bond but only actual biological testing can determine the net effect ot these opposing tendencies.

Because of its possible alkylating potential, its high exposure and the lack of carcinogenicity test data, the Committee recommends that isophorone

be tested to determine its carcinogenic potential.

Mutagenicity

No mutagenicity test data was found in the searched literature.The possible alkylating activity of isophorone, mentioned above, suggests that this chemical may have mutagenic potential. The Committee, therefore, recommends mutagenicity testing.

Teratogenicity

No information is available on the teratogenicity of isophorone. Therefore, testing is recommended.

Other Chronic Effects

Information available on the toxicity of isophorone is limited to an acute study and a six week study on rats and guinea pigs. (Smyth and Seaton, 1940; Smyth et al., 1942). Irritation of eyes, nose, and throat in human subjects was noted by Silverman et al. (1946) and workers exposed at 5–8 ppm complained of fatigue and malaise (NIOSH, 1978).

Owing to the high exposure potential of this chemical and the lack of information on its toxicity, the Committee recommends testing for other chronic effects.

Epidemiology

There is no information on chronic effects in humans from exposure to low levels of isophorone. Because of the high occupational exposure, epidemiological studies may be particularly important in assessing the human health effects of isophorone.

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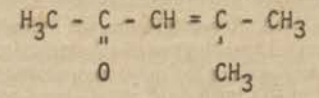
Mesityl Oxide

Recommended Studies:
- Carcinogenicity
- Mutagenicity
- Teratogenicity
- Other Chronic Effects
- Epidemiology

Physical and Chemical Information

CAS No.: 141–79–7

Structural Formula



Boiling point: 129.76° C
Vapor pressure: 10 mm at 26° C
Log octanol water partition coeff.: 1.24
Molecular formula: $C_6H_{10}O$
Molecular weight: 98.15

This unsaturated acyclic ketone is an oily liquid at room temperature. It has a characteristic peppermint odor (Rowe and Wolf, 1963). It is soluble in water, acetone, alcohol and ether.

Reasons for Recommendation

Production, Release, and Exposure

Mesityl oxide is produced commercially by dehydration of diacetone alcohol or by autooxidation of acetone. Annual production figures for the years 1974 and 1975 are 26.8 and 45.7 million pounds, respectively, according to the International Trade Commission (ITC, 1974; ITC, 1975). The chemical is released to the atmosphere during both manufacture and use, mostly from the formulation of surface coatings. These coatings include nitrocellulose, vinyl chloride-vinyl acetate copolymers, synthetic rubber, gums, resins, and ink pastes. It is also used in paint and varnish removers, carburetor cleaners, stain removers, and flotation agents. It is used as an intermediate in the production of lubrication oil additives, plasticizers, and methyl isobutyl ketone. This compound has been detected in automobile exhaust (Rose, 1969; Bellar and Sigsby, 1970; Seizinger and Dimitriades 1972) with maximum levels of 1.5 ppm. Worker exposure to this compound is estimated at 6160 (NIOSH, 1979).

Effects of Concern

Carcinogenicity

Although no studies could be found on the potential carcinogenicity of mesityl oxide, there is evidence to suggest that this compound may have carcinogenic activity.

Mesityl oxide, an *alpha, beta*-unsaturated ketone, is expected to have a strong tendency to undergo nucleophilic addition to its carbon-carbon double bond, i.e., it may behave as a direct alkylating agent. This possible activity as an alkylating agent may be somewhat reduced because of steric hinderance by the methyl groups on the beta carbon; but conclusions about this possible steric effect cannot be made without biological testing. The Committee recommends that mesityl oxide be tested for carcinogenicity.

Mutagenicity

No information could be found in the sources searched. Due to the potential as an alkylating agent, studies to screen

for mutagenic activity are recommended.

Teratogenicity

No information could be found in the sources searched. Studies to test for teratogenicity are recommended.

Other Chronic Effects

Silverman et al. (1946) reported on the human sensory thresholds for mesityl oxide. Twele men and women were exposed to the compound for 15 minutes and irritating concentrations were established at 25, 50 and 50 ppm for eyes, nose, and throat respectively.

Considerable irritation resulted from the dermal exposure of humans to this chemical. This was reported by Specht et al. (1940), as reported in NIOSH (1978)), after laboratory workers working with mesityl oxide complained of irritation of the hands in spite of protective latex gloves.

In acute inhalation tests with mice Hart et al. (1939), as reported in NIOSH (1978), found necrotic spots in liver, lung hemorrhage, alimentary tract distention and death. Smyth et al. (1942) in subchronic tests with guinea pigs and rats reported congested livers and lungs, dialated Bowman's capsules in the kidney, and swollen and convoluted tubular epithelium.

Significant deleterious effects on the rabbit cornea were found by Carpenter and Smyth (1946). Application of 0.02 ml of pure mesityl oxide caused necrosis covering 75 percent of the cornea 18–24 hours later.

Ito (1969) noted leukocytosis in rats and leukopenia and anemia in rabbits exposed to this chemical. The results in rabbits seem to be corroborated by a medical survey of workers which noted the "possibility of anemia and leukopenia" (Ito 1969). No other information could be found in the sources searched. These hematological abnormalities may be early indicators of the effects of mesityl oxide on the hematopoietic system.

Although the effects of mesityl oxide at acute and subchronic levels are well documented there are no reports on the effects of prolonged exposure to this chemical. It is therefore recommended that chronic studies be initiated to evaluate the effects of prolonged exposure with special emphasis on possible blood disorders.

Epidemiology

Because of its human exposure and demonstrated effects on animals, epidemiological studies to assess the human health effects of mesityl oxide should be conducted.

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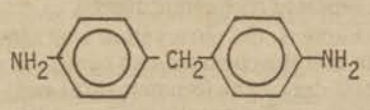
4,4'-Methylenedianiline

Recommended Studies
- Carcinogenicity
- Mutagenicity
- Teratogenicity
- Other Chronic Effects
- Environmental Effects
- Epidemiology

Physical and Chemical Identification

CAS number: 101–77–9

Structural Formula



Molecular formula: $C_{13}H_{14}N_2$. Molecular weight 198.26.

Melting point: 92–93°C. Vapor pressure: Negligible at 25°C.

This pale yellow to cream colored crystalline solid is slightly soluble in cold water and is very soluble in alcohol, benzene and ether. (IARC, 1974).

Reasons for Recommendations

Production, Release and Exposure

Annual US production of 4,4'-methylenedianiline (MDA) is approximately 200 million pounds. Ninety-nine per cent of production is not isolated but is used as an intermediate in the manufacture of isocyanates and polyisocyanates. These are then used in the manufacture of rigid polyurethane foams. The polyisocyanates are also used in the manufacture of semiflexible polyurethane foams. 4,4'-Methylenedianiline is also used as an epoxy resin hardening agent; as a corrosion inhibitor; in the rubber industry as a curative for neoprene and as an antioxidant in footwear; and as a raw material in the production of Qiana nylon, polyurethane elastomers, poly(amide-imide) resins, and azo dyes. (NIOSH, 1976; IARC, 1974; Emmett, 1976). Exposure to the compound in the workplace is estimated to be 5000 persons (NIOSH, 1976) and it is possible that the compound is present in the effluents from manufacture of polyurethane polymers (IARC, 1974).

Effects of Concern

Carcinogenicity

Munn (1967) reported miscellaneous tumors in rats upon intragastric intubation for 5 days per week for 121 days. Schoental (1968 a,b) reported MDA to be a "potential carcinogen" in rats after several intragastric doses. Although highly suggestive of carcinogenicity, these studies are insufficient to establish carcinogenic potential according to present day testing standards.

Steinhoff and Grundmann (1970a) reported a total of 29 benign and 33 malignant tumors in rats given subcutaneous doses of 30–50 mg MDA/kg body weight at one to three week intervals over a period of 700 days. Controls showed 15 benign and 16 malignant tumors. Four hepatomas were reported in treated rats but the exact incidence of tumor types observed was not recorded.

Chemicals very closely related to MDA have been tested in laboratory animals for carcinogenicity and found to be carcinogens.

4,4'-Methylenebis(2-methylaniline) produced a high incidence of benign and malignant liver tumors on repeated gastric intubation into rats (Munn, 1967).

The tumors were not seen in control groups. Similar results were obtained by other investigators feeding the compound to male and female rats (Stula et al., 1971; Stula et al., 1975).

4,4'-Methylenebis(2-chloroaniline) was administered to male and female rats in the diet and produced a high incidence of benign and malignant lung tumors as well as liver tumors (Grundmann and Steinhoff 1970a; Stula et al., 1971; Russfield, 1975; Stula et al., 1975). On subcutaneous (s.c.) injection of the compound in saline into rats, liver and lung cancers were observed in the exposed animals, in contrast to the controls which showed no malignancies (Steinhoff and Grundmann, 1971).

3,3'-Dichloro-4,4'-diaminodiphenyl ether on s.c. injection into rats produced ear duct carcinomas (Steinhoff and Grundmann, 1970b). The parent compound, 4,4'-diamino-dipenylether, on s.c. injection into rats produced 20% incidence of malignant and 24% incidence of benign liver tumors, while in the control group no liver tumors were observed (Steinhoff, 1977).

This does not imply that 4,4'-methylenedianiline must therefore also be carcinogenic, but that additional studies be undertaken. Therefore, the Committee recommends carcinogenicity testing on 4,4'-methylenedianiline.

Mutagenicity

Positive results were reported in a study by Shimizu and Takemura (1976). This report showed that MDA was mutagenic to 2 strains of *Salmonella typhimurium*.

Because of the lack of data and the results of the *Salmonella* experiment, testing for mutagenicity with emphasis on mammalian systems is recommended.

Teratogenicity

In a study by McLaughlin and coworkers the compound was introduced into the yolk sac of the chicken egg at a total dose of 5 mg. Only 30% of the treated eggs hatched compared to 95% in the controls. Most of the chicks that hatched from the treated eggs had abnormalities in their mandibles and leg deformities (McLaughlin et al. 1963). These data suggest teratogenicity and embryotocicity, but this chemical should be tested in mammals where results would be more extrapolatable to humans.

Other Chronic Effects

The most clearly identified human toxicity of 4,4'-methylenedianiline was first observed in people accidentally exposed to the chemical in bread made from contaminated flour (Kopelman et al., 1966 a, b). They suffered rapidly developing hepatitis (termed "Epping jaundice") which cleared up in due course. No residual toxicity was reported for these people following this acute exposure for as long as they were followed. Samples of the contaminated bread fed to a few young mice for a few days produced hepatic necrosis and biliary duct hyperplasia (Kopelman, 1966a).

Toxic hepatitis was reported by McGill and Motto (1974) in men exposed to MDA used as an epoxy resin hardener. Twelve young male workers developed symptoms similar to those of the "Epping jaundice" between 1966 and 1972. Exposure was of short duration (two to three weeks) via inhalation or dermal contact. Inhalation concentrations ranged from 0.1 to 0.0051 ppm. Dermal contact occurred during accidental dispersal of powdered MDA at higher concentrations. Hepatitis was also reported by Williams et al. (1974) in another group of workers using epoxy resins. In this incident six of 300 men were affected. Routes of exposure were suspected to be skin absorption, ingestion and/or inhalation and symptoms appeared from two days to two weeks after exposure. MDA together with 2-nitropropane were considered the causative agents.

Feeding studies in rodents produced liver damage which can be considered parallel to the findings in man (Pludro, 1969, Gohlke and Schmidt 1974; Fukushima et al., 1977; Shinohara et al., 1977). Jaundice was observed within five days in dogs given 5 or 20 Mg/kg total dose of the compound (Rowe, 1974 as cited in McGill and Motto, 1974). In a long-term feeding study in dogs, liver damage was suggested by increased alkaline phosphatase levels and, on autopsy after 5–7 years, cholestasis, inflammation, focal necrosis, and cirrhosis were reported (Deichmann, 1974).

In one study in rats, the suggestion was made that 4,4'-methylene dianiline could cause necrosis of proximal convoluted tubules in the rat (Calder et al., 1973). In cats blindness due to MDA was reported (Schoental 1968b).

In humans, the observation was also made that the chemical can cause contact dermatitis (Emmett 1976) and parallels studies in guinea pigs which also produced skin sensitization when the chemical was given alone or with Freund's complete adjuvant (Pers. comm., Pacific Anchor Chemical Corporation, 1977).

Because of these findings the Committee recommends studies on the chronic toxicity to the liver, kidney, and eye.

Environmental Effects

Evaluation of the effects of this compound on the environment is difficult. Few data on the biodegradation or metabolism of this compound are available. The lack of important physico-chemical data also makes it difficult to predict the behavior of this chemical in biological systems or the environment.

Toxic effects on organisms including bacteria, algae, protozoa, and arthropods vary in their degree of intensity. Toxic concentrations range from 0.25 mg/1 with the arthropod *Daphnia* to 124 mg/1 with the protozoan *Colpoda* (Verschueren, 1977).

Because some of these groups serve as primary producers and act as consumers at low trophic levels in natural food webs it is important to know the bioaccumulation and biomagnification potential and effects, if any, of the chemical. No data on the effects of this compound on other ecologically significant groups could be found in the literature searched. Because of the known high toxicity of this substance and lack of information on its behavior in the environment, the Committee recommends environmental effects testing.

Epidemiology

There is no information available on chronic effects in humans exposed to MDA over an extended period of time. Because of the potentially widespread exposure, epidemiological studies may be particularly important in assessing the human health effects of this compound and are therefore recommended.

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Methyl Ethyl Ketone

Recommended Studies

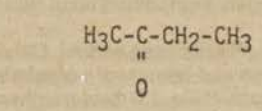
Epidemiology

Chronic Effects, with particular attention to neurological effects

Physical and Chemical Information

CAS No. 78–93–3

Structural Formula



Empirical Formula: C_4H_8O
Molecular Weight: 72.12
Boiling Point: 79.6°C
Melting Point: 86.35°C
Vapor Pressure: 100 mm at 25°C
Log Octanol/Water Partition Coefficient: 0.29

Reasons for Recommendations

Production, Release and Exposure

About 505 million lbs. of methyl ethyl ketone (MEK) are produced annually (Lande et al., 1976). MEK is used primarily as a solvent and is consumed principally by industry. It uses are as a solvent in the industrial coatings industry, in rare metal refining, lube oil dewaxing, printing inks, degreasing and adhesives. NIOSH estimates that about 3 million workers are exposed (NIOSH, 1977).

Ketones occur naturally from biological degradation of organic wastes by soil and water microorganisms. MEK had been identified as a product of the activated sludge treatment of sewage (Malaney and Gerhold, 1962; Abrams et al., 1975) and as a component of the leachate from solid waste (Abrams et al., 1975; Burrows and Rowe, 1975). MEK is also formed as a product of ozonation of 2-methyl-1-butene (Altshuller and Bufalini, 1965). MEK may enter the environment by evaporation from industrial surface coating solutions (Lande et al., 1976). The solvent may be released directly to the atomosphere, incinerated or removed with activated charcoal. MEK emission to the atmosphere can occur from accidental spillage during transport and storage from vapor losses during transfer operations and venting losses from tanks.

MEK, as a short chain methyl n-alkyl ketone, is readily susceptible to microbial degradation. Oxidative degradation studies in pure bacterial cultures of n-alkyl ketones show that the rate of degradation of MEK is second only to that of acetone (Lukins and Foster, 1963; Perry, 1968). MEK has been shown to undergo extensive degradation in mixed cultures and activated sludge systems as well (Lande et al., 1976). Because of its susceptibility to microbial attack, it appears unlikely that MEK will accumulate in aquatic or soil environments. Since its vapor pressure is high, much of this solvent will evaporate into the atmosphere from soils. It is likely to be photochemically degraded to a significant extent. Because of low atmospheric concentration, MEK is not likely to pose significant inhalation hazard to terrestrial animals. Due to its moderate water solubility and its log partition coefficient of 0.26 (Leo et al., 1971), MEK is unlikely to bioaccumulate in food chain organisms. If released into sewage treatment plants, it will be substantially biodegraded. The information available on environmental release, persistence and bioaccumulation factors indicates that MEK does not have a high potential for ecological hazard.

Toxicology

MEK is a normal constituent of human urine (Zlatkis et al., 1973). After acute exposure, elimination of unchanged MEK in expired air may also be a major route of elimination (Schwarz, 1898; Williams, 1959). MEK can be absorbed through the skin or lungs. MEK is irritating to the eyes and nose. It can produce headache, nausea with vomiting and dizziness. It acts as a narcotic or central nervous system depressant. It can cause dermatitis and numbness of fingers and arms (Smith and Mayers, 1944). Its highest tolerable level has been found to be 200 ppm for an 8 hour day (Nelson et al., 1943). It is quite well characterized as to acute

toxicity in laboratory rodents by various routes of administration (Lande et al., 1976). Pathological examination after each exposure of 100,000 ppm revealed corneal opacity and congestion of the lungs, liver, kidneys and brain (Patty et al., 1935). These effects were absent in animals that survived narcosis and were sacrificed 8 days later. Subacute or chronic toxicity studies have not been performed for MEK.

MEK was used as one of several solvents in mutagenicity screenings of pesticides (Shirasu et al., 1976). The pure solvent showed no mutagenic activity.

Pregnant rats were exposed to high concentration of MEK (1000 to 3000 ppm) for 7 hours a day on the sixth through fifteenth days of gestation. Some degree of skeletal abnormalities was found in the fetuses. A low incidence of true terata (Schwetz et al., 1974) was found in the high dose group only.

MEK was applied with benzyl disulfide twice weekly for one year to the skin of mice (Horton et al., 1965). No tumors were found.

Effects of Concern

Chronic Effects

Acute toxicity of MEK is well characterized. However, long term toxic effects of MEK have not been well studied. In light of its acute neurological effects and potential for widespread human exposure, the Committee recommends that chronic studies be performed to assess the effects of long term exposure.

Epidemiology

The long term toxic effects of MEK have not been assessed nor have epidemiologic studies been performed to determine chronic effects of MEK exposure in humans. Because of its acute neurological effects and its extremely high level of exposure, the Committee recommends epidemiological study.

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Methyl Isobutly Ketone

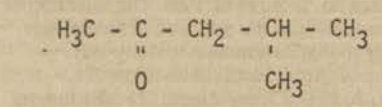
Recommended Studies

Mutagenicity
Teratogenicity
Chronic Effects
Epidemiology

Physical and Chemical Information

CAS No.: 108–10–1

Structural Formula



Molecular Formula: $C_6H_{12}O$
Log Partition Coefficient: 20.6
Molecular Weight: 100.16
Melting Point: −84.7° C
Boiling Point: 116.85° C
Vapor Pressure: 15 mm Hg at 20° C
Water Solubility: 2.04% by weight at 28° C

Reasons for Recommendations

Production, Release and Exposure

Methyl isobutyl ketone (MIBK) is produced commercially by acetone condensation followed by catalytic hydrogenation. The commercial product is 95% pure; principal contaminants are acids, water, alcohols and suspended matter. MIBK production was about 155 million lbs. in 1976 (Lande et al., 1976). It is used principally in industrial coating solvents, in lube oil dewaxing and in rare metal refining. Significant environmental release of MIBK may originate from evaporation of solvent during drying of industrial coatings if adequate incineration and/or emission controls are not employed. NIOSH estimates that 1,853,000 workers are potentially exposed to MIBK (NIOSH, 1977).

MIBK is subject to aerobic biodegradation in the presence of mixed cultures of microorganisms (Lande et al., 1976). However, branching makes it less susceptible to biodegradation than straight chain aliphatic ketones. Its high vapor pressure suggests a strong tendency to enter the atmosphere, where biodegradation does not occur. If discharged as a liquid into sewage treatment plants where biological activity is high, a substantial amount will probably be biodegraded. MIBK does not hydrolyze, but as a branched chain ketone, may be photochemically active. If released directly into water,

MIBK will evaporate with a half-life of 33 hours (MacKay and Wolkoff, 1973). Because of its high vapor pressure and chemical and biological degradation in the environment, MIBK does not appear to pose a hazard to terrestrial animals.

Metabolism

MIBK undergoes oxidative-reductive metabolic conversion (Lande et al, 1976; DiVincenzo et al., 1976). Primary metabolites in guinea pigs are 4-hydroxy-4-methyl-2-pentanone and 4-methyl-2-pentanol (DiVincenzo et al., 1976). Enzymatic ketonic reduction to the alcohol occurs in the liver. MIBK is subject to conjugation with glucuronic acid prior to elimination in the urine (Lande et al., 1976) and it can also be eliminated unchanged in the urine (Zlatkis and Liebich, 1971). MIBK is a metabolic conversion product of 4-methylpentan-2-o1.

Toxicology

Inhalation of ketone vapors by humans is somewhat limited by the fact that they are irritating to the eyes and nose at relatively low concentrations. Sensory threshold studies indicate that the highest "satisfactory" exposure of MIBK to humans is 100 ppm (Nelson et al., 1943; Silverman et al., 1946). Inhalation of vapors can impair judgment (Rowe and Wolf, 1963). Nausea, headache and respiratory irritation have been found in workers exposed to MIBK at 100 ppm. Ketonic vapors cause narcosis with central nervous system depression. In a study of workers exposed to 500 ppm MIBK for 30 minutes daily, weakness, loss of appetite, headache, burning eyes, stomach ache, nausea, vomiting and sore throat were reported (NIOSH, 1978). Some of the workers had enlarged livers and colitis. Rats exposed to 200 ppm MIBK for 2 weeks had increased kidney and liver to body weight ratios (Schwuetz et al., 1974). Monkeys exposed at 100 ppm (hyperbarically) for 90 days had inflammation of the kidney. Rats exposed under the same conditions showed some degeneration and necrotic changes in the kidneys (MacEwen et al., 1971). No clear-cut evidence of neuropathy has been observed in humans or animals exposed to MIBK.

Effects of Concern

Mutagenicity

No studies of mutagenicity of MIBK have been found. Due to its high exposure, the Committee recommends that MIBK be tested for mutagenicity.

Teratogenicity

Due to the extremely high human exposure to MIBK and the indication of possible teratogenicity of the related aliphatic ketone, MEK (Schwetz et al., 1974), the Committee recommends that MIBK be tested for teratogenicity.

Chronic Effects

Subchronic toxicity of MIBK is well-characterized. However, long term toxic effects of MIBK have not been studied. Because of its extremely high exposure and the demonstrated subchronic effects the Committee recommends that chronic studies be performed to assess the effects of long-term exposure on laboratory animals.

Epidemiology

The long term toxic effects of MIBK have not been assessed, nor have epidemiologic studies been performed to determine chronic effects of MIBK exposure on humans. In light of its high level of exposure, the Committee recommends epidemiological studies.

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[FR Doc. 79-16820 Filed 5-31-79; 8:45 am]

BILLING CODE 6560-01-M

federal register

Friday
June 1, 1979

Part VI

Office of Personnel Management

Improving Government Regulations; Semiannual Agenda of Regulations

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Ch. I]

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Office of Personnel Management.

ACTION: Semiannual Agenda of Regulations.

SUMMARY: The following Office of Personnel Management regulations are scheduled for review or development during the six month period from July 1, 1979, through December 31, 1979. As a service to users, we have also included a compilation of significant regulations published from January 1, 1979, through May 31, 1979. (Schedule A, B, and C authorities are not included.)

Comments or inquiries on this agenda should be addressed to Beverly M. Jones, Issuance System Manager, Office of Policy Analysis, 202/632–6593.

FOR FURTHER INFORMATION CONTACT: Beverly M. Jones, 202/632–6593.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

BILLING CODE 6325-01-M

Part 1 of Semi-Annual Agenda
Regulations Issued from January 1, 1979, through May 31, 1979
Office of Personnel Management

Part and Title	Date of Publication	Type of Regulation	Effective Date (If Appropriate)
Establishment of Office of Personnel Management	January 5, 1979	Notice	January 1, 1979
430 - Performance Appraisal: Establishment	January 16, 1979	Interim	January 11, 1979
308 - Volunteer Services: Acceptance of Volunteer Service	January 16, 1979	Interim	January 11, 1979
752 - Adverse Actions	January 16, 1979	Interim	January 11, 1979
432 - Reduction in Grade and Removal Based on Unacceptable Performance	January 16, 1979	Interim	January 11, 1979
315 - Career and Career Conditional Employment: Probationary Periods for New Managers and Supervisors	January 16, 1979	Interim	(By August 11, 1979)
210 - Basic Concepts and Definitions	January 16, 1979	Interim	January 11, 1979
5 CFR Chapter 1 Procedures for Issuing Regulations to Implement the Civil Service Reform Act of 1978	January 16, 1979	Special Transitional Regulation No. 1	January 11, 1979
550 - Pay Administration (General): Allotments to Labor Organizations and Other Associations	January 19, 1979	Final	January 11, 1979
330- Recruitment, Selection, and Placement (General) Notification of Vacancies to State Job Service and Office of Personnel Management	January 19, 1979	Interim	January 11, 1979
307 - Verterans Readjustment Appointments; and			

Part and Title	Date of Publication	Type of Regulation	Effective Date (If Appropriate)
316 - Temporary and Term Employment: Disabled and Vietnam Era Veterans	January 19, 1979	Final	January 10, 1979
315 - Career and Career-Conditional Employment: Disabled Veterans	January 23, 1979	Interim	January 11, 1979
316 - Temporary and Term Employment: Authorities	January 23, 1979	Interim	January 11, 1979
410 - Training: Scope and General Conduct of Training Programs	January 23, 1979	Interim	January 11, 1979
550 - Pay Administration (General): Exceptions to Reduction in Retired or Retainer Pay	January 23, 1979	Interim	January 11, 1979
831 - Retirement: Major Reorganization, Reduction in Force, or Transfer of Function	January 23, 1979	Interim	January 11, 1979
351 - Reduction in Force: Retention Preference	January 30, 1979	Interim	January 11, 1979
213 - Excepted Service: Temporary Boards and Commissions	February 2, 1979	Final	January 22, 1979
720 - Antidiscrimination Policy: Special Federal Recruitment Program	February 9, 1979	Proposed	-
Standards for a Merit System of Personnel Administration:	February 9, 1979	Final	February 9, 1979
900 - Intergovermental Personnel Act Programs	February 16, 1979	Final (Revised)	February 9, 1979
Proposed regulations to implement 5 USC 1104 to delegate to agencies authority to take the following actions without prior OPM approval.			
213 - Excepted Service	February 16, 1979	Interim	February 16, 1979
230 - Organization of the Government for Personnel Management	February 16, 1979	Interim	February 16, 1979
301 - Overseas Employment	February 16, 1979	Interim	February 16, 1979

Part and Title	Date of Publication	Type of Regulation	Efffective Date (If Appropriate)
310 - Employment of Relatives	February 16, 1979	Interim	February 16, 1979
315 - Career and Career-Conditional Employment	February 16, 1979	Interim	February 16, 1979
351 - Reduction in Force	February 16, 1979	Interim	February 16, 1979
511 - Classification Under the General Schedule	February 16, 1979	Interim	February 16, 1979
534 - Pay Under Other Systems	February 16, 1979	Interim	February 16, 1979
550 - Pay Administration (General)	"	"	"
572 - Travel and Transportation Expenses; New Appointees	"	"	"
630 - Absence and Leave	"	"	"
930 - Programs for Specific Positions and Examination (Miscellaneous)	"	"	"
Abolition of Certain Statutory Personnel Requirements Under the Civil Service Reform Act	February 23, 1979	Notice	-
National IPA Projectes: Availability of Funds	February 23, 1979	Notice	-
Adoption of Ques and Answers: Uniform Guidelines	March 2, 1979	Adoption	March 2, 1979
Annual Comprehensive Review of Advisory Committees	March 2, 1979	Notice	-
536 - Grade and Pay Retention	March 2, 1979	Interim	January 11, 1979 (1st pay period)
5 CFR Chapter 1. Extension of Time for Public Comment on OPM Interim Regulations	March 13, 1979	Notice	-
451 - Incentive Awards	March 16, 1979	Final	March 16, 1979

Part and Title	Date of Publication	Type of Regulation	Effective Date (If Appropriate)
5 CFR Chapter 1. Civil Service Reform: Interim Regulations with Request for Comments; Correction: Part 630-Absence and Leave	March 27, 1979	Correction of effective date and of 630 material	February 15, 1979
317 - Appointment, Reassignment, Transfer and Development in the Senior Executive Service	March 30, 1979	Interim	March 30, 1979
737 - Post Employment Conflict of Interest	April 3, 1979	Interim	Subpart A: April 3, 1979 Subpart B: July 1 and April 3, 1979
340 - Part-Time Employment; and 890 - Federal Employees Health Benefits Program	April 6, 1979	Interim	April 8, 1979
Proposed regulations to implement 5 USC 1104 to delegate to agencies authority to take the following actions without prior OPM approval.			
213 - Execepted Service	April 6, 1979	Interim	April 4, 1979
230 - Organization of the Government for Personnel Management	"	"	"
250 - Personnel Management in Agencies	"	"	"
300 - Employment (General)			
302 - Employment in the Excepted Service	"	"	"
315 - Career and Career-Conditional Employment	"	"	"
316 - Temporary and Term Employment	"	"	"
351 - Reduction in Force	"	"	"

Part and Title	Date of Publication	Type of Regulation	Effective Date (If Appropriate)
410 - Training	April 6, 1979	Interim	April 4, 1979
531 - Pay Under the General Schedule	"	"	"
541 - Allowances and Differentials	"	"	"
Allowances and Differentials; Cost of Living Allowance (COLA - Nonforeign Areas - Requirements of Section 205 (b) (2) of E.O. 1000	April 10, 1979	Notification of conclusions and actions after receiving comment.	-
Number and Classification of Executive Level Positions in Existence in the Executive Branch as of October 13, 1978	April 10, 1979	Notice	-
720 - Federal Equal Opportunity Recruitment Program	April 13, 1979	Final	April 12, 1979
540 - Merit Pay System	April 20, 1979	Proposed	-
315 - Career and Career-Conditional Employment: Noncompetitive Conversion of Presidential Management Interns	April 24, 1979	Proposed	-
Privacy Act of 1974; Adoption of System of Records	April 27, 1979	Notice	February 22, 1979
213 - Excepted Service: Entire Executive Civil Service	May 1, 1979	Final	April 18, 1979
334 - Temporary Assignment of Employees Between Federal Agencies and State, Local, and Indian Tribal Governments, Institutions of Higher Education, and Other Eligible Organizations	May 1, 1979	Final	May 1, 1979
890 - Federal Employees Health Benefits Program: Effective Dates; Birth or Addition of a Child	May 1, 1979	Final	May 1, 1979

Part and Title	Date of Publication	Type of Regulation	Effective Date (If Appropriate)
735 - Ethics in Government Act; Financial Reporting Requirements	May 8, 1979	Interim	May 8, 1979
831 - Retirement: Appointment from Civil Service Retirement Benefits	May 8, 1979	Interim	May 8, 1979
735 - Ethics in Government; Financial Reporting Requirements	May 8, 1979	Interim	May 8, 1979
595 - Physician's Comparability Allowances	May 11, 1979	Proposed	-
890 - Federal Employees Health Benefits Program: Opportunities to Enroll and Change Enrollment; on Becoming Eligible for Benefits under Title XVIII of the Social Security Act.	May 18, 1979	Proposed	-
620 - Alternative Work Schedules Experiments	May 22, 1979	Proposed	-
Privacy Act of 1974; Notice of Amendment to an Existing Routine Use	May 22, 1979	Proposed	-
293 - Personnel Records and Files	May 29, 1979	Proposed	-
297 - Protection of Privacy in Personnel Records	May 29, 1979	Proposed	-
Termination of Central Essex Health Plan's Participation in the Program	May 29, 1979	Notice	May 19, 1979

Part 2 of Semi-Annual Agenda -

Regulations Under Review or Development,
July 1, 1979, through December 31, 1979.

CFR or Other Authority	Title	Brief Description	Knowledgeable Official
5 CFR 1 through 9	Civil Service Rules	Extensive draft revision being informally reviewed.	Cynthia Field 202/632-5623
5 CFR 293	Personnel Records and Files	Extensive revisions to implement internal reorganization (establishment of MSPB, OPM) and CSRA. A proposed regulation will be published, for a 60-day public comment period, by June 1, 1979.	William H. Lynch 202/254-9790 202/254-9793
5 CFR 294	Availability of Official Information	Will be revised to reflect current judicial interpretations of the provisions of the Freedom of Information Act (5 U.S.C. 552). Proposed rule expected to be published by September 1979.	William C. Duffy 202/632-4596
5 CFR 297	Protection of Privacy in Personnel Records	Extensive revisions to implement internal reorganization, the CSRA, and changes necessitated by three years experience with the Privacy Act. A proposed revised regulation will be published, for a 60-day public comment period, by June 1, 1979.	William H. Lynch 202/254-9790 202/254-9793
5 CFR 213	Excepted Service		
§213.102	Identification of positions in Schedule A, B or C.	Final regulations to implement 5 USC 1104 to delegate to agencies through delegation agreements authority to establish positions under the Schedule C authority at GS-15 and below.	Susan Rothschild 202/632-4467
		Final regulations to implement 5 USC 1104 to delegate to agencies authority to take the following actions without prior OPM approval:	Susan Rothschild 202/632-4467
§213.3101(b)	Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.	(1) appointment of severely handicapped or mentally retarded sons and daughters for summer or student employment;	
§213.3102(h)	Entire executive civil service.	(2) employment at Federal mental institutions of former patients of those institutions;	
§213.3102(n)	Entire executive civil service.	(3) contract or part-time employment of local physicians surgeons, or dentists;	
§213.3102(p)	Entire executive civil service.	(4) extension of appointments of graduate students who are using their Federal employment to meet academic requirements;	
§213.3102(u)	Entire executive civil service.	(5) appointment of severely handicapped persons;	
§213.3102(x)	Entire executive civil service.	(6) employment of inmates under work-release programs;	
§213.3102(y)	Entire executive civil service.	(7) summer employment of finalists in national science contests.	
§213.3102(bb)	Entire executive civil service.	Final regulations to implement 5 USC 1104 to delegate to agencies through delegation agreements authority to appoint aliens in the competitive service under delegated examining.	Susan Rothschild 202/632-4467
5 CFR 230	Organization of the Government for Personnel Management.		Susan Rothschild 202/632-4467
§230.201	Standards and requirements for agency personnel actions.	Final regulations to provide for OPM standards and requirements for agency personnel actions through delegation agreements.	
§230.402	Agency authority to make emergency-indefinite appointments in a national emergency.	Final regulations to implement 5 USC 1104 to delegate to agencies authority to make emergency indefinite appointments under specified emergency conditions, without prior OPM approval.	
5 CFR 250	Personnel Management in Agencies.	Final regulations to add a new Part to provide for delegation of personnel management authority by delegation agreement.	Susan Rothschild 202/632-4467
5 CFR 300.603	Employment (General); Time-in-Grade Restrictions; Exceptions to restrictions.	Final regulations to implement 5 USC 1104 to delegate to agencies through delegation agreements authority to waive time-in-grade restrictions.	Susan Rothschild 202/632-4467
5 CFR 301.201	Overseas Employment; Overseas Limited Appointment; Authorizations of appointment.	Final regulations to implement 5 USC 1104 to delegate to agencies authority to make overseas limited appointments, without prior OPM approval.	Susan Rothschild 202/632-4467
5 CFR 302.105	Employment in the Excepted Service; General Provisions; Special agency plans.	Final regulations to implement 5 USC 1104 to delegate to agencies through delegation agreements authority for modification of selection procedures for excepted positions.	Susan Rothschild 202/632-4467
5 CFR 310.202	Employment of Relatives; Emergency Exceptions; Exceptions.	Final regulations to implement 5 USC 1104 to delegate to agencies authority to make appointments for up to 60 days as an exception to statutory nepotism restrictions in an emergency, without prior OPM approval.	Susan Rothschild 202/632-4467
5 CFR 315	Career and Career-Conditional Employment.	Final regulations to implement 5 USC 1104 to delegate to agencies authority to take the following actions without prior OPM approval:	Susan Rothschild 202/632-4467

CFR or other Authority	Title	Brief Description	Knowledgeable Official
§315.602 §315.604 §315.604a §315.703(a)	Appointment based on service in the Office of the President or on the White House staff. Employment of disabled veterans who have completed a training course under chapter 31 of title 38, USC. Conversion to career employment from indefinite or temporary employment.	(1) noncompetitive appointments based on White House service; (2) noncompetitive appointments of certain disabled veterans; (3) approve training plans for disabled veterans; (4) conversion of employees serving under indefinite or status quo appointments or temporary appointments pending establishment of a register.	
5 CFR 316 §316.601 §316.701 and §316.702	Temporary and Term Employment Appointment without competitive examination in rare cases. Public or private enterprise taken over by Government; Excepted positions brought into the competitive service.	Final regulations to implement 5 USC 1104 to delegate to agencies through delegation agreements authority to: (1) make rare bird appointments; and (2) bring excepted positions or units of public or private enterprise into the competitive service.	Susan Rothschild 202/632-4467
5 CFR 351 §351.402(c)	Reduction in Force; Competitive area.	Final regulations to implement 5 USC 1104 to delegate to agencies through delegation agreements authority to establish smaller competitive areas in RIF.	Susan Rothschild 202/632-4467
§351.801(c)	Notice period.	Final regulations to implement 5 USC 1104 to delegate to agencies authority to extend the RIF notice period beyond 180 days, without prior OPM approval.	
5 CFR 410 §410.506 §410.508	Training Waiver of limitations on training of employees through non-Government facilities; Agreements to continue in service.	Final regulations to implement 5 USC 1104 to delegate to agencies authority to: (1) waive "one-year-in-ten" limitation, without prior approval; and	Susan Rothschild 202/632-4467
§410.602(a)	Prohibition on payment of premium pay.	(2) to provide through delegation agreements authority to provide for exception to prohibition on premium pay.	
5 CFR 511.201 and 5 CFR 534.201 through 5 CFR 534.204	Classification Under the General Schedule; Coverage of the General Schedule; Coverage of and exclusions from the General Schedule. Pay Under Other Systems; Exclusions from statutory pay provisions; Maximum stipends; Stipends of trainees assigned to Federal hospitals as affiliates; Agency requests for additional exclusions.	Final regulations to implement 5 USC 1104 to delegate to agencies authority to exclude from General Schedule and approve maximum stipends for certain student employees, without prior OPM approval.	Susan Rothschild 202/632-4467
5 CFR 531.203(b)	Pay under the General Schedule; Determining Rate of Basic Pay; General provisions.	Final regulations to implement 5 USC 1104 to delegate to agencies through delegation agreements authority to make advanced in-hiring rates based on superior qualifications.	Susan Rothschild 202/632-4467
5 CFR 550 §550.504 §550.603	Pay Administration (General); Other exceptions Prior approval	Final regulations to implement 5 USC 1104 to delegate to agencies authority to take the following actions without prior OPM approval: (1) payment of an employee for more than one position for more than a total of 40 hours a week; and (2) waiver of reduction in military retirement pay for retired regular officers (limited to recruitment and not retention of current employees).	Susan Rothschild 202/632-4467
5 CFR 572.101	Travel and Transportation Expenses; New Appointees; Determination of manpower shortage for positions at level GS-16 and above (or equivalents).	Final regulations to add new Part to implement 5 USC 1104 to delegate to agencies authority to pay travel and transportation expenses to first post of duty (GS-16 and above and equivalent), without prior OPM approval.	Susan Rothschild 202/632-4467
5 CFR 591.301	Allowances and Differentials; Allowance Based on Duty at Remote Worksites; Purposes.	Final regulations to implement 5 USC 1104 to delegate to agencies authority to designate remote worksite commuting allowances, without prior OPM approval.	Susan Rothschild 202/632-4467

CFR or other Authority	Title	Brief Description	Knowledgeable Official
5 CFR 630.211	Absence and Leave; Definitions and General Provisions for Annual and Sick Leave; Exclusion of Presidential appointees.	Final regulations to add this section to implement 5 USC 1104 to delegate to agencies authority to exclude Presidential appointees from annual and sick leave, without prior OPM approval.	Susan Rothschild 202/632-4467
5 CFR 930	Programs for Specific Positions and Examinations (Miscellaneous).	Final regulations to implement 5 USC 1104 to delegate to agencies authority to make the following actions without prior OPM approval:	Susan Rothschild 202/632-4467
§930.105	Office of Personnel Management standards and procedures required.	(1) approval of alternate standards for motor vehicle operators; and	
§930.107	Waiver of practical road test.	(2) waiver of road test for motor vehicle operators.	

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5 CFR 307	Veterans Readjustment Appointments	Transfer of existing regs to Part 720	Donald Smith 202-254-3058
5 CFR 316.302	Term Employment	Transfer of existing regs on term appointments for Veterans to Part 720	Donald Smith 202-254-3058
5 CFR 316.402	Temporary Limited Employment	Transfer of existing regs on temporary limited appointments for Veterans to Part 720	Donald Smith 202-254-3058
5 CFR 308	Volunteer Service	Brief regulations reflecting Civil Service Reform Act authority for Federal agencies to use the services of student volunteers without pay. Interim regulations issued for comment January 16, 1979; final regulations expected to be published June 1979.	James R. Poole 202/632-5678
5 CFR 315.703d	Career and Career-Conditional Employment--Disabled Veterans	As provided by Civil Service Reform Act, authorizes agencies to convert from temporary to career the employment of a disabled veteran with a compensable service-connected disability of 30 percent or more. Interim regulations issued for comment January 23, 1979; final regulations expected to be published June 1979.	William Bohling/Tracy Spencer 202/632-4533
5 CFR 315.901-7	Career and Career-Conditional Employment--Probationary periods for New Managers and Supervisors	Reflects Civil Service Reform Act authority for agencies to establish a probationary period for persons entering supervisory or managerial positions for the first time; provides return rights for those who fail to satisfactorily complete probation. Interim regulations issued for comment January 16, 1979; final regulations expected to be published June 1979.	Raleigh M. Neville 202/632-6817
5 CFR 316.402(b)(5)	Temporary and Term Employment--Authorities for Temporary Appointments	Delegates to agencies authority to give, without regard to competitive examination, a temporary appointment to a disabled veteran with a compensable service-connected disability of 30 percent or more (Complements conversion regulations in 5 CFR 315.703d above). Interim regulations issued for comment January 16, 1979; final regulations expected to be published June 1979.	William Bohling/Tracy Spencer 202/632-4533
5 CFR 330.102	Recruitment, Selection, and Placement (General)--Discretion in Filling Vacancies	As provided by the Civil Service Reform Act, instructs agencies in certain circumstances to notify State Job Service Offices and the Office of Personnel Management of competitive service vacancies they plan to fill from outside of Federal service. Interim regulations issued for comment January 19, 1979; final regulations expected to be published June 1979.	Patricia Eselinger 202/632-6013
5 CFR 351.201(g), 351.501, 351.701(d), and 351.705(a)(3)	Reduction In Force	Implement Civil Service Reform Act changes which provide that a preference eligible employee with a service-connected disability of 30 percent or more is entitled (1) to be retained over other preference eligible employees in the determination of retention standing and (2) to receive advance notification by the agency and a final decision by the Office of Personnel Management, if the agency finds an employee does not meet physical requirements for a job to which assignment would have otherwise been made. Interim regulations issued for comment January 30, 1979; final regulations expected to be published June 1979.	Ted Dow or Thomas A. Glennon 202/632-5623
5 CFR 410.301(d)	Training	Under provisions of the Civil Service Reform Act, authorizes a losing agency to train its employees for placement in other agencies in lieu of layoff. Interim regulations issued for comment January 23, 1979; final regulations expected to be published June 1979.	William Bohling/Tracy Spencer 202/632-4533
5 CFR 550.603 and 550.604	Pay Administration (General)--Reduction-in-Retired-Pay Provisions of the Dual Pay Statute	Authorizes certain exceptions to reduction in retired pay requirements and instructs agencies to notify the appropriate uniformed services finance center of Federal civilian pay changes for retired military personnel. Interim regulations issued for comment January 23, 1979; final regulations expected to be published June 1979.	William Bohling/Tracy Spencer 202/632-4533

CFR or Other Authority	Title	Brief Description	Knowledgeable Officials
5 CFR 831.109	Retirement	Places Civil Service Reform Act changes into regulation by adding "major reorganization" and "major transfers of function" to the conditions under which the Office of Personnel Management may authorize early optional retirement. Interim regulations issued for comment January 23, 1979; final regulations expected to be published June 1979.	William Bohling/David Mischel 202/632-4533
5 CFR 213.3102(11)	Excepted Schedules--Schedule A	Permits agencies to appoint readers for blind employees and interpreters for deaf employees, provided no other duties are performed, without competitive examination. Final regulation published January 26, 1979.	William Bohling/Tracy Spencer 202/632-4533
5 CFR 338.201	Qualification Requirements (General)--Members-of-Family	Revokes regulations reflecting restriction on career employment of more than two members of a family which was repealed by Civil Service Reform Act. Revocation published December 29, 1978.	Maribeth Zankowski 202/632-6040
5 CFR 213.3202 (d) through (g)	Excepted Schedules--Schedule B	Provides appointing authorities for students to enter career-related work-study programs leading to non-competitive conversion under Executive Order 12015. Interim regulations expected to be issued for comment June 1979.	James R. Poole 202/632-5678
5 CFR 315.704	Career and Career-conditional Employment--Subpart G Conversion	Permits noncompetitive conversion to career or career-conditional of a Presidential Management Intern after 2 years of service subject to conditions prescribed in the Federal Personnel Manual. Proposed regulations issued for comment April 23, 1979; final regulations expected to be published June 1979.	Maribeth Zankowski 202/632-6040
5 CFR 340	Part-time Employment	Provides Governmentwide program regulations to implement the Federal Employees Part-time Career Employment Act of 1978 (P.L. 95-437). Interim regulations issued for comment April 6, 1979; final regulations expected to be published August 1979.	Ed Mc Hugh 202/632-6817
5 CFR 337.102	Evaluating Qualifications for Employees Who are in Retained Grade	New regulation to implement grade and pay retention provisions of CSRA. Explains how qualifications are to be evaluated for employees subject to grade retention and after such eligibility expires.	Lynn Waldorf 202/632-4473
5 CFR 352.801	Reemployment Rights--Subpart H, For Employee Separated for Specified Periods of Service with the American Institute of Taiwan	Requires reemployment of Federal employees separated for specified periods of service with the American Institute of Taiwan. Interim regulations expected to be issued for comment, June 1979.	Maribeth Zankowski 202/632-6040
5 CFR 410.503	General Prohibitions, Training, Through Non-Government Facilities	New regulation to implement grade and pay retention provisions of CSRA. Adds exceptions to constraints when employee subject to grade retention.	Lynn Waldorf 202/632-4473
5 CFR 432	Reduction in Grade and Removals Based on Unacceptable Performance	Interim regulations published January 16, 1979; draft permanent regulation by June 1; final by July 11.	Wilma Lehman 202/632-5623
5 CFR 752	Adverse Actions	Interim regulations published January 16, 1979. Draft permanent regulation out for informal clearance. Permanent regulation due July 11.	Cynthia Field Wilma Lehman 202/632-5623
5 CFR 754	Adverse Actions by the OPM	Draft permanent regulations to be issued by September 15.	Wilma Lehman 202/632-5623
5 CFR 771	Agency Administrative Grievance System	Draft permanent regulations out for informal comment.	Wilma Lehman 202/632-5623
5 CFR 410.101(b)	Definitions	Provide additional definitions as to the meaning of training by, in, or through Government facilities. This change would simplify agency record keeping on use of non-Government facilities.	Constance Guitian 202/632-7647
5 CFR 410.504	Prohibition of training through non-Government facilities advocating overthrow of the Government by force or violence	Allow agencies to conduct their own investigations rather than request checks from OPM for individuals and discontinue the loyalty affidavit for individuals.	Constance Guitian 202/632-7647
5 CFR 410.601	Determination of necessary expenses of training	There may be a standardized formula for the reduction of per diem payments for long-term training assignments.	Michael K. Kurup 202/632-7647
5 CFR 410.602	Prohibition on payment of premium pay	Another standard exception may be added to allow the payment of premium pay when training employees during "down time" of equipment.	Michael K. Kurup 202/632-7647

CFR or Other Authority	Title	Brief Description	Knowledgeable Official
5 CFR 531, Subpart B and 5 CFR 539	Determining Rate of Basic Pay Conversions Between Pay Systems	Revised regulations to improve pay-setting policies when employees change pay systems. Development continuing.	James N. Woodruff 202/632-6553
5 CFR 531, Subpart C	Pay Adjustments for Supervisors	Revised regulations on pay adjustments for GS supervisors of wage employees. Development continuing	James N. Woodruff 202/632-6553
5 CFR 531, Subpart D	Within-Grade Increases	Revised regulations to simplify and clarify procedures and standards for granting quality increases and withholding within-grade increases. Development continuing.	James N. Woodruff 202/632-6553
5 CFR 532	Pay Under Prevailing Rate Systems	Comprehensive new regulations for Federal Wage System. Development continuing.	James N. Woodruff 202/632-6553
5 CFR 536	Grade and Pay Retention	Final regulations to implement Title VIII of the Civil Service Reform Act of 1978. (Interim regulations issued March 2, 1979.)	James N. Woodruff 202/632-6553
5 CFR 540	Merit Pay	Regulations to implement Title V of the Civil Service Reform Act of 1978. Proposed regulations published April 20, 1979.	James N. Woodruff 202/632-6553
5 CFR 550, Subpart C	Allotments and Assignments for Federal Employees	Revised regulations to increase delegation of appropriate flexibility to agencies. Development continuing.	James N. Woodruff 202/632-6553
5 CFR 550, Subpart H	Back Pay	Revised regulations to implement section 702 of the Civil Service Reform Act of 1978. Development continuing.	James N. Woodruff 202/632-6553
5 CFR 550, Subpart J	Adjustment of Work Schedules for Religious Observances	Final regulations to implement Title IV of the Federal Employees Flexible and Compressed Work Schedules Act of 1978. (Interim regulations already issued.) Development continuing.	James N. Woodruff 202/632-6553
5 CFR 550, Subpart K	Installment Deductions for Indeptedness Because of Erroneous Payment	Regulations to revise former OMB regulations on installment deductions. Development continuing.	James N. Woodruff 202/632-6553
5 CFR 551	Pay Administration Under the Fair Labor Standards Act	Regulations to implement the Fair Labor Standards Act in the Federal Government. Development continuing.	James N. Woodruff 202/632-6553
5 CFR 591, Subpart A	Uniforms and Uniform Allowances	Regulations to revise former OMB regulations on uniforms and uniform allowances for Federal employees. Development continuing.	James N. Woodruff 202/632-6553
5 CFR 591, Subpart D	Allowances for Physicians	Regulations to implement the Federal Phyeicians Comparability Allowance Act of 1978. Proposed regulations published May 11, 1979.	James N. Woodruff 202/632-6553
5 CFR 620, Subpart D	Alternative Work Schedules Experimental Program	Regulations to implement the Federal Employees Flexible and Compressed Work Schedules Act of 1978. Development continuing.	James N. Woodruff 202/632-6553
5 CFR 720, Subpart C	Federal Women's Program	Proposed regs to implement expected revision of E.O. 9830 establishing legal basis for the program and to reinforce OPM's authority in this area following Reorganization Plan #1 (10/1/79).	Diane Herrmann 202/632-6870
5 CFR 720, Subpart D	Hispanic Employment Program	Proposed regs to implement expected revision of E.O. 9830 establishing legal basis for the program and to reinforce OPM's authority in this area following Reorganization Plan #1 (10/1/79).	Roceliz Velez 202/632-6800
5 CFR 720, Subpart E	Selective Placement Program	Proposed regs to implement expected revision of E.O. 9830 and to reinforce OPM's authority in this area following Reorganization Plan #1 (10/1/79).	Hedwig Oswald 202/632-4437
5 CFR 720, Subpart F	Upward Mobility Program	Proposed regs to implement expected revision of E.O. 9830 establishing legal basis for the program and to reinforce OPM's authority in this area following Reorganization Plan #1 (10/1/79).	Curtestine Boardley 202/632-6256
5 CFR 720, Subpart G	Veterans Employment Programs	Receipt of existing regs from Part 307 and Part 316 to coincide with the VEP's placement within the organizational structure of OPM (10/1/79).	Donald Smith 202/254-3058
5 CFR 735	Employee Responsibilities and Conduct	Interim regulations covering the financial reporting requirements set forth in the Ethics in Government Act of 1978 were published on May 8, 1979. Final rule expected to be published approximately 12/1/79.	David Reich 202/632-7642
5 CFR 737	Post Employment Conflict of Interest	Interim regulations concerning post employment conflict of interest restrictions, as set forth in the Ethics of Government Act of 1978, were published on April 3, 1979. Final rule expected to be published approximately September 1, 1979.	Gary Davis 202/632-7642 David Reich 202/632-7642
5 CFR 731	Suitability	Authorities, disqualification standards, rating actions, and appeal rights. Will be revised to reflect (1) the recent reorganization of the former CSC, and (2) the OPM's policy of increased delegation of its decision-making authorities to agencies. Completion of proposed regulations tentatively scheduled for June 19, 1979.	Bob Hubbard 202/632-6152
5 CFR 732	Security and Related Determinations	Reemployment eligibility and action by the OPM. Completion of proposed revision tentatively scheduled for December 31, 1979.	Bob Hubbard 202/632-6152

CFR or Other Authority	Title	Brief Description	Knowledgeable Official
5 CFR 900, Subpart G	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs of the Office of Personnel Management	These rules will implement Section 504 of the Rehabilitation Act of 1973, 29 USC 794, which prohibits discrimination based on handicap in any program receiving Federal financial assistance. The proposed OPM regulations are presently being reviewed by HEW by pursuant to Executive Order 11914. We expect the final regulations to be issued on September 4, 1979.	Richard L. Romero 202/632-6274
P.L. 95-454, Civil Service Reform Act, Title VI, Sec. 601	Personnel Research Programs & Demonstration Projects	New regulations (Part 470) to implement programs for conducting research and demonstration projects. Proposed regulations should be issued on or about September 30, 1979.	Donald Hill 202/632-6077
5 CFR 831.903 831.904	Early Retirement Coverage for Law Enforcement and Firefighter Personnel Serving in Administrative Positions	Proposed rules to delete the regulatory requirement that early retirement coverage attaches to an administrative law enforcement or firefighter only if experience is a basic qualification for filling the position.	Craig B. Pettibone 202/632-4682
5 CFR 870.202	Regular Life Insurance; Exclusions	Clarification of exclusions from coverage of employees whose employment is of uncertain durations. (Includes 5 CFR 870.202 and 5 CFR 890.102.)	Craig B. Pettibone 202/632-4682
5 CFR 890.102	FEHBP; Coverage		
5 CFR 870.501	Conversion of Regular Life Insurance Coverage	Proposed rule authorizing OPM to order extension of time limit for conversion to private contract where timely conversion was prevented due to administrative error. (Includes 5 CFR 870.501, 5 CFR 871.501, and 5 CFR 890.401.)	Craig B. Pettibone 202/632-4682
5 CFR 871.501	Conversion of Optional Life Insurance Coverage		
5 CFR 890.401	Conversion of Health Benefits Coverage		
5 CFR 871.205	Optional Life Insurance; Cancellation of Declination for Certain Postal Service Employees	Proposed rules to provide for automatic cancellation of declination of optional life insurance when an employee enters the Postal Career Executive Service.	Craig B. Pettibone 202/632-4682
5 CFR 890.301	Opportunities to Change Enrollment	An enrolled employee who moves without a break in service to "part-time career employment" as defined in 5 U.S.C. 3401(2) and 5 CFR 340, Subpart B may change to any other plan or option. Interim regulations published 4/6/79.	Craig B. Pettibone 202/632-4682
P.L. 93-350	Transfer of Law Enforcement Officers and Firefighters from Basic to Supervisory Positions	Interim regulations to implement provisions of P.L. 93-350 which deem a law enforcement officer or firefighter who transferred from a basic to a supervisory and/or administrative 5 U.S.C. 8336(c) position to have met transfer requirements for all subsequent employment in a supervisory and/or administrative 8336(c) position.	Craig B. Pettibone 202/632-4682
P.L. 93-638	Retention of Retirement, Health, Benefits, and Life Insurance Coverages by Employees of Indian Tribal Organizations	Proposed rules to implement provisions of P.L. 93-638 which permit certain Federal employees transferring to tribal organization employment without a break in service to retain coverages under the CSR, FEHB, and FEGLI programs.	Craig B. Pettibone 202/632-4682
P.L. 95-368	FEHB for Members of Medically Underserved Populations	Proposed rules to implement recent amendment to FEHB law.	Craig B. Pettibone 202/632-4682
5 CFR 339	Qualifications Requirements (Medical)	Clarification of authority to regulate fitness for duty examinations in the Federal service. STATUS: No action will be taken at this time.	Craig B. Pettibone 202/632-4682
5 CFR 831.107	Retirement; Administration and General Provisions	Reorganization of the CSC requires revision of all retirement and insurance regulations having to do with appeals, since appeals are now handled by the MSPB. Provisions defining appealable decisions, reconsideration of decisions, and permitting correction of errors - which are now intertwined with provisions governing appeals procedures - remain the responsibility of the OPM. Interim regulations. (Includes regulations listed from 5 CFR 831.107 through 5 CFR 891.105.) STATUS: Still pending.	Craig B. Pettibone 202/632-4682
5 CFR 831, Subpart L	Disability Retirement on Application of an Agency and Disability Retirement Appeals		
5 CFR 831, Subpart M	Collection and Claims Against Annuity		
5 CFR 870.205	Regular Life Insurance; Coverage Appeals		
5 CFR 871.206	Optional Life Insurance; Coverage; Appeals		
5 CFR 890.103	Federal Employees Health Benefits Program; Employee Appeals, Corrections, and Adjustments		
5 CFR 890.104	FEHBP: Legal Actions		
5 CFR 891.105	Retired Federal Employees Health Benefits; Appeals		
5 CFR 831, Subpart B	Retirement; Coverage	Major review of all retirement and insurance regulations governing exclusion of less than full-time employees from coverage under the benefits programs. (Includes 5 CFR 831, Subpart B, 5 CFR 870.201, and 5 CFR 890.102.) STATUS: Interim regulations published 4/6/79 to provide that individual appointed to "part-time career employment" as defined in 5 U.S.C. 3401(2) and 5 CFR 340, Subpart B, shall not be denied coverage.	Craig B. Pettibone 202/632-4682
5 CFR 870.201	Regular Life Insurance; Coverage		
5 CFR 890.102	FEHBP: Coverage		
P.L. 95-256	Elimination of Age 70 Mandatory Retirement	New revised proposed rules to implement recent amendments to the retirement law. STATUS: Still pending.	Craig B. Pettibone 202/632-4682
P.L. 95-366	Former Spouse - Recognition of Community Property Court Order	New revised proposed rules to implement recent amendments to the retirement law. STATUS: Cleared for publication 5/8/79.	Craig B. Pettibone 202/632-4682

CFR or Other Authority	Title	Brief Description	Knowledgeable Officials
5 CFR 317	Appointment, Reassignment, Transfer and Development in the Senior Executive Service	Some of this new Part was published March 30, 1979 as an Interim Regulation. This covered initial conversion to the Senior Executive Service. Additional subparts will be issued as interim and final rulemaking.	Ann Ugelow 202/632-6820
5 CFR 214	Senior Executive Service positions	New Part to cover definitions of general and career-reserved positions as well as career type positions in the excepted service for the purpose of determining appointment in the Senior Executive Service. This will be issued as final rulemaking.	Neal Harwood 202/632-4695
5 CFR 534	Pay under other systems	Pay regulations for the Senior Executive Service. Some material will be issued as interim regulation.	Jack Vincent 202/632-6820
5 CFR 359	Senior Executive Service: Removal during probation; removal after probation for performance reasons; and guaranteed placement	This new Part to 5 CFR implements Subchapter V of Chapter 35 of title 5 as amended by the Civil Service Reform Act of 1978	Ann Ugelow 202/632-6820
5 CFR 752	Regulatory Requirements for taking adverse actions under the Senior Executive Service	Amends Part 752 to implement new Subchapter V of Chapter 75 of title 5, U.S.C.	Ann Ugelow 202/632-6820
5 CFR 430 P.L. 95-454 Title IV	Performance Evaluation and Rating Additional new and revised regulation to establish and carry out the provisions of the Senior Executive Service	New subpart on performance appraisal in the Senior Executive Service to be issued as proposed rulemaking. A number of Parts of 5 CFR are being reviewed and revised where appropriate to cover the operation of the Senior Executive Service	Jack Vincent 202/632-6820 Jack Vincent 202/632-6820

[FR Doc. 79-17065 Filed 5-31-79; 8:45 am]
BILLING CODE 6325-01-C

federal register

Friday
June 1, 1979

Part VII

Department of Labor

Mine Safety and Health Administration

Metal and Nonmetallic Mine Safety Standards and Health

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57

New and Revised Safety and Health Standards for Radiation (Radon Daughter Exposure); Fire Protection and Control; Ventilation, Loading, Hauling and Dumping; Travelways and Escapeways; Hoisting; and Sanitary Facilities

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule amends 30 CFR parts 55, 56 and 57 by revising certain mandatory standards, adding a new definition and new mandatory standards, and revising certain advisory standards and making them mandatory. This rule promulgates mandatory standards affecting radon daughter exposure, fire protection when welding or cutting with an arc or open flame or soldering with an open flame, operation of fans in gassy and nongassy mines, ventilation plans, preshift inspection of self-propelled equipment, loading of haulage equipment, warning devices and conspicuous markings, independent ventilation systems for hoist operators underground, stabilizing buckets, sanitary facilities, and a definition for multipurpose dry-chemical fire extinguishers. This rule will afford miners additional protection from accidents, injuries, and occupational diseases in metal and nonmetal mines and mills.

EFFECTIVE DATE: These standards shall be effective August 30, 1979, except for the standard 57.11–59 pertaining to independent ventilation systems for hoist operators underground which shall be effective November 28, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas J. Shepich, Administrator, Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration, Ballston Tower #3, Room 702, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235–1565.

SUPPLEMENTARY INFORMATION:

Regulatory History

When the Federal Mine Safety and Health Admendments Act of 1977 (the Amendments Act), Pub. L. 95–164, became effective on March 9, 1978, the Federal Metal and Nonmetallic Mine Safety Act of 1966 (the Metal Act), Pub. L. 89–577, was repealed. However, certain formal rulemaking proceedings relating to health and safety standards were pending before the Secretary of the Interior and the Mining Enforcement and Safety Administration (MESA) at that time. Pursuant to section 301(c)(3) of the Amendments Act these rulemaking proceedings were transferred to, and continued before, the Secretary of Labor and the Mine Safety and Health Administration (MSHA). This final decision and rule are the results of a formal rulemaking proceeding initiated by the Secretary of Interior and MESA under Section 6 of the Metal Act.

On September 25, 1975, a notice of proposed rulemaking setting forth proposed amendments to Parts 55, 56 and 57, of Title 30, Code of Federal Regulations, was published in the **Federal Register** [40 FR 44272]. The original comment period was extended from November 6, 1975 to December 5, 1975 [40 FR 51202] to encourage full public participation. A number of interested persons and organizations filed written comments, suggestions and objections with respect to most of the proposed standards and several objections contained specific requests for public hearings. The objections and the proposed standards, several of which were revised to reflect public comments, were published in the **Federal Register** on June 16, 1977 [42 FR 30772]. In the same publication, the Secretary of the Interior, under the authority of section 6(d)(1)(2) of the Metal Act, instructed that a public hearing be held before an Administrative Law Judge, who would be empowered to receive evidence relevant and material to the issues raised by the objections set forth in the **Federal Register**. The Administrative Law Judge was further authorized to consider all objections, and based upon the record, submit a recommended decision to the Secretary who would review the recommendations and issue a final decision.

The formal public hearing, subject to the provisions of the Administrative Procedure Act [5 USC 556 and 557], was held in Albuquerque, New Mexico from August 22, 1977 through August 26, 1977 and was reconvened on October 3, 1977 through October 5, 1977 in Lakewood, Colorado.

During the public hearing phase of the rulemaking, many of the proposed standards were stipulated either without change or with modification by the unanimous consent of the participating parties. When the major participating parties reached agreement on the wording of certain standards, the agreed language was read before George A. Koutras, presiding Administrative Law Judge. If no objection was raised by any party, the stipulated provision was made part of the record without further testimony. There was general agreement or a stipulation to the following standards: 57.4–76 (fire extinguishers), 57.4–77 (fire protection near combustibles), 57.4–78 (fire protection in shafts, raises or winzes), 57.5–18B (combustibles within 25 feet of main and booster fans), 57.5–20 (ventilation system plans), 57.5–37 (radon daughter recordkeeping and reporting), 57.9–104 (warning devices), 57.11–59 (independent ventilation systems), 55/56/57.19–78 (hoisting buckets), 55/56/57.20–8 (sanitary facilities), 57.21–21 (gassy mines-continuous operation of main fans), 57.21–24 (gassy mines-fan stoppage), and 57.21–80 (gassy mines-methane monitoring devices).[1] However, proposed standards 57.5–18D (continuous operation of main and booster fans), 57.5–24 (airway separation), and 57.5–34 (continuous operation of auxiliary fans) were contested.

The Administrative Law Judge recommended that proposed standard 57.5–24, concerning physical separation of intake and exhaust airways, not be adopted and that an in-depth study be undertaken by the agency before any such standard is issued in the future. In addition, MESA agreed to withdraw proposed standards 55/56/57.4–36, relating to fire protection when welding or cutting with an arc or open flame or soldering with an open flame.

Also during the hearing, the agency agreed to place the wetting down and fire patrol requirements, which had been contained in proposed standard 57.4–65, directly into standards 57.4–77 and 57.4–78. Consequently, the proposal to revise mandatory standard 57.4–65 has been withdrawn and the standard is revoked in this final rule.

By agreement of those present at the conclusion of the hearing, the date for closing the record and filing post-hearing arguments was fixed as December 19, 1977.

After consideration of the entire public record, the Administrative Law Judge submitted his recommended decision to the Secretary of the Interior on February 10, 1978. An order correcting the recommended decision was issued on March 13, 1978. Copies of these documents were sent by the Administrative Law Judge to all interested parties.

In this rulemaking proceeding, the Secretary adopts the recommended

[1] Standards uniformly applicable to 30 CFR Parts 55, 56 and 57 are referred to in this document as 55/56/57.

decision of Administrative Law Judge Koutras dated February 10, 1978 (as corrected) as his decision.[2] Based on the recommendations of the Administrative Law Judge, MSHA is withdrawing the following proposed standards: 55/56/57.4–36, 57.5–24, and 57.4–65.

In adopting the recommended decision of Judge Koutras, certain editorial changes have been made in final standards 57.5–18D(a) (continuous operation of main and booster fans), 57.5–37(a) (radon daughter sampling), 57.5–40(b)(1), (2), (3), (4), and (6) (radon daughter recordkeeping and reporting), 55/56/57.9–1 (safety defects), 57.21–21(d) (gassy mines-continuous operation of main fans), and 57.21–80 (gassy mines-methane monitoring devices). The reference to paragraph 9.8 ANSI N13.8–1973 in standard 57.5–40(b) has been completed under the provisions of 1 CFR Part 51 issued by the Office of the Federal Register.[3]

In addition, an editorial change has been made in the "Note" to standard 57.5–40 (calculating radon daughter exposure). This change is considered necessary to more fully clarify the intent expressed by the parties in the stipulated wording. The agency has proceeded without objection, after having notified the major participating parties in the rulemaking and given them the opportunity to respond.

Also included in the September 25, 1975, notice of proposed rulemaking but not considered by the Administrative Law Judge were proposals to add a new mandatory standard 57.4–79, relating to equipping electrically powered vehicles with at least one "portable fire extinguisher," and to revise mandatory standard 57.21–20, concerning the installation of main fans used in gassy mines (40 FR 44280 and 44284, respectively). Standard 57.4–79 was closely related to the definition of the term "portable fire extinguisher" considered by Judge Koutras, and standard 57.21–20 was a companion to gassy mine standards 57.21–21, 57.21–24, and 57.21–80, also considered by the Judge.

However, no hearing was requested on standard 57.4–79, and standard 57.21–20 had been recommended by the Federal Metal and Nonmetal Mine Safety Advisory Committee (and therefore was not subject to public hearings). Rather than promulgate these proposals as final standards on an earlier date, the Secretary of the Interior elected to delay issuance until a final decision had been made on the proposals subject to hearing. Therefore, revised mandatory standard 57.21–20 is now promulgated by the Secretary of Labor as a final standard. The proposal to add a new mandatory standard 57.4–79 is withdrawn. Electrically powered vehicles are considered to be self-propelled mobile equipment, which will be required to have a suitable fire extinguisher readily accessible to the equipment operator under new mandatory standard 55/56/57.4–27, to be promulgated separately under rulemaking authorized by section 301(b)(2) of the Amendments Act.

Copies of the recommended decision are available to the public and may be obtained by contacting the Office of Standards, Regulations and Variances, Department of Labor, Room 631,

[2] The Amendments Act was enacted on November 9, 1977, three months prior to the issuance of the recommended decision by the Administrative Law Judge. Although section 301(c)(3) of the Amendments Act authorized the Secretary of Labor to continue rulemaking begun by the Secretary of the Interior, section 301(b)(2) of the Amendments Act also required the Secretary of Labor to establish within 60 days from enactment an advisory committee to review all existing safety and health standards promulgated as advisory under the Metal Act. In executing this responsibility, on January 5, 1978, the Secretary appointed the membership of the "Advisory Committee to Review Advisory Metal and Nonmetallic Mine Safety Standards" (the Advisory Committee) to recommend which of those standards should be upgraded or modified as new mandatory standards. Among the advisory standards considered by the Advisory Committee were certain of those standards which were also pending before the Administrative Law Judge in these proceedings: 55/56/57.9–1 (safety defects), 55/56/57.9–34 (haulage equipment), 55/56/57.9–104 (warning devices), 55/56/57.19–78 (hoisting buckets), 55/56/57.20–8 (sanitary facilities), and 57.21–21 (gassy mines-continuous operation of main fans). After extensive deliberation involving public meetings and participation, the Advisory Committee submitted its recommendations to the Secretary on July 5, 1978. The recommendations of the Advisory Committee were virtually identical to the recommendations of the Administrative Law Judge.

The recommendations of the Advisory Committee were then published as a proposed rule by MSHA on September 12, 1978 (43 FR 40766). Comments on this proposal, including those relating to advisory standards considered by the Administrative Law Judge, were submitted to MSHA by interested parties. While the deliberations of the Advisory Committee and the related public participation were not formally a part of the rulemaking proceedings before the Administrative Law Judge, the agency did take notice of the similarity between the Advisory Committee's recommendations and the Judge's recommended decision, and the absence of any new issues of significance or of other information which would have caused a modification of any standard being adopted here as a final rule.

Concern was expressed in public comments regarding the burden of recordkeeping and its possible legal consequence in standards 57.5–20 (ventilation system plans), 57.5–40 (radon daughter recordkeeping and reporting), 55/56/57.9–1 (safety defects) and 57.21–21 (gassy mines-continuous operation of main fans). MSHA has concluded that the risks associated with radiation, airborne contaminants, and other high hazard situations unique to the mining environment justify the recordkeeping requirements without imposing undue administrative burdens or significantly increasing legal jeopardy to the operator. The agency believes that by promoting a better awareness of important safety and health considerations, these requirements will result in increased safety and health protection for miners.

[3] On March 28, 1979, 44 FR 18630 (corrected April 2, 1979, 44 FR 19181), the Office of the Federal Register amended its regulations (1 CFR 51.13) concerning approval of incorporation by reference in the Code of Federal Regulations. Approvals for such incorporations by reference appearing in Title 30, CFR Parts 55, 56 and 57 are withdrawn effective July 1, 1980. Prior to this date, MSHA intends to appropriately revise its regulations.

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Radiation (Radon Daughters)

57.5–37. This standard is applicable to underground mines only. Radon daughters produced by the radioactive decay of radon have been linked to a high incidence of lung cancer in uranium miners. Uranium miners receive internal radiation exposure from inhaling radon, radon daughters, and uranium ore dust. The presence of radon daughters is not limited to uranium mines because radium bearing rock is often encountered during the mining process in other types of operations. Therefore, many miners are exposed externally to beta and gamma radiation which is emitted from uranium and radium bearing rock; radon and radon daughters constitute the dominant exposure. Since these hazards may be present in many underground mines, and appropriate program of monitoring and surveillance is essential. These rules will significantly strengthen MSHA's previous sampling requirements.

Since radon daughters are more prevalent in uranium mines, the sampling requirement is more stringent in those mines than in mines where uranium is not mined. The requirement also becomes more stringent as the radon daughter concentration in the worker's breathing zone increases. Sampling is essential to keep the mine operator apprised of the potentially hazardous atmosphere present in the mine. This will permit the operator to take preventive measures to minimize the danger to the miner.

Standard 57.5–37 establishes the procedure to be used by the mine operator in sampling mine exhaust air for the presence of radon daughters. This standard requires the operator to use the equipment and procedures described in §14.3 of ANSI N13.9–1973 (incorporated by reference) or equivalent procedures and equipment acceptable to the Administrator, Metal and Nonmetal Mine Safety and Health, MSHA. The sampling is to be done by a competent person as defined in 30 CFR 57.2.

Because of the potentially harmful effects of radiation, all mines must be sampled whether or not uranium is known to be present in the mine. If exhaust air samples reveal a concentration of radon daughters in excess of 0.1 WL ("Working Level" as defined in section 57.2), the radon daughter concentrations representative of the worker's breathing zone must be determined for all workers underground. In uranium mines this determination must be made very two weeks at random times in all active working areas in any other location where persons work, travel, or congregrate. Where uranium is not mined, the concentration of radon daughters in the worker's breathing zone in the active working area must be determined every three months at random times until such concentrations are below 0.1 WL and annually thereafter.

Where uranium is mined, if the radon daughter concentration in the exhaust air is less than 0.1 WL, the exhaust air must still be sampled every 2 weeks. However, no further exhaust air sampling is required where uranium is not mined, if the radon daughter concentration in the exhaust air is less than 0.1 WL.

In the event that exhaust air samplings reveal a radon daughter concentration in excess of 0.3 WL in the active working area, concentrations must be determined weekly in that area (whether or not uranium is mined) until the weekly determinations are 0.3 WL or less for five consecutive weeks.

This final rule contains a separate procedure for testing when the radon daughter concentration rises above 0.3 WL in the exhaust air. The proposed standard contained no such provision. In addition, this final rule requires exhaust air testing in a uranium mine every two weeks when the radon daughter concentration is between 0.1 WL and 0.3 WL. The proposed standard specified monthly testing under like circumstances. The agency and parties stipulated to the language of the final rule.

The mine operator is required to keep a record of all mandatory samplings. This record is to include the sample date, location and results, and must be retained at the mine site or nearest mine office for two years. The report must be made available for inspection by the Secretary of Labor or his authorized representative.

The reporting requirement will alert the mine operator and MSHA of possible failure in the radon daughter control system, and permit appropriate corrective action to be taken in a timely manner. This requirement also will aid MSHA in enforcing the radiation standard and insuring that the mine operator is continually aware of the miner's individual exposure to concentrations of radon daughters.

Commenters urged that the agency perform the initial sampling because more extensive training is required for a person to perform this type of sampling than is required for routine mine atmosphere sampling. The mine operator could then assume sampling responsibility for mandatory samples in instances where the initial exhaust air sample is above the levels indicated in the standard. In response to this suggestion, the final rule provides an opportunity for the mine operator to request that the initial exhaust air sampling be done by MSHA.

Another objection to the proposal questioned the need for tracking levels of radon daughter concentrations so low that constant exposure by the miner would result in less than the annual 4 WLM limit ("Working Level Months" as defined in section 57.2). MSHA believes that it is necessary to begin monitoring at low levels in order that any increase in radon daughter concentrations to more serious levels does not go undetected. Once radon daughters, even at low levels, are present in the mine atmosphere, there is a significant potential danger of those levels increasing. In addition, MSHA is very concerned about the impact which low level radiation exposure may have on the miner's health over the long term and it is necessary for records of all such exposures to be kept and maintained in order to more fully assess those effects over time.

57.5–40. Standard 57.5–40, which is applicable to underground mines only, requires the mine operator to calculate, record and report individual exposures to concentrations of radon daughters. This standard also is more stringent where uranium is mined than where other substances are mined.

Where uranium is mined, the mine operator must calculate, record and report the individual exposures to radon daughters of all mine personnel working underground. These records must include: (1) the individual's time in each active working area and any other place where persons work, travel, or congregate; and (2) the concentration of airborne radon daughters for each active working area.

Where uranium is not mined, the operator need only calculate, record and report the individual exposure of those mine personnel working in active working areas with radon daughter concentrations in excess of 0.3 WL. These records also must include the individual's time in each active working area and the concentrations of radon daughters for each active working area. The calculating and recording of such individual exposures may generally be discontinued on individuals in those areas when the radon daughter concentrations have been reduced to 0.3 WL or less for five consecutive weeks. However, exposure records must be

continued for all persons who have accumulated an exposure at any time during a calendar year which, when divided by the number of months exposed during that year, is greater than 0.8 WLM (e.g., January—.08; February—.17; March—.25; etc.).

The standard as originally proposed would have required the mine operator to sample weekly the breathing zones of persons in areas where they work, travel, or congregate. The proposed weekly sampling requirement was objected to on the ground that monthly testing should be sufficient in areas of uranium mines that have consistent readings of 0.3 WL or less. This suggestion is reflected in the final rule, which limits weekly sampling requirements to working areas in which the fluctuation in radiation is substantial or concentrations of radon daughters exceed 0.3 WL, and is consistent with the sampling requirements of rule 57.5–37. The revised rule was stipulated by the parties at the hearing.

Standard 57.5–40(b) contains certain reporting provisions needed for enforcement. It also provides both the mine operator and miner with exposure data relevant to the miner's health, and other information relevant to the miner's working environment.

Records of individual exposures to radon daughters must be maintained by the operator and be open to inspection by the Secretary of Labor or other authorized representatives. A record of individual exposures (new Form 4000–9) must be submitted to MSHA on or before February 15 of each calendar year, unless the mine has been shut down, in which event it should be submitted within 45 days after the shut-down of mining operations for the calendar year. The operator must either retain these records at the mine or nearest mine office until the year in which the individual would have reached the age of seventy-five or until ten years after the known death of the individual [9.8, ANSI N13.8–1973]. In the alternative, records may be submitted to MSHA for retention. If retained by the operator, the records must be open for examination by the Secretary of Labor or his authorized representative, and the authorized representative of the mine inspection agency of the State in which the mine is located. The individual who is the subject of these records (or his or her designee) may request and obtain a statement of current year-to-date and cumulative exposure.

The reporting provision as originally proposed would have required the completion of two forms. It also would have required the mine operator to submit records within 14 days after the end of each four week reporting period. However, MSHA believes an annual report will afford meaningful protection since these records are open for examination and review by the Secretary or his authorized representative. In addition, the 14 day requirement for submission of records after the reporting period has been lengthened to 45 days to allow the operator ample time to collect data, process it and correct any errors. The agency has also concluded that one form, "Record of Individual Exposure to Radon Daughters," (Form 4000–9) is adequate for enforcement purposes, and the proposed requirement for an additional form was deleted. These revisions will minimize the paperwork to be completed by the operator and encourage more accurate reporting on Form 4000–9.

In the proposed rule, all measurements of radon daughter concentration data previously reported to the operator by authorized State and Federal representatives were to be included on these forms. This proposed requirement is no longer required because the separate form has been eliminated. If the mine operator takes samples simultaneously with a State or Federal inspector, the operator may use his own samples in calculating individual exposures. However, the State and Federal samples must be recorded and the records made available to the Secretary or his authorized representative. In addition, the proposed reporting provisions for mines located in a State with a State plan approved by the Secretary of the Interior have also been deleted since the State plans program was eliminated with the repeal of the Metal Act.

MSHA believes that final standards 57.5–37 and 57.5–40 together will provide adequate sampling and recording which will alert mine operators, miners, and MSHA to potential radiation hazards and will afford a significant added measure of protection to miners who may be exposed to such hazards.

Fire Prevention and Control

Multipurpose dry-chemical fire extinguisher. This new term is added to the definitions set forth in sections 55.2, 56.2 and 57.2. The definition requires that a listed or approved multi-purpose dry-chemical fire extinguisher have a minimum rating of 2–A:10–B:C by the Underwriters Laboratories, Inc. and contain a minimum of 4.5 pounds of dry-chemical agent. This definition is a modification of the proposed term "portable fire extinguisher" in response to public comment.

Another objection to the originally proposed definition contended it would restrict all portable fire extinguishers to multi-purpose dry-chemical extinguishers. Consideration of this comment resulted in the modification of mandatory standards 57.4–77 and 57.4–78, which specifically permit the use of fire extinguishing equipment having the equivalent extinguishing capacity appropriate for the particular hazard. In addition, these mandatory standards require the mine operator to initiate other extra-precautionary measures when working conditions and the degree of potential hazard warrants. The mandatory standards are minimum requirements and do not prohibit the mine operator from using additional safeguards and equipment.

All parties stipulated to the modified definition of the multi-purpose dry-chemical extinguisher.

57.4–76, 57.4–77 and *57.4–78.* New mandatory standards 57.4–76, 57.4–77 and 57.4–78 have been added to require mine operators of underground mines to take specific precautions in certain situations that pose a high risk of fires. The effect of the new standards is to increase the number of required precautions as the potential for underground fires increases. The language of these standards was stipulated by the parties.

The minimum requirement is that a mine operator provide a multi-purpose dry-chemical fire extinguisher where there is welding or cutting with an arc or open flame, or when miners are thawing pipes electrically (excluding the use of heat tape) or soldering with an open flame [57.4–76]. The mine operator must provide either a second multi-purpose dry-chemical extinguisher or equipment with the equivalent extinguishing capacity appropriate for the particular hazard involved where these same operations occur in close proximity to: (1) specific quantities of combustible liquids (other than those enclosed in noncombustible metal containers); (2) non-fire-retardant wood; (3) combustible plastic; (4) a mine shaft; and (5) a raise or winze. This additional extinguishing equipment is also required in any other instances where there is a risk that combustible materials may be ignited by falling sparks or heated material [57.4–77(a), 57.4–78(a)]. In addition, the combustible materials and the area between them and the operation must be wetted down before and after the operation when wetting down is practical. Where wetting down is not practical, the combustible materials

must be isolated by noncombustible materials or the operation must be shielded to prevent smoldering metal or sparks from starting a fire [57.4–77(b), 57.4–78(b)].

All parties agreed that cables, which meet the standards of flame resistance established in 30 CFR 18.64, and conveyor belting and hoses, which meet the standards of flame resistance established in 30 CFR 18.65, are considered by MSHA to be noncombustible under standards 57.4–77 and 57.4–78.

Furthermore, other materials which have a flame spread index of 25 or less as determined by the American Society for Testing and Materials methods of testing are considered to be noncombustible under standards 57.4–77 and 57.4–78. Where these welding, cutting, thawing or soldering operations occur within close proximity to a shaft, raise or winze and there is risk that combustible materials may be ignited by falling sparks or heated material, the mine operator is permitted an additional optional method of preventing fire. Instead of wetting down, isolating or shielding, the mine operator may cover or bulkhead the opening of the shaft, raise or winze with noncombustible material [57.4–78]. A second person must be present to observe and extinguish fires if wetting down, isolation, shielding, covering or bulkheading in the instances described is impractical [57.4–77(c), 57.4–78(b)].

An added precaution is that an inspection must be made of the affected area during the first hour after these welding, cutting, thawing or soldering operations are terminated where: (1) these operations occur in close proximity to combustible liquids, non fire-retardant wood, combustible plastic or a mine shaft, raise or winze; and (2) there is a risk of combustible material becoming ignited by falling sparks or heated material. If the mine operator considers that the working conditions and the degree of potential hazard warrant, additional inspections must be made or other precautionary measures taken [57.4–77(d), 57.4–78(e)].

Each of these new mandatory standards is based on the agency's belief that all reasonable steps must be taken by mine operators to prevent the occurence of fires. If fires do occur, sufficient and appropriate extinguishing equipment must be readily available for use. Such control measures will expose fewer miners to the hazard potential of fire, and minimize the likelihood and extent of any injuries.

57.5–18B. Mandatory standard 57.5–18B requires that areas within 25 feet of main and booster fans located on the surface and underground be kept free of all combustible materials except for installed wiring, materials used for fan maintenance, direct fired heaters, and ground support. Installed track ties are not considered combustible materials for purposes of construing this standard. This mandatory standard is an important element in fire prevention and control and in the maintenance of good air quality.

The language of the standard as originally proposed has been modified and these changes were stipulated by the parties. The proposal provided that combustible materials not be allowed to accumulate in areas surrounding main and booster fans for a distance of 100 feet except that fire-retardant material could be used for ground supports. Commenters suggested that "accumulate" was vague, and that keeping all combustible material out of areas within 100 feet of main and booster fans was unnecessary. The agency subsequently concluded that 25 feet is sufficient to protect the safety and health of miners. The final rule meets the basic purpose and intent of the standard as originally proposed, and the needs of both the miner and mine operator.

Ventilation and Air Quality

57.5–18D and *57.5–34.* Final rules 57.5–18D and 57.5–34 are designed to promote good air quality and to alert the miner and mine operator to situations which threaten that air quality. They are discussed together because they were considered as a package during the hearing. The basic issues involved are essentially the same.

Standard 57.5–18D requires all main and booster fans installed and used to ventilate active workings of underground mines to be operated continuously while persons are underground in the active workings. However, scheduled production-cycle shutdowns, planned or scheduled fan maintenance and adjustments are permitted when air quality is maintained in compliance with the applicable standards of section 57.5, and all persons underground in the affected areas are advised in advance. Standard 57.5–34 imposes a similar duty upon the mine operator when using auxiliary fans. The same exceptions are permitted in the auxiliary fan regulation for scheduled production-cycle shutdowns, fan maintenance and fan adjustments.

In the event of fan failure due to malfunction, accident, power failure, or other unplanned or unscheduled event, a competent person must test the air quality in the affected active workings for compliance with the applicable standards of section 57.5. The air quality must be tested within 2 hours of the discovery of the fan failure and every 4 hours afterwards until normal ventilation is restored [57.5–18D(b)(1), 57.5–34(b)(1)].

If the mine operator elects not to do the required air quality testing, all persons (except those working on the fan) are to be withdrawn until the ventilation is restored to normal and the air quality is tested by a competent person to assure that the air quality meets the standards of section 57.5. After the air quality standards are met, other persons may then be permitted to enter the affected active workings [57.5–18D(b)(2), 57.5–34(b)(2)].

Underground mines usually present harsh and hostile working environments. The ventilation system is the most vital life support system in underground mining and a properly operating ventilation system is essential for maintaining a safe and healthful working environment. Lack of adequate ventilation in underground mines has resulted in fatalities from asphyxiation and explosions. The deaths of many other miners resulting from radiation overexposure, silicosis and pneumoconiosis can be attributed primarily to inadequate ventilation. In addition, poor working conditions from a lack of adequate ventilation contribute to accidents as a result of heat stress, limited visibility or impaired judgment from contaminants.

Although some present day underground mines depend upon naturally induced airflow for their primary ventilation, mechanical devices may be necessary to assure air quality. Since work areas are continually being advanced beyond the main ventilation air stream, auxiliary ventilation is often necessary to supply air to dead-end working places, maintain uncontaminated environments, and to condition air in faces for temperature and humidity control.

Scheduled maintenance on main, booster or auxiliary fans usually requires that the fan be shut down. If fan repairs take longer than estimated, hazardous quantities of contaminants may be produced. The length of time required for maintenance varies from mine to mine. During this idle period, it is important to insure that the mine air in the affected workings is free of hazardous quantities of contaminants and not deficient in oxygen.

Mine accident reports reflect that a number of factors contribute to the causes of ventilation-related accidents,

including: (1) failure to provide and maintain adequate ventilation; (2) failure to test a mine area containing a possible asphyxiating atmosphere before entering; (3) failure to maintain air quality before reentering a mine after blasting when the ventilation system had been shut down (and not restarted prior to the reentry); and (4) failure to provide positive mechanical ventilation to dissipate rock strata gas upon reentry into a mine after the ventilation fan had been shut down and not restarted. Mandatory standards 57.5–18D and 57.5–34 are promulgated to remove these factors as a cause of mining accidents.

Objections were raised that the requirements for these standards should not be applicable to "nongassy mines" and that fan failure would rarely result in unhealthful air quality in the mine. However, the findings of the Administrative Law Judge supported a contrary conclusion. In some cases where a ventilation fan is down, the air quality is maintained in both "gassy" and "nongassy mines" only as long as the mining equipment is also shut down. The Administrative Law Judge held that if production is continued in such a situation and the equipment continues to operate, hazardous contaminants could build up. New mandatory standards [57.21–21 (continuous operation of main fans), 57.21–24 (fan stoppage), and 57.21–80 (methane monitoring devices)] have also been issued for gassy mines.

Standards 57.5–18D and 57.5–34 do not require the continuous operation of unnecessary main, booster and auxiliary fans. The initial decision as to whether a particular fan is necessary to maintain air quality is left to the mine operator. If the operator determines that a fan is not necessary for maintenance of air quality, it need not be operated. Moreover, fans which are not part of the principal ventilation system or used to maintain air quality are not required to be operated continuously. The standard would not apply to a mine which is naturally ventilated and working efficiently without mechanical ventilation.

The exception in the final rule to the general requirement of continuous fan operation, which permits planned shutdowns where air quality is maintained and all persons underground are advised in advance of the shutdowns, is a revision of the proposed rule and is included in response to public comments. The final standard is directed at MSHA's primary concern—planned or unplanned fan shutdowns that are likely to go unnoticed over a period of time, resulting in the undetected buildup of hazardous contaminants in the working place.

The revised standard, like the proposed standard, establishes procedures to be followed in the event of fan failure, scheduled maintenance, or other fan adjustment. The language has been changed to provide the mine operator with a guide as to what is considered adequate monitoring of air quality. The revised standard requires such monitoring to consist of testing of the air quality at least every 2 hours for compliance with sections 57.5 and 57.21 until normal ventilation is restored.

The Administrative Law Judge rejected the suggestion that contaminant buildups could be avoided when a fan is down by changing the mining cycle or improving the ventilation by opening a new borehole. This was not acceptable because such an alternative could possibly generate more contaminants. A standardized procedure to test air quality or to withdraw mine personnel in instances where a fan becomes unexpectedly inoperative is considered a reasonable and logical precaution against the buildup of contaminants. In this case, preventive measures rather than corrective measures are clearly more appropriate.

The principal concern at the hearing was the 2-hour testing requirement rather than the continuous operation of main, booster and auxiliary fans. Testing is essential and the 2-hour provision will provide operators with specific and uniform direction with respect to the frequency of testing. Instant readouts are available when testing for carbon dioxide, nitrogen dioxide, methane, and other toxic and explosive gases. In these instances, the required testing is simply accomplished and will alert the operator to the presence or absence of these gases; operators will then know whether air quality is being maintained.

57.5–20. Standard 57.5–20 is applicable to underground mines only. It requires the mine operator to prepare a written plan of the mine ventilation system. The plan must be updated at least annually. Upon request of the District Manager, the plan and its revisions must be submitted to MSHA for review and comments. The plan must include a current mine map or schematic, or a series of mine maps or schematics, mine fan data, diagrams or descriptions or sketches showing how ventilation is accomplished and the number and type of internal combustion engine units used underground. The final wording of this standard was stipulated by the parties.

The purposes of this standard are: (1) to insure that each operator of an underground mine routinely plans, reviews and updates the mine's ventilation system; (2) to insure the availability of accurate and current ventilation information; and (3) to provide MSHA with the opportunity to alert the mine operator to potential hazards. In consideration of these purposes, the proposed standard was changed to provide for the submission of plans to the District Manager (upon his written request) for review and comment rather than review and approval. However, MSHA intends to further study the need for a standard involving agency approval of appropriately engineered mine ventilation systems for individual mining oprations.

Comments raised concern about the amount of paperwork required by this standard. However, it is the agency's understanding that much of the information requested is readily available to the operators at this time. Moreover, MSHA's experience has demonstrated that the submission of plans in critical areas such as ventilation provides both the agency and the operator with a valuable tool for assuring uniform and comprehensive protection for miners.

Travelways and Escapeways

57.11–59. Standard 57.11–59, a mandatory standard applicable to underground mines only, requires the mine operator to provide an independent ventilation system for hoist operators who are located underground when these hoists are part of the mine escape and evacuation plan. To provide the hoist operator with a safe means of escape after the hoisting duties are completed, the independent ventilation system must convert to an approved 2 hour self-contained breathing apparatus. The standard specifies two methods, either of which may be used by the mine operator to provide the required ventilation.

In the first method, the mine operator must provide an enclosure type of ventilation system to satisfy this standard. The enclosure type ventilation system can be one that is operated continuously or is capable of immediate activation from within the enclosure during an emergency. Air can be provided for this enclosure system by coursing air: (1) from the surface through metal duct work; (2) through a borehole into the hoist enclosure; or (3) from air compressors located on the surface through metal pipe. A back-up system must be provided for the hoist operator's ventilation system when the method used to provide the air is coursing

surface air through metal duct work or when surface air is coursed from compressors through metal pipe. This back-up system, consisting of compressed air stored in containers connected to the enclosure, must provide and maintain a respirable atmosphere in the enclosure for a period twice as long as is likely to be necessary to evacuate all persons designated to use the hoist identified in the mine escape and evacuation plan.

If the enclosure type ventilation system is not selected, then as an alternative, the mine operator must provide the hoist operator with an approved self-contained breathing apparatus system. This system must consist of a mask connected to compressed air stored in containers adjacent to hoist controls. It must also provide the hoist operator with a minimum of 24 hours of respirable atmosphere. The self-contained system must be capable of connecting quickly with the 2 hour self-contained system that permits the hoist operator's escape.

This standard is promulgated to insure that mine escape and evacuation can be accomplished quickly and efficiently without exposing those participating in escape and evacuation operations to unnecessary hazards. The ventilation system in such mines is crucial to the survival of the miners, including the underground hoist operator. However, due to the nature of the mining environment, the respirable atmosphere is capable of harmful fluctuations, particularly in emergency situations. Therefore, the hoist operator who assists in evacuating miners from hazardous and dangerous mining situations should not be required to rely upon the mine atmosphere to provide the necessary ventilation. The hoist operator is often required to evacuate miners because of abnormal mine atmosphere. The separate and independent ventilation system should eliminate the likelihood of the hoist operator becoming a casualty in such instances. The standard requires a system that is both safe and contains enough air to permit the operator to complete the essential task.

Objection was made to requiring breathing apparatus which would provide a respirable atmosphere for 2 hours. Comments indicated that the provisions necessary to provide a respirable atmosphere vary depending upon the number of persons using the hoist, the location of the hoist in relation to fresh air supplies and the location of the hoist in the mine. MSHA recognizes that each mine differs with respect to ventilation systems, atmosphere and requirements. This standard establishes uniform minimum requirements with an adequate margin of safety, which is critical during emergency situations. Ample respirable air, easily operated equipment, and a conveniently located source of air are essential to preserving the health and safety of miners.

It was further suggested that many hoist operators would not be physically capable of effectively using a 2 hour breathing apparatus, but might qualify for a simpler device. In this regard, MSHA believes that the physical fitness of the hoist operators is critical to both self rescue and the ability to safely evacuate other workers during mine emergencies.

Another comment stated that automatic hoists or self-activated hoists should be excluded from the proposed standard. The revised standard provides needed protection for all hoist operators who must remain at their jobs during mine emergencies. All hoisting equipment used by a hoist operator must be equipped to protect that operator both during the hoisting operation and afterward to provide for that operator's escape.

The final standard establishes alternative methods for providing the hoist operator with an independent respirable atmosphere in a manner most feasible and suitable to particular mine conditions. It is the agency's intention to allow the operator a degree of flexibility in selecting the method that would be most appropriate.

Ventilation for Gassy Mines

57.21–20. This standard is applicable only to underground mines that are classified as "gassy", and is designed to preserve the ventilation system in gassy mines. The standard requires that main fans be powered electrically and be installed: (1) on the surface, (2) in noncombustible housing provided with noncombustible air ducts, (3) 15 feet or more offset from the nearest side of the mine opening where the fan is connected and (4) to permit prompt reversal of airflow. This standard further requires that the fan installations be equipped with explosion-doors or a weak-wall. An automatic signal device must be provided to give a warning or alarm of any fan system malfunction.

Surface installation is required to prevent damage or destruction of the primary ventilation system during a fire or explosion underground. The requirement that main fans be offset is necessary to prevent fan destruction resulting from explosion forces. Explosion-doors or weak-walls are an added safety mechanism to redirect the force of any explosion away from the main fan. Installation of main fans in noncombustible housings, with noncombustible air ducts will prevent destruction in the event of fire.

Electric power is required because it is more efficient and produces less airborne contaminants. Main fans which permit the prompt reversal of air flow are required because they will allow the mine operator to pull contaminated or nonrespirable air away from miners who become trapped underground after a mine explosion. The further requirement of a warning or signal device located where it can be seen or heard by a responsible person is an added safeguard to alert the miners and mine operator of potential air quality problems.

57.21–21. This standard, which is applicable only to underground mines that are classified as "gassy", requires main fans to be operated continuously while persons are underground. The requirement of continuous operation does not apply when main fans are stopped or slowed down for fan maintenance (or fan and system adjustment), provided that the operator complies with the procedural provisions of mandatory standard 75.21–24. Main fans must have pressure-recording gauges which are to be examined daily to determine whether or not they are in good operating condition. The gauge charts are to be changed after completing one revolution. Main fans are to be inspected daily and logs kept of both fan inspections and maintenance. These records are to be retained for 1 year, and made available for inspection by the Secretary or his authorized representative.

57.21–24. Standard 57.21–24 sets out the mandatory procedure to be followed by the operator of a gassy underground mine in the event of fan stoppage.

If a single fan is used in the mine and it stops, or multiple fans are used and they all stop, mine operators are required to immediately withdraw all persons from the affected active workings and to de-energize the power in such workings. All persons must be withdrawn from the mine when there is a 1.0 percent concentration of methane in the air of any active working. All working places and active workings where methane may accumulate must be examined when ventilation has been interrupted for more than 15 minutes. Power is not to be restored or persons permitted to re-enter the active workings until the methane concentration is less than 1.0 percent.

In the event that the mine is one where multiple fans are used and a fan

stoppage occurs, the operator must monitor the air in all active workings for methane content. This provision is applicable when one or more of these fans remains operative and the air flow in the intake and return air courses is maintained. However, when the concentration of methane in the air measures 1.0 percent in such workings, the operator must withdraw all persons and de-energize the power in the active workings.

High levels of methane concentration in the mine air pose both safety and health hazards. Methane, if allowed to accumulate increases the danger of fires, explosions and oxygen deficiency. The concentration of methane in the mine air is minimized by the fans of the mine ventilation system. When these fans are not operating, methane levels tend to increase, particularly if mining continues. Therefore, withdrawing persons from the mine and de-energizing the power is a reasonable safeguard against potential injury caused by excessive accumulations. Where the danger is lessened, as in the situation where air flow in the intake and return air courses is maintained, monitoring is necessary to insure that hazardous accumulations of methane do not go unnoticed.

57.21–80. Standard 57.21–80 establishes a mandatory equipment requirement for methane monitoring in gassy underground mines. This standard requires operators to have a methane monitoring device installed on all continuous miners and longwall face equipment. The device must be approved by the Secretary of Labor and be properly maintained. The sensing unit of the device must be positioned as close to the working face as practicable.

Since methane is actually produced in the mining operations, methane concentrations are likely to be higher at the face and more readily detected there before methane travels to other areas of the mine. The requirements of equipment approval and proper maintenance are to insure that the testing done is accurate enough to serve as a meaningful tool to the operator.

The monitoring device must give a warning when the methane concentration reaches 1.0 percent or more. This requirement will diminish the likelihood of methane concentration levels going unnoticed until the levels reach dangerous proportions.

The monitoring device must also automatically de-energize the equipment to which it is attached when the methane concentration reaches a 1.5 percent level. The likelihood of sparks or electricity causing methane to ignite is thereby lessened. In addition, this requirement reduces the possibility of increasing methane concentration by continuing mining operations.

The language of this standard was stipulated at the hearing. The Secretary of Labor has been substituted for the Secretary of the Interior in the final rule.

Self-Propelled Equipment

55/56/57.9–1. Standards 55/56/57.9–1 are applicable to open pit mines, sand, gravel and crushed stone operations, and surface and underground operations at underground mines. They require the equipment operator to inspect self-propelled equipment that is to be used during a shift before placing the equipment into operation. This inspection should consist of a visual and operational check of the various primary operating systems affecting safety, such as brakes, lights, tires, steering, and related items. Equipment defects affecting safety must be reported to the mine operator either verbally or in writing.

The mine operator must record the defects reported, and retain that record for at least 6 months from the date the defects are recorded. The agency recognizes that mine operators use different types of recording systems, and therefore individual recordkeeping systems will be acceptable to MSHA.

When there is a change of equipment operators on a haul road at the end of a shift or, other times, inspections are not to be made on the haul road but rather at a location which is both convenient and safe.

Haulage Equipment

55/56/57.9–34. Standards 55/56/57.9–34 are applicable to open pit mines, sand, gravel, and crushed stone operations, and surface and underground operations at underground mines.

The standards require haulage equipment to be loaded in a manner to minimize spillage during haulage. The agency recognizes that haulage in the mining environment often results in some spillage of the material being hauled. The standards are directed toward careless loading practices that result in repeated occurrences of excessive spillage.

The proposed standards would have covered the potential overloading of haulage equipment in excess of the manufacturer's rated weight capacity. The provision has been deleted in the final standard. MSHA will undertake further studies and research for the purpose of developing future standards to deal with this problem.

Warning Devices

57.9–104. Standard 57.9–104, which is applicable to underground only, requires warning devices or conspicuous markings to be installed where chute lips, ventilation doors, and obstructions create a hazard to persons on equipment.

Hoisting Buckets

55/56/57.19–78. These standards, which are applicable to open pit mines, sand, gravel and crushed stone operations, and underground mines, provide specific procedures that are to be used when hoisting buckets from shaft bottoms. All buckets are to be stopped after being raised about 3 feet above the bottom of the shaft. Thereafter, buckets are to be stabilized before a hoisting signal is given to continue hoisting the bucket to the crosshead. After this hoisting signal is given, hoisting to the crosshead must be at the minimum speed for the hoist. The signaling device is to be attended constantly until the bucket reaches the guides. When persons are hoisted, the signaling devices are to be attended until the crosshead is engaged.

This standard is intended to be applied during shaft sinking. The use of buckets generally as a means of transporting miners in and out of shafts is unsafe. Buckets must not be used to hoist persons except during shaft sinking, inspection, maintenance, and repair operations [57.19–49]. The object of this standard is to maintain the stability of the bucket when it is raised from the shaft bottom to preclude the bucket from swinging as it is raised. Some variation in the required stopping distance above the shaft bottom may be permitted as long as stabilization of the bucket is achieved.

Sanitary Facilities

55/56/57.20–8. These standards are applicable to all mining and milling operations, and require that toilet facilities be provided at locations which are compatible with the operations and readily accessible to mine personnel. The facilities are to be kept clean and sanitary. Separate toilet facilities are to be provided for each sex, except where toilet rooms will be occupied by no more than one persson at a time and can be locked from the inside.

These standards were stipulated by the parties with the understanding that they are an interim measure, and will be the subject of further study by MSHA with the cooperation and assistance of representatives of both labor and mine operators. The purpose of this study will

be to analyze the need, location, and type of sanitary facilities for surface and underground operations. The results of the study will be the basis for a new proposed standard applicable specifically to metal and nonmetal mining and milling operations and conditions.

Drafting Information

The principal persons responsible for drafting this rulemaking document are: Bernard R. McGuire and Patricia G. Tilley, Attorney Advisors, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor; and Herbert P. LeVan, Office of Standards, Regulations and Variances, MSHA.

Regulatory Analysis

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order No. 12044, or the Department of Labor's final guidelines for implementation of the Executive Order (44 FR 5570, January 26, 1979).

It is estimated that the total cost of compliance with the standards contained in this rule for all metal and nonmetal mines will be approximately 12.8 million dollars during the first year.

Dated: May 29, 1979.

Eckehard Muessig,

Deputy Assistant Secretary for Mine Safety and Health.

PART 55—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC OPEN PIT MINES

Part 55, Subchapter N, Chapter I, Title 30, Code of Federal Regulations is amended and revised as follows:

§ 55.2 [Amended]

A. Section 55.2 "Definitions" is amended as follows:

1. A new definition for the term "Multipurpose dry-chemical fire extinguisher" is added as follows:

"Multipurpose dry-chemical fire extinguisher" means a listed or approved multipurpose dry-chemical fire extinguisher having a minimum rating of 2-A:10-B:C, by Underwriters Laboratories, Inc., and containing a minimum of 4.5 pounds of dry-chemical agent.

(Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)))

§ 55.9 [Amended]

B. Section 55.9 "Loading, hauling, dumping" is amended as follows:

1. Advisory standard 55.9-1 is revised and made mandatory as follows:

55.9-1 *Mandatory.* Self-propelled equipment that is to be used during a shift shall be inspected by the equipment operator before being placed in operation. Equipment defects affecting safety shall be reported to, and recorded by the mine operator. The records shall be maintained at the mine or nearest mine office for at least 6 months from the date the defects are recorded. Such records shall be made available for inspection by the Secretary of Labor of his duly authorized representative.

2. Advisory standard 55.9-34 is revised and made mandatory as follows:

55.9-34 *Mandatory.* Haulage equipment shall be loaded in a manner to minimize spillage during haulage.

(Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)))

§ 55.19 [Amended]

C. Section 55.19 "Man hoisting" is amended as follows:

1. Advisory standard 55.19-78 is revised and made mandatory as follows:

55.19-78 *Mandatory.* All buckets shall be stopped after being raised 3 feet above the shaft bottom. A bucket shall be stabilized before a hoisting signal is given to continue hoisting the bucket to the crosshead. After a hoisting signal is given, hoisting to the crosshead shall be at a minimum speed. The signaling device shall be attended constantly until a bucket reaches the guides. When persons are hoisted, the signaling devices shall be attended until the crosshead has been engaged.

(Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)))

§ 55.20 [Amended]

D. Section 55.20 "Miscellaneous" is revised as follows:

1. Advisory standard 55.20-8 is revised and made mandatory as follows:

55.20-8 *Mandatory.* Toilet facilities shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel. The facilities shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet rooms will be occupied by no more than one person at a time and can be locked from the inside.

(Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)))

PART 56—HEALTH AND SAFETY STANDARDS— SAND, GRAVEL, AND CRUSHED STONE OPERATIONS

Part 56, Subchapter N, Chapter I, Title 30, Code of Federal Regulations is amended and revised as follows:

§ 56.2 [Amended]

E. Section 56.2 "Definitions" is amended as follows:

1. A new definition for the term "Multipurpose dry-chemical fire extinguisher" is added as follows:

"Multipurpose dry-chemical fire extinguisher" means a listed or approved multipurpose dry-chemical fire extinguisher having a minimum rating of 2-A:10-B:C, by Underwriters Laboratories, Inc., and containing a minimum of 4.5 pounds of dry-chemical agent.

(Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)).)

§ 56.9 [Amended]

F. Section 56.9 "Loading, hauling, dumping" is amended as follows:

1. Advisory standard 56.9-1 is revised and made mandatory as follows:

56.9-1 *Mandatory.* Self-propelled equipment that is to be used during a shift shall be inspected by the equipment operator before being placed in operation. Equipment defects affecting safety shall be reported to, and recorded by the mine operator. The records shall be maintained at the mine or nearest mine office for at least 6 months from the date the defects are recorded. Such records shall be made available for inspection by the Secretary of Labor or his duly authorized representative.

2. Advisory standard 56.9-34 is revised and made mandatory as follows:

56.9-34 *Mandatory.* Haulage equipment shall be loaded in a manner to minimize spillage during haulage.

(Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)).)

§ 56.19 [Amended]

G. Section 56.19 "Man hoisting" is amended as follows:

1. Advisory standard 56.19-78 is revised and made mandatory as follows:

56.19-78 *Mandatory.* All buckets shall be stopped after being raised 3 feet above the shaft bottom. A bucket shall be stabilized before a hoisting signal is given to continue hoisting the bucket to the crosshead. After a hoisting signal is given, hoisting to the crosshead shall be at a minimum speed. The signaling device shall be attended constantly until a bucket reaches the guides. When persons are hoisted, the signaling devices shall be attended until the crosshead has been engaged.

(Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)).)

§ 56.20 [Amended]

H. Section 56.20 "Miscellaneous" is revised as follows:

1. Advisory standard 56.20-8 is revised and made mandatory as follows:

56.20-8 *Mandatory.* Toilet facilities shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel. The facilities shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet rooms will be occupied by no more than one person at a time and can be locked from the inside.

(Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)).)

PART 57—SAFETY AND HEALTH STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

Part 57, Subchapter N, Chapter I, Title 30, Code of Federal Regulations is amended and revised as follows:

§ 57.2 [Amended]

I. Section 57.2 "Definitions" is amended as follows:

1. A new definition for the term "Multipurpose dry-chemical fire extinguisher" is added as follows:

"Multipurpose dry-chemical fire extinguisher" means a listed or approved multipurpose dry-chemical fire extinguisher having a minimum rating of 2-A:10-B:C, by Underwriters Laboratories, Inc., and containing a minimum of 4.5 pounds of dry-chemical agent.

(Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 USC 961(c)(3))

§ 57.4 [Amended]

J. Section 57.4 "Fire prevention and control" is amended as follows:

1. Mandatory standard 57.4-65 is revoked, and standard number 57.4-65 is reserved as follows:

57.4-65 [Reserved]

2. New mandatory standard 57.4-76, which is applicable to underground only, is added as follows:

57.4-76 *Mandatory.* Where welding or cutting with an arc or open flame, or thawing pipes electrically (excluding heat tape) or soldering with an open flame, a multipurpose dry-chemical fire extinguisher shall be provided.

3. New mandatory standard 57.4-77, which is applicable to underground only, is added as follows:

57.4-77 *Mandatory.* Where welding or cutting with an arc or open flame, or thawing pipes electrically (excluding heat tape) within thirty five (35) feet, or where soldering with an open flame within ten (10) feet, of more than one (1) gallon of combustible liquid (unless the combustible liquid is in a closed noncombustible metal container) or more than fifty (50) pounds of non fire retardant wood, or more than ten (10) pounds of combustible plastic, the following precautions, in addition to a multipurpose dry-chemical fire extinguisher shall be taken:

(a) A second multipurpose dry-chemical fire extinguisher, or fire extinguishing equipment having equivalent extinguishing capability and appropriate for the particular hazard involved, shall be provided.

(b) The combustible materials and the area between them and the operation shall be wetted down (precautions shall be taken against electrical shock, where necessary) before and after the operation. If wetting down is not practical, then the combustibles shall be isolated by noncombustible material or the operation shall be shielded to insure that smoldering metal or sparks to not result in a fire.

(c) If the precautions in (b) are not practical, then a second person shall be present to observe and extinghish fires.

(d) Inspection(s) of the affected areas shall be made during the first hour after the operation is terminated. If the mine operator deems that working conditions and the degree of potential hazard warrant it, additional inspections shall be made or other extra-precautionary measures shall be taken.

4. New mandatory standard 57.4-78, which is applicable to underground only, is added as follows:

57.4-78 *Mandatory.* Where welding or cutting with an arc or open flame, or thawing pipes electrically (excluding heat tape) in or within thirty-five (35) feet, or where soldering with an open flame in or within ten (10) feet, of a shaft, raise, or winze and where there is a risk that combustible materials may be ignited by falling sparks or heated material, the following precautions, in addition to a multipurpose dry-chemical fire extinguisher, shall be taken:

(a) A second multipurpose dry-chemical fire extinguisher, or fire extinguishing equipment having equivalent extinguishing capability and appropriate for the particular hazard involved, shall be provided.

(b) The combustible materials and the area between them and the operation shall be wetted down (precautions shall be taken against electrical shock, where necessary) before and after the operation. If wetting down is not practical, then the combustibles shall be isolated by noncombustible material or the operation shall be shielded to insure that smoldering metal or sparks do not result in a fire.

(c) Or, if practical, the opening immediately below or adjacent to the operation shall be covered or bulkheaded with a noncombustible material.

(d) If the precautions in (b) or (c) are not practical, then a second person shall be present to observe and extinguish fires.

(e) Inspection(s) of the affected area shall be made during the first hour after the operation is terminated. If the mine operator deems that working conditions and the degree of potential hazard warrant it, additional inspections shall be made or other extra-precautionary measures shall be taken.

(Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3))

§ 57.5 [Amended]

K. Section 57.5 "Air quality, ventilation, radiation, and physical agents" is amended as follows:

1. New mandatory standard 57.5-18B, which is applicable to surface and underground is added to read as follows:

57.5-18B *Mandatory.* Areas within twenty-five (25) feet of main and booster fans shall be kept free of combustible materials except for installed wiring, materials used for fan maintenance, direct fired heaters, and materials used for ground support.

2. New mandatory standard 57.5-18D, which is applicable to surface and underground, is added to read as follows:

57.5-18D *Mandatory.* (a) All mine main and booster fans installed and used to ventilate the active workings of the mine shall be operated continuously while persons are underground in the active workings. However, this provision is not applicable during scheduled production-cycle shutdowns or planned or scheduled fan maintenance or fan adjustments where air quality is maintained in compliance with the applicable standards of section 57.5 and all persons underground in the affected areas are advised in advance of such scheduled or planned fan shutdowns, maintenance, or adjustments.

(b) In the event of main or booster fan failure due to a malfunction, accident, power failure, or other such unplanned or unscheduled event:

(1) The air quality in the affected active workings shall be tested at least within 2-hours of the discovery of the fan failure, and at least every 4-hours thereafter by a competent person for compliance with the requirements of the applicable standards of section 57.5 until normal ventilation is restored, or

(2) All persons, except those working on the fan, shall be withdrawn, the ventilation shall be restored to normal and the air quality in the affected active workings shall be tested by a competent person to assure that the air quality meets the requirements of the standards in Section 57.5, before any other persons are permitted to enter the affected active workings.

3. New mandatory standard 57.5-20, which is applicable to underground only, is added as follows:

57.5-20 *Mandatory.* A plan of the mine ventilation system shall be set out by the operator in written form. Revisions of the system shall be noted and updated at least annually. The ventilation plan or revisions thereto shall be submitted to the District Manager for review and comments upon his written request. The plan shall, where applicable, contain the following:

(a) The mine name

(b) The current mine map or schematic or series of mine maps or schematics of an appropriate scale, not greater than five hundred (500) feet to the inch, showing

(1) Direction and quantity of principal air flows;

(2) Locations of seals used to isolate abandoned workings;

(3) Locations of areas withdrawn from the ventilation system;

(4) Locations of all main, booster and auxiliary fans not shown in subsection (d) of this standard;

(5) Locations of air regulators and stoppings and ventilation doors not shown in subsection (d) of this standard;

(6) Locations of overcasts, undercasts and other airway crossover devices not shown in subsection (d) of this standard;

(7) Locations of known oil or gas wells;

(8) Locations of known underground mine openings adjacent to the mine;

(9) Locations of permanent underground shops, diesel fuel storage depots, oil fuel storage depots, hoist rooms, compressors, battery charging stations and explosive storage facilities. Permanent facilities are those intended to exist for one year or more;

(10) Significant changes in the ventilation system projected for one year.

(c) Mine fan data for all active main and booster fans including manufacturer's name, type, size, fan speed, blade setting, approximate pressure at present operating point, and motor brake horsepower rating.

(d) Diagrams, descriptions or sketches showing how ventilation is accomplished in each typical type of working place including the approximate quantity of air provided, and typical size and type of auxiliary fans used.

(e) The number and type of internal combustion engine units used underground, including make and model of unit, type of engine, make and model of engine, brake horsepower rating of engine, and approval number.

4. New mandatory standard 57.5–34, which is applicable to underground only, is added to read as follows:

57.5–34 *Mandatory.* (a) Auxiliary fans installed and used to ventilate the active workings of the mine shall be operated continuously while persons are underground in the active workings, *except* for scheduled production-cycle shutdowns or planned or scheduled fan maintenance or fan adjustments where air quality is maintained in compliance with the applicable standards of Section 57.5, and all persons underground in the affected areas are advised in advance of such scheduled or planned fan shutdowns, maintenance, or adjustments.

(b) In the event of auxiliary fan failure due to malfunction, accident, power failure, or other such unplanned or unscheduled event:

(1) The air quality in the affected active workings shall be tested at least within 2-hours of the discovery of the fan failure, and at least every 4-hours thereafter by a competent person for compliance with the requirements of the applicable standards of section 57.5 until normal ventilation is restored, or

(2) All persons, except those working on the fan, shall be withdrawn, the ventilation shall be restored to normal and the air quality in the affected active workings shall be tested by a competent person to assure that the air quality meets the requirements of the standards in Section 57.5, before any other persons are permitted to enter the affected active workings.

5. Mandatory standard 57.5–37, which is applicable to underground only, is revised as follows:

57.5–37 *Mandatory.* (a) In all mines at least one sample shall be taken in exhaust mine air by a competent person to determine if concentrations of radon daughters are present. Sampling shall be done using suggested equipment and procedures described in section 14.3 of ANSI N13.8–1973, entitled "American National Standard Radiation Protection in Uranium Mines," approved July 18, 1973, pages 13–15, by the American National Standards Institute, Inc., which is incorporated by reference and made a part of the standard [1] or equivalent procedures and equipment acceptable to the Administrator, Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration. This publication may be examined at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration, or may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. The mine operator may request that the required exhaust mine air sampling be done by the Mine Safety and Health Administration. If concentrations of radon daughters in excess of 0.1 WL are found in an exhaust air sample, thereafter—

(1) Where uranium is mined—radon daughter concentrations representative of worker's breathing zone shall be determined at least every two weeks at random times in all active working areas such as stopes, drift headings, travelways, haulageways, shops, stations, lunch rooms, magazines, and any other place or location where persons work, travel, or congregate. However, if concentrations of radon daughters are found in excess of 0.3 WL in an active working area, radon daughter concentrations thereafter shall be determined weekly in that working area until such time as the weekly determinations in that area have been 0.3 WL or less for 5 consecutive weeks.

(2) Where uranium is not mined—when radon daughter concentrations between 0.1 and 0.3 WL are found in an active working area, radon daughter concentration measurements representative of worker's breathing zone shall be determined at least every 3 months at random times until such time as the radon daughter concentrations in that area are below 0.1 WL, and annually thereafter. If concentrations of radon daughters are found in excess of 0.3 WL in an active working area radon daughter concentrations thereafter shall be determined at least weekly in that working area until such time as the weekly determinations in that area have been 0.3 WL or less for 5 consecutive weeks.

(b) If concentrations of radon daughters less than 0.1 WL are found in an exhaust mine air sample, therefore:

(1) Where uranium is mined—at least one sample shall be taken in the exhaust mine air monthly.

(2) Where uranium is not mined—no further exhaust mine air sampling is required.

(c) The sample date, locations, and results obtained under (a) and (b) above shall be recorded and retained at the mine site or nearest mine office for at least two (2) years and shall be made available for inspection by the Secretary or his authorized representative.

[1] Incorporation by reference provisions approved by Director of the Federal Register, September 23, 1975.

6. Mandatory standard 57.5–40, which is applicable to undergound only, is revised as follows:

57.5–40 *Mandatory.* (a) The operator shall calculate and record complete individual exposures to concentrations of radon daughters as follows:

(1) Where uranium is mined—the complete individual exposures of all mine personnel working underground shall be calculated and recorded. These records shall include the individual's time in each active working area such as stopes, drift headings, travelways, haulageways, shops, stations, lunch rooms, magazines and any other place or location where persons work, travel or congregate, and the concentration of airborne radon daughters for each active working area.

(2) Where uranium is not mined—the complete individual exposure of all mine personnel working in active working areas with radon daughter concentrations in excess of 0.3 WL shall be calculated and recorded. These records shall include the individual's time in each active working area and the concentrations of airborne radon daughters for each active working area. The operator may discontinue calculating and recording the individual exposures of any personnel assigned to work in active working areas where radon daughter concentrations have been reduced to 0.3 WL or less for 5 consecutive weeks provided that such exposure calculation and recordation shall not be discontinued with respect to any person who has accumulated more exposure than 1/12 (one-twelfth) of a WLM times the number of months for which exposures have been calculated and recorded in the calendar year in which the exposure calculation and recordation is proposed to be discontinued.

(b) The operator shall maintain the form entitled "Record of Individual Exposure to Radon Daughters" (Form 4000–9), or equivalent forms that are acceptable to the Administrator, Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration, on which there shall be recorded the specific information required by the form with respect to each person's time-weighted current and cumulative exposure to concentrations of radon daughters.

(1) The form entitled "Record of Individual Exposure to Radon Daughters" (Form 4000–9), shall consist of an original of each form for the operator's records which shall be available for examination by the Secretary or his authorized representative.

(2) On or before February 15 of each calendar year, or within 45 days after the shut-down of mining operations for the calendar year, each mine operator shall submit to the Mine Safety and Health Administration a copy of the "Record of Individual Exposure to Radon Daughters" (Form 4000–9), or acceptable equivalent form, showing the data required by the form for all personnel for whom calculation and recording of exposure was required during the previous calendar year.

(3) Errors detected by the operator shall be corrected on any forms kept by the operator and a corrected copy of any forms submitted to the Mine Safety and Health Administration

shall be submitted to the Mine Safety and Health Administration within 60 days of detection and shall identify the errors and indicate the date the corrections are made.

(4) The operator's records of individual exposure to concentrations of radon daughters and copies of "Record of Individual Exposure to Radon Daughters" (Form 4000–9) or acceptable equivalent form or true legible facsimiles thereof (microfilm or other), shall be retained at the mine or nearest mine office for a period as specified in paragraph 9.8, ANSI N13.8–1973, or shall be submitted to the Mine Safety and Health Administration. These records, if retained by the operator, shall be open for inspection by the Secretary of Labor, his authorized representative, and authorized representatives of the official mine inspection agency of the State in which the mine is located. Paragraph 9.8, ANSI N13.8–1973, is incorporated by reference and made a part of this standard.[2] ANSI N13.8–1973, may be examined at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration, and may be obtained from the American National Standards Institute, Inc., at 1430 Broadway, New York, New York 10018.

(5) Upon written request from a person who is a subject of these records, a statement of the year-to-date and cumulative exposure applicable to that person shall be provided to the person or to whomever such person designates.

(6) The blank form entitled "Record of Individual Exposure to Radon Daughters" (Form 4000–9) may be obtained on request from any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration.

Note.—To calculate an individual's exposure to WLM for a given period of time, multiply the total exposure time (hours to the nearest half-hour) in an active working area by the average concentration of airborne radon daughters for the applicable active working area (average working level calculated to the nearest hundredth working level) and divide the product by the constant 173 hours per month.

An average airborne radon daughter concentration for a designated active working area shall be determined by averaging all sampling results for that working area during the time that persons are present. Any sample taken by Federal or State mine inspectors, which represents exposure to miners and reported to the operator within three (3) days of being taken, shall be included in the average concentration; except that if the mine operator samples simultaneously with the inspector, he may use his own sample results.

(Sec. 301(c)(3), Pub. L. 95–164, 91 Stat. 1318 (30 U.S.C. 961(c)(3))

§ 57.9 [Amended]

L. Section 57.9 "Loading, hauling, dumping" is amended as follows:

1. Advisory standard 57.9–1, which is applicable to surface and underground, is revised and made mandatory as follows:

57.9–1 *Mandatory.* Self-propelled equipment that is to be used during a shift shall be inspected by the equipment operator before being placed in operation. Equipment defects affecting safety shall be reported to, and recorded by the mine operator. The records shall be maintained at the mine or nearest mine office for at least 6 months from the date the defects are recorded. Such records shall be made available for inspection by the Secretary of Labor or his duly authorized representative.

2. Advisory standard 57.9–34, which is applicable to surface and underground, is revised and made mandatory as follows:

57.9–34 *Mandatory.* Haulage equipment shall be loaded in a manner to minimize spillage during haulage.

3. Advisory standard 57.9–104, which is applicable to underground only, is revised and made mandatory as follows:

57.9–104 *Mandatory.* Warning devices or conspicuous markings shall be installed where chute lips, ventilation doors, and obstructions create a hazard to persons on equipment.

(Sec. 301(c)(3), Pub. L. 95–164, 91 Stat. 1318 (30 U.S.C. 961(c)(3))

§ 57.11 [Amended]

M. Section 57.11 "Travelways and escapeways" is amended as follows:

1. New mandatory standard 57.11–59, which is applicable to underground only, is added as follows:

57.11–59 *Mandatory.* For the protection of operators of hoists located underground which are part of the mine escape and evacuation plan required under standard 57.11–53, the hoist operator shall be provided with a respirable atmosphere completely independent of the mine atmosphere. This independent ventilation system shall convert, without contamination, to an approved and properly maintained 2-hour self-contained breathing apparatus to provide a safe means of escape for the hoist operator after the hoisting duties have been completed as prescribed in the mine escape and evacuation plan for that hoist. The hoist operator's independent ventilation system shall be provided by one of the following methods:

(a) A suitable enclosure equipped with a positive pressure ventilation system which may be operated continuously or be capable of immediate activation from within the enclosure during an emergency evacuation. Air for the enclosure's ventilation system shall be provided in one of the following ways—

(1) Air coursed from the surface through a borehole into the hoist enclosure directly or through a metal pipeline from such borehole: or

(2) Air coursed from the surface through metal duct work into the hoist enclosure, although this duct work shall not be located in timber-supported active workings; or

(3) Air supplied by air compressors located on the surface and coursed through metal pipe into the hoist enclosure.

A back-up system shall be provided for a hoist enclosure ventilation system provided by either of the methods set forth in (a)(2) and (a)(3) above. This back-up system shall consist of compressed air stored in containers connected to the enclosure. This back-up system shall provide and maintain a respirable atmosphere in the enclosure for a period of time equal to at least twice the time necessary to complete the evacuation of all persons designated to use that hoist as prescribed in the mine escape and evacuation plan required under standard 57.11–53; or

(b) An approved and properly maintained self-contained breathing apparatus system which shall consist of a mask connected to compressed air stored in containers adjacent to the hoist controls. The self-contained breathing system shall provide a minimum of 24 hours of respirable atmosphere to the hoist operator. In addition, the self-contained breathing system shall be capable of a quick connect with the approved 2–hour self-contained breathing apparatus above.

(Sec. 301(c)(3), Pub. L. 95–164, 91 Stat. 1318 (30 U.S.C. 961(c)(3))

§ 57.19 [Amended]

N. Section 57.19 "Man hoisting" is amended as follows:

1. Advisory standard 57.19–78 is revised and made mandatory as follows:

57.19–78 *Mandatory.* All buckets shall be stopped after being raised about three (3) feet above the shaft bottom. A bucket shall be stabilized before a hoisting signal is given to continue hoisting the bucket to the crosshead. After a hoisting signal is given, hoisting to the crosshead shall be at a minimum speed. The signaling device shall be attended constantly until a bucket reaches the guides. When persons are hoisted, the signaling devices shall be attended until the crosshead has been engaged.

(Sec. 301(c)(3), Pub. L. 95–164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)).)

§ 57.20 [Amended]

O. Section 57.20 is amended as follows:

1. Advisory standard 57.20–8, which is applicable to surface and underground, is revised and made mandatory as follows:

57.20–8 *Mandatory.* (a) Toilet facilities shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel.

(b) The facilities shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet rooms will be occupied by no more than one person at a time and can be locked from the inside.

(Sec. 301(c)(3), Pub. L. 95–164, 91 Stat. 1318 (30 U.S.C. 961(c)(3))

[2] Incorporation by reference provisions approved by Director of the Federal Register September 23, 1975.

§ 57.21 [Amended]

P. Section 57.21 "Gassy mines" is amended as follows:

1. Mandatory standard 57.21–20 is revised as follows:

57.21–20 *Mandatory.* Main fans shall be:

(a) Installed on the surface.

(b) Installed to permit prompt reversal of airflow.

(c) Powered electrically.

(d) Installed in noncombustible housing provided with noncombustible air ducts.

(e) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall having an area at least equivalent to the cross-sectional area of the airway. Such doors or weak-wall shall be in direct line with possible explosion forces.

(f) Provided with an automatic signal device to give warning or alarm should the fan system malfunction. The signal device shall be so located that it can be seen or heard by a responsible person at all times when persons are underground.

2. Advisory standard 57.21–21 is revised and made mandatory as follows:

57.21–21 *Mandatory.* Main fans shall be:

(a) Operated continuously while persons are underground except when stopped or slowed down for fan maintenance and/or fan adjustments and related ventilation system adjustments and compliance is made with the provisions of mandatory standard 57.21–24.

(b) Provided with pressure-recording gages which shall be examined daily for good operating condition. The charts of such gages shall be changed after completing one revolution.

(c) Inspected daily and logs kept of such inspections and of fan maintenance. Charts and logs shall be retained for a minimum of one year. Such records and charts shall be available for inspection by the Secretary or his duly authorized representative.

3. Mandatory standard 57.21–24 is revised to read as follows:

57.21–24 *Mandatory.* (a) At mines where a single main fan is used and such fan stops, or at mines where multiple main fans are used and all such fans stop, the operator shall take the following immediate action:

(1) Withdraw all persons from the affected active workings.

(2) Deenergize the power in affected active workings.

(3) Withdraw all persons from the mine when a 1.0 percent concentration of methane in air is measured in any active working.

If ventilation has been interrupted for more than 15 minutes, all working places and active workings where methane may accumulate shall be examined by a competent person(s). The power shall not be restored or persons permitted to reenter the affected active workings until the competent person(s) has determined the methane concentration in such active workings is less than 1.0 percent.

(b) At mines where multiple main fans are used and one or more but not all fans stop, and air flow in intake and return air courses is maintained, the operator shall take the following immediate action:

(1) Monitor the air in all active workings for methane content.

(2) Withdraw all persons from, and de-energize the power, in all active workings when a 1.0 percent concentration of methane in the air is measured.

(3) Comply with all related mandatory standards in section 57.21.

4. New mandatory standard 57.21–80 is added as follows:

57.21–80 *Mandatory.* A methane monitoring device (methane monitor), approved by the Secretary of Labor, shall be installed and properly maintained on all continuous miners and longwall face equipment. The sensing unit of methane monitor shall be positioned as close to the working face as practicable. When the concentration of methane is 1.0 percent or more, the monitor shall give a warning and deenergize the equipment automatically when the concentration reaches 1.5 percent. The methane monitor also shall de-energize such equipment automatically when the monitor is not functioning properly.

(Sec. 301(c)(3), Pub. L. 95–164, 91 Stat. 1318 (30 U.S.C. 961(c)(3))

[FR Doc. 79–17078 Filed 5–31–79; 8:45 am]

BILLING CODE 4510–43–M

federal register

Friday
June 1, 1979

Part VIII

Department of Energy

Emergency Building Temperature Restrictions; Hearings

DEPARTMENT OF ENERGY

[10 CFR Part 490]

[Docket No. CAS-RM-79-109]

Emergency Building Temperature Restrictions; Proposed Rulemaking and Public Hearings

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearings.

SUMMARY: The Department of Energy (DOE) proposes regulations to implement "Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions" (the Plan), which place temporary, emergency restrictions on thermostat settings for heating, cooling and hot water in commercial, industrial and other non-residential buildings, including government buildings, necessary to reduce energy consumption.

These proposed regulations contain specific heating and cooling restrictions for both simple and complex heating, ventilating and air conditioning systems as well as domestic hot water temperature restrictions. The proposed regulations would exempt residential buildings, hotels, hospitals and health care facilities and certain other categories of buildings from the Plan's temperature requirements. Standards and procedures are proposed for states seeking exemptions under the Plan on grounds that a comparable state program is in effect. Finally, this proposal sets out procedures for Federal enforcement of mandatory temperature restrictions and contains penalty provisions for violation of those restrictions.

DATES: Written comments must be received by June 22, 1979, 4:30 p.m., e.d.t., in order to ensure their consideration. Hearings will be held in San Francisco, California (June 14, 1979); Chicago, Illinois (June 14, 1979); Dallas, Texas (June 18, 1979); New York, New York (June 18, 1979); Washington, D.C. (June 18, 1979) at the places indicated in Section III of Supplementary Information.

ADDRESSES: Comments should be addressed to: Margaret Sibley, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, N.W., Room 2221C, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Henry G. Bartholomew, Office of Buildings and Community Systems, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, N.W., Room 2221C, Washington, D.C. 20585 (202) 376-4646.

Peter Schaumberg, Office of General Counsel, Room 510, 1726 M Street, N.W., Washington, D.C. 20461 (202) 634-5545.

Robert C. Goodwin, Jr., Office of General Counsel, Room 5116—Federal Building, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461 (202) 633-9380.

Margaret Sibley, Office of Conservation & Solar Applications, Room 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585 (202) 376-1651.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 201 (a) and (b) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) (EPCA), the President developed and transmitted to Congress on March 1, 1979, "Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions" (the Plan). DOE published a notice on March 8, 1979 (44 FR 12906) of the President's adoption of the Plan. The Plan was approved by resolutions of the Senate on May 2, 1979 and of the House on May 10, 1979. The Plan places temporary, emergency restrictions on thermostat settings for heating, cooling and hot water in commercial, industrial and non-residential public buildings.

Specifically, the Plan mandates thermostat settings of 65°F maximum for heating, 80°F minimum for cooling and 105°F maximum for hot water, or any other levels which DOE determines are reasonable and necessary to reduce energy consumption. Section 201(b) of the EPCA provides that to put the Plan into effect the President must transmit to Congress his finding that the Plan's effectiveness is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, together with a statement of the effective date and manner for exercise of the Plan. After these steps are completed, under section 201(a) of the EPCA, the Plan would be implemented for a period of no longer than nine months, unless earlier terminated by the President. In his April 5, 1979 Energy Address to the Nation, the President stated his intention to put the Plan, once approved by Congress, into effect.

The Plan is substantially similar to proposed Energy Conservation Contingency Plan No. 1 prepared by the Federal Energy Administration and published for public comment in the Federal Register on May 28, 1976 (41 FR 21908). Public hearings on that proposed plan were held in five locations during June 1976. Transcripts of the hearings and the written public comments received are 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., Monday through Friday.

The Plan authorizes DOE to implement, administer, monitor and enforce its terms and to promulgate regulations as necessary and appropriate. It is in this connection that these regulations are proposed. Specific heating and cooling restrictions for both simple and complex heating, ventilating and air conditioning systems are included, as well as domestic hot water restrictions. As provided in the Plan, hotels, hospitals and health care facilities and certain other categories of buildings would be exempt from the temperature requirements.

The Plan authorizes DOE to review applications from states or political subdivisions thereof seeking exemption from building temperature requirements on grounds that a "comparable program" is in effect. These regulations propose standards of comparability and a procedure for granting state exemptions. Finally, Federal enforcement procedures are proposed together with penalty provisions for violation of the temperature restrictions.

In connection with the preparation of these proposed regulations, DOE met with representatives of control device and heating, ventilating and air conditioning systems manufacturers, and with representatives of building owners' and operators' associations to discuss development of technical standards. In addition, DOE met with representatives of interested Federal agencies, including the General Services Administration, the Department of Defense, the Department of Health, Education and Welfare, and the Food and Drug Administration, to review technical and health-related issues. Meetings were also held with representatives of state and local governments to discuss the technical aspects of the regulations, as well as implementation and enforcement strategies. Records of these meetings will be made a part of the public record of the development of these regulations.

II. Proposed Regulations

A. *Scope and Definitions.*

Scope

Section 490.1 provides that the proposed regulations on building temperature restrictions are to apply to covered buildings (the definition of which is discussed below) in each state or political subdivision unless such state or political subdivision is exempted from the application of the regulations in accordance with prescribed procedures. These regulations will supersede any inconsistent state or local laws or regulations.

These regulations can only be adopted in final form after the President has made a finding of the existence of a severe energy supply interruption within the meaning of section 3(8) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) (EPCA), and has transmitted the finding to the Congress in accordance with the requirements of section 201 of the EPCA. In his address to the Nation on April 5, 1979, the President stated his intention to implement the Building Temperature Restrictions Plan in the near future.

Authority To Contract or Delegate and Issue Guidelines and Orders

DOE is authorized under § 490.3 of the regulations to delegate or contract for the carrying out of all or any part of the functions under these regulations. As is discussed further in a later section of this preamble, it is DOE's intention to delegate the inspection and related authority to states willing to accept the responsibility. DOE is further authorized by § 490.4 to issue orders and guidelines and make such adjustments as are necessary to administer and implement the building temperature restriction regulations.

Definitions

Many of the terms defined in § 490.5 are discussed in later sections of the preamble where they appear in the relevant substantive sections. Some terms, however, are not elsewhere fully discussed and it is essential that the substantive concepts in the definitions be well understood. These are discussed below.

The concept of "covered building" is important since the substantive requirements of the proposed regulations apply only in covered buildings. A covered building is defined in § 490.5(c) as including every building *or portion of a building*, with only limited exclusions. These exclusions include residential buildings, hotels and other lodging facilities, hospitals and other health care facilities, elementary schools, nursery schools and day-care centers. Furthermore, there is a *proviso* which incorporates nonsleeping facilities of a hotel or lodging facility into the definition of covered building to the extent such areas have separate heating, cooling and hot water system control devices. An understanding of the scope of each exemption and the *proviso* is essential to determining the scope of term covered building.

The term "residential building" is defined in § 490.5(t) as any building used for residential purposes, but does not include non-residential portions of the building which have separate heating, cooling or hot water space-conditioning control devices. Under this definition, as incorporated in the term ' covered building, all residential portions of residential buildings, without exception, are excluded from the scope of the regulations. Non-residential portions of such buildings are included under the scope of the regulations only if they have space-conditioning control devices (thermostats, etc.) separate from the residential portions of the building.

"Hotel or other lodging facility" is defined in § 490.5(m) as any building where sleeping and lodging accommodations are provided to the public in the ordinary course of business. This includes, but is not limited to hotels, motels, resorts, rooming houses, dormitories, barracks, YMCA's, as well as other accommodations available to the public. The *proviso* discussed above in the definition of covered building limits the exclusion for such buildings to the sleeping portions of the building to the extent that non-sleeping areas have space-conditioning control devices separate from the sleeping areas. In a hotels, for example, if the restaurant, ballrooms and lobby had space-conditioning control devices separate from the sleeping areas, they would be covered by the temperature restrictions of the proposed regulations.

Hospitals and other health care facilities are another category of building which is excluded from the definition of covered building. Hospitals and other health care facilities are defined in § 490.5(1) as including general hospitals, tuberculosis hospitals or any other type of hospital, clinics, nursing or convalescent homes, hospices or other facilities duly authorized to provide health care service under the laws of the state in which the hospital or other facility is located. The state licensing requirement is intended to define narrowly the scope of this category. Medical and nursing school buildings, administration buildings and other buildings associated with hospitals and health care facilities, but where patients are not treated, are not intended to be included within this category of exclusion from the definition of "covered buildings."

B. *Heating and Cooling Restrictions*

The regulations divide buildings into two basic categories: those without capability for simultaneous heating and cooling and those with such a capability. An element common to both categories of buildings is that the temperature control restrictions are imposed upon operators of covered buildings. The term "operator" is defined in § 490.5(o) of the proposed regulations, and includes generally such persons as the building engineer, his employer, the owner of the building or its tenants. The relevant factor in the regulations is whether a person has control, either directly or indirectly (as when an owner has an agent managing the building) over heating, cooling or hot water temperature controls. Thus a tenant of a building who has a room air conditioner in his office could be an operator of the controls on that unit. At the same time, the building engineer is an operator of the central plant in the building. Similarly, the tenant of retail space in a shopping mall or office building who is able to control temperatures within that space is an operator for purposes of these regulations. The landlord of such space also could be an operator to the extent he controls heating or cooling equipment. So long as no operator takens any action proscribed by the regulations with respect to heating, cooling and hot water controls, no liability will result.

Buildings Without Capability for Simultaneous Heating and Cooling

Numerous HVAC (heating, ventilating and air conditioning) systems cannot simultaneously heat and cool. For example, small buildings frequently have one thermostat controlling the entire building with three settings: heat, off, cool. Another example is the two-pipe system in which the operator selects whether chilled or heated water will be supplied to the terminal units, depending on anticipated needs. For such systems room-temperature control is usually accomplished with a thermostat.

Some HVAC systems, such as reheat systems, although not having the capability for simultaneous heating and cooling of an individual room, do operate by simultaneously heating and

cooling. Other examples are identified by their common titles in the definition of "capability for simultaneous heating and cooling" in § 490.5(b) of the regulations. These systems are governed by the regulations for systems with the capability for simultaneous heating and cooling as discussed below.

The regulations for HVAC systems without simultaneous heating and cooling capacity prohibit an operator from setting space-conditioning control devices (thermostats, etc.) so that energy is used to raise the dry-bulb temperature (the temperature as read on an ordinary thermometer) above 65° F for heating or below 80° F for cooling (cooling energy below 80° F is authorized to the extent necessary to bring the dew-point temperature, a measure of humidity, to 67° F). This in effect creates a deadband of 65°–80° F in which no energy (other than ventilation) may be utilized to change temperatures. In many of the systems that do not have the capability for simultaneous heating and cooling, there is no adjustable dew-point control. However, the dew-point of the supply air in such systems is typically 50° F and therefore humidity should not be a problem. Ventilation is authorized at all times so that outside air can be brought in to adjust temperatures as necessary.

The deadband prescribed in the regulations is slightly greater than the comfort zone defined by American Society of Heating, Refrigerating and Airconditioning Engineers, Inc. (ASHRAE) Standard 55–74, "Thermoenvironmental Conditions for Human Occupancy," which defines the comfort zone approximately from 72° F to 80° F dry-bulb temperature and 37° F to 62° F dew-point temperature. The range has been extended mostly toward lower temperatures and only slightly toward higher or more humid temperatures on the assumption that occupants can alter their clothing habits to maintain personal comfort. Use of sweaters, jackets and other apparel should be sufficient to compensate for the 65° F limit; use of open-necked apparel should be sufficient to compensate for the 80° F dry-bulb and 67° F dew-point limits. Exemptions from these limits are discussed below, but generally no exemption is provided for reasons of human comfort.

Alternatives to the 65°F–80°F deadband (with 67° dew-point limit on cooling) were considered. We did consider a humidity factor for heating limits but rejected it as providing too great an opportunity for avoiding the maximum heating temperature limits with only a small impact on human comfort. For example, a minimum dew-point temperature of 30°F would allow an operator in a building with low humidity to raise the dry-bulb above 65°F dry-bulb and yet assert compliance with the regulations by merely placing a pan of water in the room as a device to raise humidity to 30°F dew-point. The humidity levels at 65° dry-bulb in almost all instances are comfortable and so a minimum humidity level was rejected. Additional comfort can be achieved through the use or installation of humidification equipment.

As an alternate to the dew-point temperature, we have considered more commonly measured quantities such as the relative humidity or the wet-bulb temperature. However, according to ASHRAE Standard 55–74, the lines of constant comfort are defined by lines of constant dew-points.

In addition, if a constant relative humidity were permitted, for example 65%, then the operator could reduce the apparatus dew-point to achieve a confortable 73°F and 66% relative humidity, thereby maintaining compliance with the regulations but consuming more energy than normal.

We recognize that many humidity controls use relative humidity as the controlled variable rather then dew-point. At 80°F dry-bulb temperature, the relative humidity corresponding to 67°F dew-point temperature is approximately 65%. This combination of 80°F dry-bulb and 65% relative humidity is reasonably close to the confort zone as defined by ASHRAE Standard 55–74.

It is anticipated that in the interest of maintaining as much summertime confort as allowable under these regulations, the operator will reduce the apparatus dew-point to the lowest permissible value. The room humidity will then be determined by the latent load. If the load is due to people and the room temperature is maintained at 80°F, the room dew-point will be less than 67°F and the relative humidity less then 65% for almost all HVAC systems.

We have attempted to emphasize human comfort in defining the limits on room temperature and humidity; however, we have also considered the performance of various types of electrical and electronic equipment. Except for some computer equipment and other delicate electronics, the prescribed limits are compatible with most equipment, including some of the new computers. However, we specifically are interested in comments concerning the operation of equipment in the environment prescribed by the regulations, taking into account that some exemptions already are provided in the regulations for spaces with equipment requiring special environmental conditions, such as computer rooms. In this regard, comments should be as specific as possible. Empirical data on equipment performance would be most helpful. Subjective observations regarding this issue will be less helpful.

Buildings With Capability for Simultaneous Heating and Cooling

The second major category of HVAC systems is those with the capability for simultaneous heating and cooling covered by § 490.12 of the proposed regulations. We considered various systems, such as the commonly used reheat systems, in which energy consumption for cooling could be increased by an attempt to implement some of the measures applicable to simpler systems. For example, if the thermostat is set to 80°F in a system with reheat, the chiller will cool the supply air temperature to approximately 50°F and the reheat will raise the supply air temperature to as high as 80°F, thereby increasing the heating energy and adding to the cooling load. Therefore, a more complicated regulation is needed for these systems.

For HVAC systems with simultaneous heating and cooling capability, the general temperature restrictions applicable to simple systems also have been imposed. Heating energy is not to be supplied to raise the room temperature above 65°F dry-bulb temperature. This part pertains primarily to the heating season (winter), but also applies to reheat (summer). Therefore, if the air leaving the cooling coil of a reheat system is at 60°F, reheat can be used only to raise the room temperature to 65°F. Such occurrence is highly unlikely since the heat from lights and people would normally raise the temperature above 65°F. We recognize that many systems do not have the control flexibility to maintain comfort and control under this part of the regulation, so alternative techniques are provided in the regulations and are discussed below.

The second part of the regulation for systems with simultaneous capability pertains to the cooling system. Cooling energy is not to be supplied to lower the room temperature below 80°F, except as required to lower the room dew-point to 67°F. Reheat is prohibited by the previous paragraph.

The result of the previous two paragraphs pertaining to heating and cooling is that in the summer, some parts of large buildings with interior zones will operate with the interior zone

at 65°F (when sparsely occupied and with few lights on) while the exterior zones can be 80°F. Raising the cooling-coil temperature will decrease this temperature differential, at the cost of higher humidity, with a 60°F supply-air dew-point probably being acceptable in most cases for all zones.

People moving from interior to exterior zones in buildings with temperature differentials of this magnitude may experience some discomfort, although the heat-storage capability of the human body will partially compensate. In addition, we would expect people to leave doors open between the interior and exterior zones, to use fans to assist the natural convection between interior and exterior zones and to partially block the registers in the interior zones to reduce the cooling effect. Some discomfort may result from drafts, although people in warm rooms will experience cold drafts and people in cold rooms warm drafts. To further reduce the interior-to-exterior temperature differentials, the exterior walls can be better insulated. For example, drapes or plastic sheeting can be added to the windows and drapes or drywall can be added to the interior walls. People also can be moved away from the walls and windows to further reduce the coldness felt from the cold exterior walls. Properly insulated windows and walls combined with the perimeter heating systems usually located near the windows and walls should minimize the temperature variations in the exterior rooms and decrease the temperature differences between interior and exterior rooms.

A common energy-conserving HVAC system uses a central chiller to cool air being supplied to the core of the building where only cooling is required. The heat from the condenser water of the chiller is then circulated to the outside rooms of the building where heat is extracted by heat pumps in the room. These systems use, in effect, the heat from people, lights and equipment in the interior zone to heat the perimeter zones of the building. The heat pumps frequently have a dial that controls the room temperature at a single value, such as 72°F, although sometimes the dial indicates only "cooler" or "warmer". The interior zones in such buildings may not be cooled below 80°F dry bulb. During the cooling season, the same limit applies to the exterior zones. During the heating season, the exterior zones cannot be heated above 65°F. We are specifically interested in comments as to whether provision needs to be made for the intermediate season.

Not all HVAC systems with simultaneous heating and cooling capability can comply with the basic 65°F–80°F deadband concept. For such systems, alternative methods of temperature restriction are available at the choice of the operator, though they basically result in a 65°F to 80°F deadband.

Many HVAC systems use either a constant-air-volume or a variable-air-volume system in the interior zones of the building with heating coils for the exterior zones of the building. The heating coils may be in fan-coil units, induction units, baseboard heaters, or similarly operated units. Operators of these units are required to set space-conditioning control devices in accordance with one of two methods. The first alternative is similar to the basic deadband concept restricting room temperature to below 65°F in the heating season and above 80°F in the cooling season.

The operator may elect not to control the room temperature according to the heating-season/cooling-season formula prescribed. He may substitute instead the regulation that no heat is to be provided during the cooling season—that is the season during which the cooling system is operating—and that the cooling liquid is to be supplied to the cooling coils at temperatures above 55°F. During the heating season, the room dry-bulb temperature is to be kept at 65°F or less. This set of regulations eliminates reheat, thereby saving both heating and cooling, and maintains room dew points near the 67°F prescribed for other systems.

Operation of the HVAC system in accordance with these regulations may result in temperature differentials between interior and exterior zones of the building of as much as 15°F, as is discussed above. Perhaps a more serious problem will exist if the rooms near the chilled-water pump have the thermostats set at, for example, 72°F. Such units would demand most of the chilled water, thereby decreasing to an unacceptable level the flow of chilled water to the furthest units. Only if all rooms are operated in keeping with the summer limits will all rooms be treated equitably.

We recognize that the alternate method of complying with the regulations relies on the occupant's regulating the temperature and that such regulation may require the purchase of a room thermometer.

Some HVAC systems, such as constant-volume-with-reheat and variable-air-volume systems, contol the room temperature by heating the proviously cooled air or changing the flow rate of air into a room in response to the cooling or heating need. Combinations of variable volume and reheat are also common. These systems are frequently called "all-air" systems. They may encompass the entire building or may be used in only parts of a building such as the interior zone. In most cases these systems have room thermostats. However, the room occumpant cannot readily determine whether the system is heating or cooling, nor what the optimal thermostat setting is for minimizing the HVAC system energy consumption. These systems require a more complicated and frequently less effective method for reducing energy consumption than by the setting of the temperature controls.

Operators of all-air systems are given the option under the regulations of following the basic deadband requirements. Where this method of compliance is not feasible, an alternative is available. The first requirement is that the air leaving the cooling coils be kept at temperatures above 60° F. As a result, the supply-air dew-point will be approximately 60° F (for example, 58° F). This value is consistent with the 67° F dew point restriction place on other systems. We anticipate that the operator will maintain the 60° F dew-point under all circumstances. Lowering this dew-point would cause severe over-cooling of interior zones, since reheat is prohibited. Raising of this dew-point would increase the humidity, thereby increasing human discomfort excessively. The 60° F coil exit temperature has been used by GSA in many buildings and has been found adequate if people adjust their clothing styles sufficiently.

The regulations also call for the setting of the room thermostats to 80° F during the cooling season. Again, this is consistent with the regulations on other systems. However, the heating sytem must be turned off during the cooling season to prevent operation of the reheat coils. As in the other systems, temperature differences of 15° F may result between the interior and exterior rooms if the occupants take no remedial actions such as keeping doors open and partially blocking registers. Keeping the cooling coil exit temperature above 60° F will lessen the temperature differential relative to what might occur if reheat were eliminated with the coil exit temperature held at the usual 50° F.

Variable-air-volume systems can adjust to the lack of reheat and the higher supply temperature out of the cooling coil by taking such actions as partially blocking the registers. With

variable-air-volume, exterior constant-air-flow-rate rooms may suffer somewhat with low temperatures. In some cases, the operator may want to replace the existing thermostats with the newer "deadband" thermostats to minimize the number of thermostat changes that must be made.

During the heating season, the heating coils may be activated, but the room thermostats must be set to 65°F. In the interior spaces, where there are no heating coils, the cooling restrictions apply. Some reheat in the exterior zones will occur under this part of the regulations since some of the rooms will call for reheat to 65°F.

Accuracy of Space-Conditioning Control Devices

The proposed regulations provide in § 490.17(b) that compliance may be determined by reading the set-point of the space-conditioning control device. To ensure that this measure will prove a reliable standard of compliance, proposed § 490.13 requires building operators to maintain such devices within reasonable tolerances of accuracy and proscribes intentional altering of the devices to produce inaccurate readings.

Temperature Control During Unoccupied Periods

The proposed regulations require in § 490.14 that, except as set forth below, heating and cooling systems must be shut off during unoccupied periods.

A building is considered occupied only if it is being used for its ordinary functions. If the building is occupied for cleaning purposes only, it is not considered occupied. Since building temperatures change slowly after the heating and cooling systems are shut off, there will be many hours during which the cleaning function may be performed in relative comfort. Many buildings are presently cleaned without benefit of heating and cooling system operation.

The proposal does allow the operation of the heating and cooling systems during unoccupied periods to prevent damage to contents of the buildings, for example to prevent spoilage of food or to keep the pipes from freezing.

The proposal divides the unoccupied period requirement into two parts. First, where the outdoor air dry-bulb temperature is greater than 50°F, there is a general prohibition on operation of the building's heating or cooling system. This requirement may be satisfied by turning off the circulating air or circulating water system, although the chillers may continue to operate. Second, where the outdoor air dry-bulb temperature is less than 50°F, limited operation of the heating system is allowed.

The simplest permissible approach under the proposed regulations is the "night-setback" procedure in which the room thermostats are set to 55°F during the unoccupied periods. In the many systems in which this is impractical (due for example to the numerous thermostats that might be involved) the regulation requires that the heated supply-air dry-bulb temperature be less than 100°F and the heating-water dry-bulb temperature be less than 120°F. These temperatures were chosen as being the minimum required to keep the room at 55°F.

We have recognized that to allow for reasonable comfort when the building is first occupied, the heating and cooling systems must be operated prior to occupancy. We therefore have defined the occupied period as beginning two hours before the period the building is utilized for its ordinary functions.

Portable Heaters and Ventilating Equipment

The use of portable heaters, such as radiant electrical heaters, heat lamps or other devices whose principal function at the time of operation is to produce space heating is prohibited by § 490.15 of the proposed regulations. Such heaters would clearly violate the intent of the energy conservation measures being enforced by these regulations. However, use of auxiliary heating is authorized at such times as use of energy for heating is otherwise permitted (*e.g.* where room temperatures are below 65° F) or when the building is unoccupied.

Use of ventilating fans or pump power is authorized at all times by § 490.16, even where the effect of bringing in outside air or circulating water is to lower temperatures below 80° F or raise temperatures above 65° F. Use of free-standing fans within rooms is also permitted at all times.

Measurement Techniques; Dry-Bulb Temperature

We recognized that dry-bulb temperatures within a room are not uniform, so we have allowed in § 490.17 of the regulations for various ways of measuring the room temperature. So long as one measurement technique results in compliance with a temperature restriction, the requirements of the regulations are satisfied. We have established the space-conditioning control device setting (thermostat, etc.) to be the principal temperature indicator, but we have also permitted the use of average room temperature as measured by the ASHRAE standards. We have required that the thermostate be kept in reasonable calibration, and deliberate tampering is considered a violation of the regulations. Measurement of dry-bulb temperature also is permitted by the regulations to be accomplished by placing a thermometer within 24 inches of the space-conditioning control device.

Dew-point temperature, relative humidity and wet-bulb temperature also can be determined, where applicable, by reading the set point of the space-conditioning control device, by reading a measurement instrument or by inference from the calculation of one of the other values. Dew-point, wet-bulb and relative humidity also may be measured in the same location as provided for determination of the dry-bulb temperature.

Alternate measurements that were considered included the extreme high or low temperature in a room. However, this easily could result in no saving in HVAC system energy consumption since measurements near the window or in the sun would seriously bias the result. We also considered using the extreme temperature of all of the work stations. Again, we rejected this measurement because of the difficulty in defining the work station and the possibility that such a vague definition could result in no saving in HVAC energy.

As another alternative, the average temperature could have been chosen to be the average temperature within a zone rather than within a room. Zones normally encompass more than one room but if the zones are properly defined, the temperature variations within a room will be the same as within a zone. However, many times partitions have been located so the zones do not encompass rooms with the same heating and cooling requirements resulting in significant temperature variations between rooms of a single zone. To allow for such a condition, the average temperature may be measured on an occupied-room-by-occupied-room basis. Normally, the room with the extreme temperature will govern the temperature control setting.

Although the humidity is prescribed in terms of the dew-point temperature, we have permitted the use of wet-bulb and relative humidity to determine the dew-point with the help of psychometric charts or tables.

Exemptions From Heating and Cooling Restrictions; Unheated Buildings

Some buildings, such as cattle barns, are basically unheated and it is intended

that they not be governed by these regulations. We have defined as "unheated" in § 490.18(a)(1) those buildings consuming less than 11 watts per square meter (3.5 Btu per hour per square foot) of gross floor space for all uses combined, including heating and cooling on the coldest and hottest days of the year, respectively. In most buildings, a five to ten degree temperature difference between indoors and outdoors can be maintained with this amount of heat input. Buildings are also exempted from these regulations if they are neither heated nor cooled, since they already comply with the requirement that no energy be used to heat or cool if the room temperature is in the deadband range.

Cooling and Heat-Recovery With Systems Requiring Primarily Fan Power; Use of Wasted Energy

Some systems, such as the economizer cycle and evaporative cooling, do not require the operation of a compressor or heater-driven absorption machine to produce cooling. Instead, fans are used to circulate air and pumps are used to circulate unrefrigerated cold water. The proposed regulations provide an exemption in § 490.18(a)(2) for buildings using such systems. This exemption permits operation of the fans to circulate air and pumps to circulate a liquid and thereby effect the energy transfer. If the compressor or absorption unit must operate, even if only for part of the load, no exemption is provided. Fans and pumps are similarly permitted for the operation of heat-recovery systems.

Buildings with HVAC systems capable of using energy that otherwise would be wasted also are exempted from the requirements of the regulations by § 490.18(a)(3), but only when the otherwise wasted energy provides the only source of cooling or heating energy at the time of HVAC system operation.

Solar Energy

To be consistent with the exemption for energy-recovery systems, we have also exempted in § 490.18(a)(4) heating or cooling loads that are satisfied entirely by solar energy. Since the solar system may operate in conjunction with a non-solar system, such as in solar-assisted heat pumps, there will be cases in which it is impossible to determine which part of the load is met by solar. Therefore, we have stated that the solar-energy exemption applies only when the non-solar system is not operating so it is clear that solar energy is the only source of heating or cooling energy.

Building Precooling

In some cases, precooling of a building or portion of a building is necessary because the HVAC system is unable to maintain comfort under maximum load conditions. For example, many theatres require subcooling just before occupancy. As the occupied period progresses, the room becomes warmer and warmer. If properly designed, the room will reach the limit of comfort at the end of the occupancy period. For systems such as theater systems, operation of the HVAC system is permitted by § 490.18(b) before occupancy to bring the temperature as low as necessary to maintain the requirements of the regulations during the occupancy period.

As an alternative to this part of the regulation, consideration was given to exempting these systems entirely. However, it was feared that all building operators may claim the exemption on the basis of the anticipated maximum load (to be conservative). Therefore, no building would be governed by these regulations and no HVAC energy would be saved.

Effectiveness of the Regulations in Reducing Energy Consumption

We are particularly interested in learning of those cases in which the proposed regulations are expected to increase the HVAC energy consumption. Although we have designed the regulations to include the common HVAC systems and many of their variations, there are more systems in existence than could be considered in minute detail. We believe that the regulations have been written to encompass every practical HVAC system.

We do recognize that under these regulations some of the systems will operate so as to result in more discomfort than others, although we have attempted to keep the discomfort as uniform as possible. In addition, we recognize that the effectiveness of the regulations in reducing HVAC energy consumption is not always precisely measurable. However, we believe that the regulations will be sufficient to reduce the national HVAC energy consumption by as much as 10%, although no such goal was established. For the nine months during which these regulations would be effective, the objective is to minimize the HVAC energy consumption with the constraint of keeping the occupant in a workable environment.

C. *Domestic Hot Water*

DOE has prescribed 105°F as the maximum allowable temperature for domestic hot water, defined as water used in covered buildings for personal hygiene or general cleaning. In some cases, temperature control devices are incapable of controlling to this low temperature and the regulations would permit use of the lowest control setting as an alternative. The domestic hot water temperature is required to be measured at the tap closest to the water heater, by a thermometer in the line, or by the controller in the hot water storage tank.

Since approximately 50 percent of the energy required to deliver hot water to faucets in used in keeping recirculating pipes hot, the proposed regulation requires that, were practicable, the recirculation pump be shut off during periods when the building is not occupied.

The use of instantaneous heaters to raise the water temperature to 105°F is permitted, but use of instantaneous heaters to raise the water temperature above 105°F is not.

Normally, water temperatures between 80°F and 100°F are used for washing hands, so the 105°F maximum temperature will be adequate to meet personal hygiene needs.

Dishwashing and other sanitizing purposes for which applicable health codes require hot water temperatures in excess of 105°F are exempted from this proposed regulation. DOE invites comments as to whether this exemption in the proposed regulation is sufficient.

D. *Exemptions*

In formulating the provisions relating to general exemptions for classes of uses within covered buildings, DOE has sought to carry out the Plan's objectives of achieving significant and immediate reduction in energy demand while avoiding severe economic loss or serious hazards to health. Thus, the exemptions in the proposed regulations focus on these areas; no exemptions based solely on personal comfort are included. The proposed general exemption classifications are intended to include substantially all of the buildings or portions of buildings which should, consistent with the purposes of the Plan, be exempted from its operation. While provision is made in proposed § 490.32 for limited exceptions for individual owners, operators and other persons in a covered building, reliance on the specific exception procedure is discouraged.

Where a portion of a covered building qualifies for an exemption under these proposed regulations, the building operator is authorized to claim exemption for only as much of the covered building as is necessary to exempt the relevant sections. In some instances this may result in exemption for the entire building. In keeping with the Plan's purpose of mandatory energy conservation, § 490.34 requires operators of buildings qualifying for exemptions to maintain temperature levels which will result in the maximum practicable energy savings.

Classes for Which General Exemptions Are Provided

Proposed § 490.31(a)(1) provides a general exemption based on special equipment performance requirements. This exemption is intended to apply to spaces within covered buildings housing special equipment, such as computer installations, which require specific temperature and humidity controls more stringent than those prescribed in the proposed regulations. The special equipment performance requirement must be precisely defined in a manufacturer's warranty, service manual, or in a standard equipment service contract, whether or not the contract is in force with respect to the equipment for which an exemption is claimed. Reference to temperature and humidity requirements in the standard service contract is intended to permit exemption where the user provides the maintenance service. Under § 490.31(a)(2), DOE proposes to exempt spaces in covered buildings which house manufacturing, industrial or commercial processes which could not be carried on without exemption from the temperature restrictions. Examples of such processes include the manufacturing and handling of explosives, certain printing processes and electronics manufacturing.

Proposed § 490.31(a)(3) is intended to avoid health hazards where certain temperature and humidity levels are required for the proper storage and handling of food and other agricultural commodities. By way of illustration, this section would exempt supermarkets and grocery stores where temperature and humidity levels other than those mandated in the regulations are required to preserve produce or for the proper refrigeration of perishable items on open shelf units. Warehouses which store food also might be exempted under this section if food stored therein would be affected by higher or lower temperatures and humidity. Restaurant dining rooms would not be included within this proposed exemption.

Section 490.31(a)(4) would exempt spaces where special environmental conditions are required to protect animal or plant life or materials or processes necessary for the operation of a business. Included under this section are, for example, laboratories requiring a specially controlled environment, greenhouses or other horticultural facilities, zoos, museums and art galleries where preservation of art works would require specific temperature and humidity levels. This exemption is not intended to allow, for example, an exemption for an office where the occupant keeps decorative plants.

Procedure for Securing General Exemptions

Under proposed §490.31(b), general exemptions will be secured by self-certification. In drafting this section, DOE considered whether to require persons to make application to DOE for a formal determination of exemption. This alternative was rejected in favor of self-certification since the temporary nature of the Plan makes administration of a massive application process practically impossible. DOE will prepare and distribute, either directly or through state and local government agencies and private trade associations, a form entitled "Certificate of Exemption", together with instructions on its use. A building operator whose building falls within one of the general exemption classifications will be required to complete and post in a prominent location in the building one copy of the Certificate, describing all the areas within the building for which a general exemption has been claimed. A second copy of the Certificate must be submitted to DOE in accordance with instructions accompanying the form, samples of which will be reviewed for compliance. Certification of buildings or spaces for general exemptions to which they are not entitled would be contrary to these proposed regulations. However, proposed §490.31(e) provides that an operator, other than an operator who has claimed an exemption, would not be in violation as a result of acting in reliance on what is subsequently determined to be an invalid exemption. For example, a building manager who fixes temperatures at levels which violate the regulations in reliance on the tenant's invalid claim of exemption would not be subject to liability.

Specific Exceptions

Proposed § 490.32 under which individual building owners, operators or tenants might apply for special exceptions, is intended to deal only with unusual situations involving unanticipated and severe economic or health impacts. DOE does not intend to permit individual exceptions merely to alleviate personal discomfort. This section incorporates by reference existing DOE exceptions and appeals procedures, which will be utilized in processing applications for special exceptions from these regulations. In administering these procedures, DOE will rely upon its extensive experience in applying hardship standards. DOE is considering whether to provide for the processing of these applications at the regional level rather than in Washington.

State Exemptions

Proposed § 490.35 provides that a state may seek for itself or a political subdivision exemption from application of mandatory temperature restrictions within the state during a period for which the President or his delegate determines a comparable state program is in effect. According to the Plan, "comparable program" means a mandatory program which "deals with the same subject matter" and which "conserves at least as much energy" in the state or political subdivision as would be expected to be conserved by implementation of the Plan.

In proposed § 490.35(d), DOE has construed the phrase "deals with the same subject matter" to mean that a comparable state plan must deal with building temperature and domestic hot water restrictions. Thus, a state plan which mandates only alternative energy efficiency measures or deals with a percentage reduction in energy use without temperature restrictions would not qualify as a comparable state plan.

Proposed § 490.35(b) requires states applying for exemption to submit a comparison of energy savings expected to result in the state from compliance with the Plan and estimated energy savings under the proposed comparable program, using a consistent methodology, to demonstrate equivalent energy savings. DOE invites public comment on its selection of this formula for demonstration of equivalency in energy savings.

E. *General Provisions; Joint and Several Liability*

The proposed regulations provide in § 490.41 that owners and operators shall be jointly and severally liable for the performance of operator responsibilities where an agency relationship exists between the owner and operator. The purpose of imposing joint and several

liability is to ensure that all persons involved in controlling the heating and cooling systems of a covered building cooperate in achieving the restrictions imposed in Subparts B and C of the regulations.

The limitation on joint liability for owners to situations where an agency relationship exists between an owner and operator makes clear our intent not to hold liable owners who have absolutely no control over building operations. However, to the extent that there is ability to control heating and cooling operations on the part of an owner or an operator there is responsibility to comply with the restrictions of these regulations.

Reporting Requirement

Section 490.42 of the regulations provides DOE with the authority to require fuel distributors and public utilities to provide any necessary information on customers. This authority may be useful for enforcement purposes to see if energy use by a particular building has decreased or for auditing the effectiveness of the regulations generally in saving energy.

Self-Certification

An essential element of the enforcement effort with respect to these regulations is self-certification by building owners that their building complies with the requirements of the regulation. This certification would be in the form of a "Building Owner's Certificate" which would be required to be posted in a prominent location within the building. The certificates will be prepared by DOE and be made available, along with instructions, at convenient locations throughout the country. Certificates may also be obtained by writing to DOE at the address indicated in § 490.43(c) of the proposed regulations.

Under the provisions of the Plan and the proposed regulations the requirement for posting a "Building Owner's Certificate" would become effective within 30 days of the effective date of the final regulations.

F. *Administrative Procedures*

Standby Conservation Plan No. 2 notes that "it is contemplated that, where DOE retains enforcement authority, enforcement actions would follow procedures used by DOE to enforce other programs for which it has responsibility." After further consideration of the temporary, emergency nature of the Plan, the DOE has prepared procedures for inclusion in its proposed regulations which alter and modify its other existing enforcement procedures in certain respects. In general, DOE has sought, in devising specific administrative procedures applicable to enforcement of the Plan, to furnish adequate notice and opportunity for response to persons who are identified as alleged violators with a minimum of formality and expense, yet provide for adequate joinder of issues and the development of a record suitable for judicial review; to afford additional opportunities within the administrative process for the recipient of a violation order to apply, where appropriate, for adjustment of the effect of the order by means of the devices of a modification or rescission or a stay; and to insure the early finality of agency action, not only by generally limiting procedures but also by prescribing short time limits, so that the opportunity for judicial review will not be unduly delayed, in light of the reality that the ensuing litigation process may be protracted.

Unless the DOE determines that an alternative enforcement method is appropriate, an action will commence with the issuance of a Notice of Violation in which a finding of violation is made. The person to whom the notice was issued has 10 business days to reply in writing unless an extension is granted for good cause shown. The contents of the reply must satisfy specified requirements. The replying party may request an informal conference. Failure to file a reply constitutes an admission of the accuracy of the contents of the Notice of Violation, whereupon DOE may issue a Violation Order. After consideration of the information received during the proceeding, the DOE may decide to adopt the findings and conclusions; or to refrain from issuing a Violation Order; or to withdraw the Notice of Violation for further modification or rescission. A Violation Order is a final agency order subject to judicial review.

In exceptional circumstances which meet sepcified requirements, the DOE may issue a Violation Order for Immediate Compliance without issuing a Notice of Violation.

The recipient of a Violation Order or Violation Order for Immediate Compliance may apply to have the order modified or rescinded on grounds that significantly changed circumstances exist. Under this procedure the DOE will only entertain an application founded upon an allegation of changed circumstances; it is not intended to serve as an administrative means of seeking general appellate review of an order. The purpose of the modification or rescission procedure is to avoid needless potential court litigation where an order may no longer be sustainable on the grounds previously found to support it.

In extraordinary circumstances the recipient of an order may qualify for the stay of an order pending review. Procedures which specify the grounds for eligibility for a stay are set out in the regulations.

The DOE may at any time resolve an outstanding compliance investigation or proceeding with a Consent Order.

Noting in these regulations is in derogation of DOE's existing right to seek direct enforcement of the provisions of the Plan in court at any time in coordination with the Department of Justice.

G. *Investigations, Violations, Sanctions and Judicial Actions.*

This Subpart is patterned closely after Subpart P of CFR Title 10, Part 205 and incorporates the penalty limits prescribed in Section 525 of the EPCA.

H. *Additional Matters; Delegation to States*

Section 9(c) of the Emergency Building Temperature Restrictions Plan authorized DOE to delegate to the Governors of the states all or any portion of its authority to implement, administer, monitor and enforce the Plan. DOE has decided that Implementation of the Plan with respect to Federally-owned and operated buildings will be undertaken by the Federal Government. But as to privately-owned buildings and state-owned and operated buildings, DOE has determined that successful implementation of the Plan will require the active cooperation of state and local governments. Their power to educate and persuade their citizens is needed to acquaint the public with the Plan's requirements, its emergency conservation goals and the necessity for voluntary compliance. Trained state and local health and building inspectors, familiar with local conditions and local buildings, can play a crucial role in the Plan's enforcement. Therefore, DOE will delegate to each state Governor who requests such a delegation and through the states to local governments, a substantial portion of its authority under the Plan.

In particular, DOE will delegate the following authorities and functions: (1) public education and outreach to inform all affected building owners and operators of their obligations under DOE regulations; (2) distribution to building owners and operators of forms and instructions prepared by DOE and

described in these proposed regulations; (3) response to questions from the public on compliance requirements and use of the forms; (4) selective inspection of buildings for compliance; and (5) compliance inspection in response to complaints of violations received from the public. While state and local inspectors will be relied upon to uncover violations, the enforcement of civil penalties under the Plan will be conducted according to Federal administrative and judicial procedures, described in Subparts F and G of these propose regulations.

DOE will enter into agreements with each state to which a delegation is made. The agreements will set forth delegated implementation responsibilities and will encompass, where appropriate, subsidiary agreements with local governments to utilize their existing organizations and other resources. The agreements will provide for the payment of Federal funds to meet the costs of state and local government activities under the agreements.

III. Comment Procedures

A. *Written Comments*

You are invited to participate in this rulemaking by submitting views, data or arguments with respect to the proposal set forth in this Notice. Comments should be submitted to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside envelope and on documents submitted with the designation "Emergency Building Temperature Restrictions." Fifty 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, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Comments should be received by June 22, 1979, 4:30 p.m. in order to be considered.

Any information or data you consider to be confidential must be so identified and submitted 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 Hearings*

Hearings: Public hearings will be held in five cities, beginning at 9:00 a.m. local time on the dates and at locations specified below:

City	Hearing date	Requests to speak to be received by 4:30 p.m. e.s.t.	Hearing location
San Francisco	June 14	June 12	Holiday Inn, 1500 Van Ness Avenue, Crystal Room, San Francisco, Calif.
Chicago	June 14	June 12	Essex Inn, Buckingham Park East Room, 800 South Michigan Avenue, Chicago, Ill.
Dallas	June 18	June 15	Dunfrey's Hotel, 3800 West Northwest Highway, Dallas, Tex.
New York	June 18	June 15	Doral Inn, 541 Lexington Avenue, New York, N.Y
Washington, D.C.	June 20	June 19	National Guard Memorial, 1 Massachusetts Avenue, N.E., Washington, D.C..

2. *Requesting Opportunity for Oral Statement. The times and places for the hearings are indicated in the table above. Requests to speak should be directed as follows:*

Washington hearing: Margaret Sibley, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, N.W., Room 2221C, Washington, D.C. 20585, (202) 376–1651; San Francisco hearing: External Affairs, 111 Pine Street, 3rd Floor, San Francisco, California 94111, (415) 556–4953; Dallas Hearing: Grace Morrison, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235, (214) 749–7621; Chicago hearing: Jack Holzman, 175 W. Jackson Blvd., Room A–333, Chicago, Illinois 60604, (312) 353–5761; New York hearing: Karen Ichiuji, 26 Federal Plaza, Room 3206, New York, New York 10007, (212) 264–4608.

If necessary to present all testimony, the hearing will be continued to 9:00 a.m. of the next business day following the first day of the hearing.

Any person may make a written or telephone request for an opportunity to make an oral presentation at the hearing. You should provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified by DOE before 4:30 p.m. on:

June 12 for San Francisco and Chicago hearings.

June 15 for Dallas and New York hearings.

June 19 for Washington, D.C. hearings.

You must submit 100 copies of your statement, or as many copies as possible if fewer than 100, to be received by DOE before 4:30 p.m. on the dates set forth in this paragraph at the address given above for requests to speak, or you must bring the copies of your statement to the hearing location on the date of the hearing.

3. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing, which will not be adjudicative in nature. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the 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 person making a statement at the hearing. Such questions should be submitted to the address indicated above for requests to speak before 4:30 p.m. on the last working day prior to the hearing. If at the hearing you decide that you would like to ask a question of a witness, you may submit the question, in writing, to the presiding officer. In any case, the presiding officer will determine whether time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearing, including the transcripts, will be retained and made available for inspection at the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., 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.

In the event that it becomes necessary for us to cancel the hearing, we will make every effort to publish advance notice in the **Federal Register** of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearing. However, it is not

possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons desiring to attend the hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

IV. Additional Matters

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*), DOE has given notice to the Administrator of the Environmental Protection Agency that because of the emergency situation described below, it has waived his review of these proposed regulations for a period of 14 days. A copy of this Notice has been submitted to the Administrator for his review.

In view of the emergency nature of this rulemaking the Department has not been able to complete its environmental review of the effects of this rulemaking under the National Environmental Policy Act (42 U.S.C. 4331). This review will be completed and considered by the Department in connection with its further action with regard to this rulemaking.

In light of DOE's emergency finding, described more fully below, of a severe national energy supply interruption and the necessity for prompt enforcement of mandatory conservation measures, Deputy Secretary John F. O'Leary determined on May 30, 1979, that this proposed rulemaking is not subject to the provisions of Executive Order No. 12044 on Improving Government Regulations (43 FR 12661, March 24, 1978), under section 6 of that Executive Order which excepts regulations issued in response to an emergency (see Appendix to this rule).

The emergency nature of the circumstances which surround implementation of the Plan, requires that the public comment period be shortened to less than 30 days. Although section 501(b) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*) (DOE Act) and section 523(a) of the EPCA require a 30-day public comment period prior to the adoption of regulations such as those here proposed, the 30-day period may be reduced under section 501(e) of the DOE Act where the Secretary finds strict compliance with the 30-day period is "likely to cause serious harm or injury to the public health, safety, or welfare." Under section 523(a) of the EPCA the comment period may be reduced to fewer than 30 but more than 10 days where strict compliance would "seriously impair the operation of the program" to which the regulation relates.

DOE finds that to comply with the requirement of a 30-day public comment period is likely to cause serious harm to the public health, safety and welfare and would seriously impair the effective implementation of the building temperature restrictions mandated by the Plan. In its May 1979 "Report to the President on the Energy Supply Interruption," DOE has concluded that continuing reduced levels of world crude oil production have resulted in a severe national energy supply shortage which is beginning to have a major adverse economic impact on the national safety and the national economy. The cumulative net shortfall of U.S. refinery stocks has increased to 80 million barrels. DOE finds that prompt enforcement of mandatory conservation measures, such as the building temperature restrictions imposed by the Plan, is required to help meet the shortage. To delay final promulgation of these regulations would impair effective implementation of the Plan by postponing enforcement until the cooling season is well underway. To maximize the energy savings expected to result from the Plan, and the corresponding benefits to the Nation, enforcement must begin as close to the start of the cooling season as possible.

In this connection it should be noted that the current petroleum product shortages in the United States are principally with respect to gasoline and distillates, including diesel fuel. Stocks of distillates are significantly below the levels of the comparable period of 1978 and DOE is seriously concerned that unless stocks are built up, adequate amounts of heating oil may not be available for the heating season. These regulations should directly assist in this regard by reducing electricity demand. In the cooling season, most peak load air conditioning demand is met by distillate. By reducing this demand, the Plan and the regulations will directly address the distillate shortage situation.

Section 404(a) of the DOE Act, relating to referral of certain proposed rules to the Federal Energy Regulatory Commission for a determination as to whether the proposed rule might significantly affect a function within the Commission's jurisdiction, is not applicable to this proposed rulemaking.

(Federal Energy Administration Act of 1974, 15 U.S.C. 761 *et seq.;* Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.;* Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions, 44 FR 12911 (March 8, 1979)).

In consideration of the foregoing, Part 490 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be adopted as set forth below.

Issued in Washington, D.C., on May 30, 1979.

Omi Walden,

Assistant Secretary, Conservation and Solar Applications.

10 CFR Chapter II is amended by adding Part 490, to read as follows:

PART 490—EMERGENCY BUILDING TEMPERATURE RESTRICTIONS

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Sec.
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Authority: Federal Energy Administration Act of 1974, 15 U.S.C. 761 *et seq.;* Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.;* Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions, 44 FR 12911 (March 8, 1979).

Subpart A—Scope and Definitions

§ 490.1 Scope.

Except as otherwise provided in this Part, this Part applies to covered buildings in each state or political subdivision thereof, and shall supercede any law of any state or political subdivision thereof to the extent such law is inconsistent with these regulations or any guidelines or orders issued pursuant thereto.

§ 490.2 Effective date.

These regulations shall become effective on July 1, 1979, or such other date as specified by the President as the effective date of Standby Conservation Plan No. 2 (Emergency Building Temperature Restrictions) (44 FR 12906, March 8, 1979).

§ 490.3 Authority to contract or delegate.

DOE may delegate or contract for the carrying out of all or any part of the functions under this Part.

§ 490.4 Authority to issue orders and guidelines.

DOE may issue such orders and guidelines, and may make such adjustments, as are necessary to administer and implement the provisions of these regulations.

§ 490.5 Definitions.

(a) "ASHRAE" means American Society of Heating, Refrigerating and Airconditioning Engineers, Inc.

(b) "Capability for simultaneous heating and cooling" means an HVAC system that can supply heating to one part of the space conditioning equipment while supplying cooling to another, including but not limited to dual-duct, reheat, recool, multizone fans, fan-coil units in combination with central air and induction units in combination with central air.

(c) "Covered building" means every building or portion of a building, but excludes residential buildings, hotels and other lodging, facilities, hospitals and other health care facilities, elementary schools, nursery schools and day-care centers, and such other buildings and facilities as the Secretary may by rule determine: *Provided,* That to the extent that the non-sleeping facilities of a hotel, motel or other lodging facility have space-conditioning control devices separate from the sleeping facilities, they are not excluded from the definition.

(d) "Dew point temperature" means the temperature of air at which water vapor begins to condense. At the dew point, relative humidity is 100 per cent.

(e) "DOE" means the Department of Energy.

(f) "Domestic hot water" means hot water which is intended for use in covered buildings for personal hygiene or general cleaning.

(g) "Dry-bulb temperature" means the temperature of air as measured by a dry-bulb, or ordinary, thermometer, which directly measures air temperature.

(h) "Fuel distributor" means any person who delivers oil or other fuel for use in a covered building.

(i) "Humidity" means a measure of the water-vapor content of air.

(j) "HVAC" means Heating, Ventilating and Air Conditioning.

(k) "HVAC System" means a system that provides either collectively or individually the processes of comfort heating, ventilating and/or air conditioning within or associated with a building.

(l) "Hospital and health care facility" means a building such as a general hospital, tuberculosis hospital or any other type of hospital, clinic, nursing or convalescent home, hospice or other facility duly authorized to provide hospital or health care services under the laws of the state in which the institution or facility is located.

(m) "Hotel or other lodging facility" means a building where sleeping and lodging accommodations are provided to the public in the ordinary course of business.

(n) "Occupied period" means that time of the day or night beginning two hours before, and ending one half hour after the time which the covered building or portion thereof is used for its ordinary function or functions, but not including such service functions as cleaning and maintenance.

(o) "Operator" means any person, whether lessee, sublessee or assignee, agent or other person, whether or not in physical possession of a covered building, who has control, either directly or indirectly through an agent, of heating, cooling or hot water equipment servicing the covered building.

(p) "Owner" means any person, whether or not in physical possession of a covered building, in whom is vested legal title, and who has control, either directly or indirectly through an agent, of heating, cooling or hot water equipment servicing the covered building.

(q) "Person" means any individual, corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, the United States or any State or political subdivision thereof, the District of Columbia, Puerto Rico, any U.S. territory or possession, or any agency of the United States or any state or political subdivision thereof, or any other organization or institution.

(r) "Public utility" means a publicly or privately owned and operated utility which is engaged in the sale of electric power or natural gas to end-users.

(s) "Relative humidity" means the ratio of the amount of water vapor in the air at a specific temperature to the maximum water vapor capacity of the air at that temperature.

(t) "Residential building" means any building used for residential purposes but does not include any portion of such building used for non-residential purposes and which has separate heating, or cooling space-conditioning control devices or hot water termperature control devices.

(u) "Room" means that portion of the interior space which is contained within the exterior surfaces of a building and which is conditioned directly or indirectly by an energy using system.

(v) "Secretary" means the Secretary of the Department of Energy.

(w) "Space-conditioning control device" means a device for directly or indirectly controlling the room termperature and/or humidity by means of the HVAC system.

(x) "Special equipment" means equipment for which carefully controlled temperature levels are necessary for proper operation or maintenance.

(y) "Temperature control device" means a thermostat or any other device used to regulate the operation of heating or cooling equipment or a hot water heater.

(z) "United States" means any state, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(aa) "Unoccupied" means those periods of the day or night other than the occupied period.

(bb) "Wet-bulb temperature" means the temperature of air as measured by a wet-bulb thermometer, which is a thermometer having the bulk covered

with a cloth, usually muslin, that is saturated with water.

Subpart B—Heating and Cooling Restrictions

§ 490.11 HVAC systems without capability for simultaneous heating and cooling.

In covered buildings with HVAC systems without the capability for simultaneously heating and cooling the building:

(a) No operator shall set space-conditioning control devices so that energy is consumed to raise the room dry-bulb temperature above 65°F;

(b) No operator shall set space-conditioning control devices so that energy is consumed to lower the room dry-bulb temperature below 80°F: *Provided,* That energy may be consumed to lower the room dry-bulb temperature below 80°F to the extent necessary to lower the room dew-point temperature to 67°F.

§ 490.12 HVAC systems with capability for simultaneous heating and cooling.

In covered buildings with HVAC systems capable of simultaneous heating and cooling, operators shall set space-conditioning control devices in accordance with the following requirements:

(a)(1) Except as otherwise provided in this section, no operator shall set space-conditioning control devices so that energy is consumed to raise the room dry-bulb temperature above 65°F.

(2) Except as otherwise provided in this section, no operator shall set space-conditioning control devices so that energy is consumed to lower the room dry-bulb temperature below 80°F: *Provided,* That energy may be consumed to lower the room dry-bulb temperature below 80°F to the extent necessary to lower the room dew-point temperature to 67°F;

(b)(1) Operators of fan-coil, induction, baseboard or similarly operated units shall set space-conditioning control devices in accordance with one of the two following methods:

(i) So that no energy is consumed to raise the room dry-bulb temperature above 65°F in the heating season or lower the room dry-bulb temperature below 80°F in the cooling season;

(ii) So that: (A) no heat is provided to the heating coil during the cooling season; (B) no liquid coolant is provided to the cooling coil at coolant temperatures below 55°F; and (C) the room dry-bulb temperature will be 65°F or less in the heating season.

(c) Operators of heat-pump systems shall set space-conditioning control devices in accordance with the requirements of paragraph (b)(1)(i).

(d) In lieu of complying with the requirements of paragraph (a), operators of HVAC systems in which the room temperature is controlled by the supply air temperature or volume ("all-air" systems, including those with reheat) may set space-conditioning control devices so that:

(1) The temperature of the air leaving the cooling coils is 60°F or greater;

(2) During the cooling season, the heating coil is turned off and the space-conditioning control device is set to 80°F; and

(3) During the heating season, if the heating coil is turned on, the space-conditioning control device is set to 65°F.

§ 490.13 Requirement for accuracy of space-conditioning control devices.

(a) The operator of a covered building shall maintain space-conditioning control devices within reasonable tolerances of accuracy.

(b) No person may alter a space-conditioning control device with the intent of having that device function inaccurately.

§ 490.14 Regulation of building temperatures during unoccupied periods.

(a) During periods any covered building is unoccupied eight hours or more before the next normal occupied period:

(1) The heating system for that building shall not be operated if the outdoor air dry-bulb temperature is greater than 50°F, and the cooling system for that building shall not be operated. The requirements of this subsection may be satisfied by turning off the circulating air or circulating water system.

(2) If the outdoor air dry-bulb temperature is less than 50°F, the space-conditioning control devices for the heating system for that building shall be set such that one of the following results:

(i) The room dry-bulb temperature is less than 55°F.

(ii) The heated supply-air dry-bulb temperature is less than 100°F.

(iii) The heating-water dry-bulb temperature is less than 120°F.

(3) Notwithstanding the requirements of this section, HVAC system operation during unoccupied periods is permitted to the extent necessary to prevent damage to the covered building or its contents.

§ 490.15 Auxiliary heaters.

No auxiliary heating devices such as portable electric heaters, heat lamps or other devices whose principal function at the time of operation is to produce space heating may be operated except at such times that use of energy for heating purposes is authorized under the other sections of this Subpart or when the covered building is unoccupied.

§ 490.16 Use of ventilating equipment.

Nothing in this Subpart shall be deemed to prohibit the use of ventilating fan or pump power to heat a building to a dry-bulb temperature above 65°F or to cool a building to a dry-bulb temperature below 80°F.

§ 490.17 Measurement techniques.

(a) Where a space-conditioning control device controls the temperature for more than one room, the measurement may be taken in the room containing the device or any other room controlled by that device.

(b) Except as otherwise provided in this section, compliance with the requirements of this Subpart shall be determined by reading the set-point of the space-conditioning control device which controls the temperature for the room.

(c) Any of the following methods for measuring dry-bulb temperature, dew-point temperature, relative humidity and wet-bulb temperature may be utilized in lieu of a reading of the set-point on the space-conditioning control device. An operator shall be deemed to have complied with any temperature or humidity requirement of this Subpart so long as any one measurement technique indicates compliance with the relevant temperature or humidity requirement.

(1) Dry-bulb temperature may be measured by:

(i) A thermometer placed within 24 inches of the space-conditioning control device.

(ii) The average of several thermometer readings taken in accordance with ASHRAE Standard 55–74, "Thermoenvironmental conditions for human occupancy."

(2) Dew-point temperature may be measured by:

(i) Observing the temperature of a glass at which condensation first occurs while cooling the glass;

(ii) By a dew-point indicating instrument;

(iii) By inference from the wet-bulb temperature or the relative humidity.

(3) The relative humidity may be measured by:

(i) A humidity-indicating instrument (hygrometer);

(ii) By inference from the dew-point or wet-bulb temperature.

(4) The wet-bulb temperature may be measured by:

(i) A wet-bulb-temperature-indicating instrument (psychrometer);

(ii) By inference from the dew-point temperature or relative humidity measurement.

(5) The dew-point temperature, relative humidity and wet-bulb temperature may be measured within 24 inches of the humidity space-conditioning control device if located in the room, or in the same locations as used in the measurement of the dry-bulb temperature.

§ 490.18 Exemptions from heating and cooling restrictions.

(a) The requirements of this Subpart shall not apply to:

(1) Covered buildings or portions thereof which are neither heated nor cooled or whose peak design rate of energy usage for all purposes is less than 11 watts per square meter or 3.5 Btu per hour per square foot of gross floor area.

(2) Buildings containing HVAC systems capable of using outdoor air or evaporation of water for cooling effect without operation of a vapor compression or absorption-refrigeration system, but this exemption applies only with respect to cooling, and only when the outdoor air and/or evaporation effect provides the only source for cooling.

(3) Buildings containing HVAC systems capable of using energy that otherwise would be wasted, but only when the otherwise wasted energy provides the only source of heating or cooling energy.

(4) Buildings containing HVAC systems capable of using solar energy, but only when solar energy provides the only source of heating or cooling energy.

(b) For buildings where the capacity of the HVAC system is insufficient to maintain the building at the minimum temperature levels for cooling authorized by this regulation, the operator of said building may cool the building to a temperature level below 80°F: *Provided,* that said reduced temperature level may only be maintained for the period of time necessary so that the temperature will reach the minimum level permitted by this regulation during the building's occupied period.

Subpart C—Domestic Hot Water

§ 490.21 Regulation of hot water controls.

(a) The operator of a covered building shall set hot water temperature control devices so that the temperature of domestic hot water in such covered building does not exceed the greater of:

(1) 105°F.

(2) the lowest setting on the hot water control thermostat.

(b) The operator shall, where practicable, shut off domestic hot water circulating pumps during periods when a covered building is to be unoccupied for more than eight hours when such actions will not cause damage to the building, its systems, or internal processes or articles.

§ 490.22 Calculation of domestic hot water temperature.

(a) The temperature of domestic hot water shall be taken as the domestic hot water storage tank temperature measured in the hot water supply line, at the tank temperature control point, or if not measureable at either point then at the tap nearest the tank discharge point.

§ 490.23 Maintenance of hot water temperature control devices.

(a) The operator of a covered building shall maintain all domestic hot water temperature control devices in that building within reasonable tolerances of accuracy.

(b) No person may alter a hot water temperature control device with the intent of having that device function inaccurately.

§ 490.24 Exemption from hot water restrictions.

(a) The provisions of this Subpart shall not apply in a covered building where the domestic hot water heating equipment also provides hot water for manufacturing, industrial or commercial processes and such processes require hot water temperatures in excess of those prescribed in this Subpart.

(b) The provisions of this Subpart shall not apply in a covered building where domestic hot water is the only source available for dishwashing or other purposes in such covered building and state or local health regulations prescribe a minimum temperature level above 105°F for dishwashing or such other purposes. Domestic hot water control devices shall be set so as not to exceed the minimum level required by the state or local health regulations.

(c) The provisions of this Subpart shall not apply to combination domestic water heating/space heating boilers during the heating season.

(d) The provisions of this Subpart shall not apply at such times that solar energy provides the only source for domestic hot water heating energy. At such times that a hot water heating system using a non-solar energy source is being operated in conjunction with solar energy, this exemption shall not apply.

Subpart D—Exemptions

§ 490.31 General exemptions.

(a) In addition to the exemptions provided in other subparts, and subject to the limitations of this Subpart, the following exemptions from the requirements of Subparts B and C are available to any person in accordance with the provisions of this section:

(1) Where a "manufacturer's warranty", service manual or equipment service contract requires specific temperature levels to prevent damage to special equipment.

(2) Where maintenance of certain temperature and humidity levels is critical to manufacturing, industrial or commercial processes.

(3) Where maintenance of certain temperature and humidity levels is required for the proper storage or handling of food or other agricultural commodities.

(4) Any other circumstances where special environmental conditions are required to protect animal or plant life or materials or processes, essential to the operation of a business within a covered building.

(b) No exemption for a covered building from the requirements of this Part may be effective until a "Certificate of Exemption" has been completed in accordance with forms and instructions provided by DOE.

(1) One copy of the "Certificate of Exemption" shall be posted in a prominent location within the covered building.

(2) A second copy of the "Certificate of Exemption" shall be submitted to DOE in accordance with instructions to be provided by DOE.

(c) Any person who claims an exemption to which he is not entitled is subject to the penalties provided in subpart G of this Part.

(d) Where the person entitled to an exemption under this Part is not the owner or operator of the covered building(s) to which the exemption applies, the owner or operator of the covered building(s) is authorized to adjust space-conditioning control devices and hot water temperature control devices in accordance with § 490.34.

(3) Any operator, other than an operator who claims an exemption, shall not be liable for violation of this Part as the result of acting in reliance upon an exemption which subsequently is determined to be invalid.

§ 490.32 Specific exceptions.

(a) In addition to the general exemptions available under § 490.31 or under subparts B and C, any person who would experience special hardship, inequity or an unfair distribution of the burden as a result of the requirements of Subparts B and C of this Part may submit an "Application for Exception" in accordance with Subpart D of Part 205 of this Chapter.

(b) If the person submitting the 'Application for Exception" is not the owner or operator of the covered building(s) to which the requested exception is to apply, and if the exception is granted by DOE, then the owner or operator of the covered building(s) is authorized to adjust space-conditioning control devices and hot water temperature control devices in accordance with the provisions of the exception provided by DOE.

§ 490.33 Limitation of exceptions or exemptions.

DOE may limit the exemption or exception granted by this Part to all or any portion of a covered building. DOE may specify heating, cooling or hot water temperature controls to be applicable in the excepted portion of a covered building.

§ 490.34 Scope of exceptions or exemptions.

The operator of a covered building subject to an exemption or exception pursuant to this Part shall, where practicable, maintain the temperature levels prescribed in Subparts B and C, or such other levels consistent with maximum energy savings.

§ 490.35 Exemption procedures for States.

(a) A state may seek for itself or a political subdivision an exemption from the application of this part in such state or political subdivision during a period for which the President of the United States or his delegate determines a comparable program of such state or political subdivision is in effect.

(b) A state seeking an exemption for itself or a political subdivision on the ground that a comparable program is in effect shall submit to the Secretary a "Request for State Exemption" which shall include the following information:

(1) A full description of the comparable program;

(2) An estimate of the types and amount of energy which such program will conserve;

(3) The effective dates of the program;

(4) A description of energy conservation measures implementable at the state or local level and their expected energy savings;

(5) A comparison of energy savings estimated to result in that state from compliance with these regulations and estimated energy savings under the proposed comparable program which demonstrates that the comparable program conserves at least as much energy in the state or political subdivision as these regulations. The comparisons shall be performed using a consistent methodology for estimating building energy consumption.

(6) Such other information as the Secretary may require.

(c) A request for exemption by a state shall be sent to:

Secretary, Department of Energy, Washington, D.C. 20585.

(d) For purposes of this section:

(1) "Comparable program" means a program which deals with the same subject matter as these regulations, which is mandatory, and which conserves at least as much energy in the state or political subdivision thereof as adherence to the requirements of these regulations would be expected to conserve in such state or political subdivision;

(2) "Same subject matter" means heating, cooling and hot water temperature restrictions in covered buildings.

Subpart E—General Provisions

§ 490.41 Joint and several liability.

The owner and operator shall be jointly and severally liable for the execution of operator responsibilities under this Part where an agency relationship exists between the owner and operator.

§ 490.42 Reporting requirement.

Any public utility or any fuel distributor shall make available to the DOE, upon request, customer lists or other information deemed necessary by DOE to administer and enforce these regulations.

§ 490.43 Self-certification.

(a) The owner of a covered building shall, within 30 days of the effective date of this regulation, complete in accordance with instructions provided by DOE and post in a prominent location within the covered building a "Building Owner's Certificate" certifying compliance with the requirements of this Part.

(b) It shall be deemed a violation of this Part for an owner to fail to post a "Building Owner's Certificate" as required by paragraph (a), or to fail to provide the information required on the "Building Owner's Certificate" or to provide false, misleading or incomplete information.

(c) DOE will make "Building Owner's Certificates" and instructions available at convenient locations throughout the country. In addition, a "Building Owner's Certificate" and instructions for its completion may be obtained from:

Director, Office of Building and Community Systems Office of Conservation and Solar Applications, 20 Massachusetts Avenue, NW., Room 2221C, Washington, D.C. 20585

Attention: EBTR Building Owner's Certificate.

Subpart F—Administrative Procedures

§ 490.51 Purpose and scope.

This Subpart establishes the procedures for determining the nature and extent of violations of section 524(c) of the EPCA and the procedures for issuance of a Notice of Violation, Violation Order, Violation Order for Immediate Compliance, Modification or Rescission Decision and Order, and Stay Decision and Order. Nothing in these regulations shall affect the authority of DOE enforcement officials in coordination with the Department of Justice to initiate appropriate civil or criminal enforcement actions in court at any time.

§ 490.52 Notice of violation.

(a) When any audit or investigation discloses, or the DOE otherwise finds, that any person has engaged, is engaged, or is about to engage in acts or practices contrary to the provisions of Standby Conservation Plan No. 2 (Emergency Building Temperature Restrictions) and implementing regulations in violation of section 524(c) of the EPCA, the DOE may issue a Notice of Violation. Any notice issued under this section shall be in writing and shall set forth the findings of fact and conclusions of law upon which it is based.

(b) Within 10 business days after the service of a Notice of Violation the person upon whom the Notice is served may file a reply with the DOE office that issued the Notice of Violation. The DOE may extend the 10-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a statement of all relevant facts pertaining to the acts or practices

that are the subject of the Notice of Violation. The reply shall include a statement of the legal, business and other reasons for the acts or practices; a description of the acts or practices; and a discussion of the pertinent provisions and relevant facts reflected in any document submitted with the reply. Copies of all relevant contracts, reports, abstracts, compilations of data and other documents shall be submitted with the reply. The reply shall include a discussion of the relevant authorities which support the position asserted, including rulings, regulations, interpretations, orders and decisions issued by DOE.

(d) The reply should indicate whether the person requests an informal conference regarding the notice. A request for a conference must be in writing and shall be goverened by the provisions of 10 CFR 205.171, which are incorporated by reference herein and made a part of this subsection.

(e) If a person has not filed a reply with the DOE within the 10-day or other period authorized for reply, the person shall be deemed to have admitted the accuracy of the factual allegations and legal conclusions stated in the Notice of Violation, and the DOE may proceed to issue a Violation Order in accordance with §490.53.

(f) If the DOE finds, during or after the 10-day or other period authorized for reply, that no violation has occured, is continuing, or is about to occur, or that for any reason the issuance of a Violation Order would not be appropriate, it shall rescind the Notice of Violation and inform the person to whom the Notice was issued for the rescission.

§490.53 Violation order.

After considering all information received during the proceeding, the DOE may issue a Violation Order. The Violation Order may adopt the findings and conclusions contained in the Notice of Violation or may modify or rescind any such finding or conclusion to conform the Order to the evidence or on the basis of a determination that the finding or conclusion is erroneous in fact or law or is arbitrary or capricious. Such Order shall constitute a final agency order subject to judicial review. Unless otherwise specified, the Violation Order shall be effective 10 business days after the date of issuance. In the alternative, the DOE may determine that no Violation Order should be issued or that the Notice of Violation should be withdrawn for further consideration or modification. Every determination made pursuant to this section shall state the relevant facts and legal bases supporting the determination.

§ 490.54 Violation order for immediate compliance.

(a) Notwithstanding the provisions of § 490.52 or § 490.53, the DOE may issue a Violation Order for Immediate Compliance, which shall be effective upon issuance and until rescinded or suspended, if it finds:

(1) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(2) Irreparable harm will occur unless the violation is remedied immediately; and

(3) The public interest requires the avoidance of such irreparable harm through immediate compliance and wavier of the procedures afforded under § 490.52.

(b) A Violation Order for Immediate Compliance shall be served promptly upon the person against whom such Order is issued by personal service, telex or telegram, with a copy served by registered or certified mail. The copy shall contain a written statement of the relevant facts and the legal basis for the Violation Order for Immediate Compliance, including the findings required by paragraph (a) of this section.

(c) The DOE may rescind or suspend a Violation Order for Immediate Compliance if it appears that the criteria set forth in paragraph (a) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a Notice of Violation issued under § 490.52.

(d) If at any time in the course of a proceeding commenced by a Notice of Violation the criteria set forth in paragraph (a) of this section are satisfied, the DOE may issue a Violation Order for Immediate Compliance, even if the 10-day period for submitting a reply to that document has not expired.

§ 490.55 Modification or rescission.

(a) Any person to whom a Violation Order or Violation Order for Immediate Compliance is directed may make application for modification or rescission of such Order.

(b) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the DOE action sought; and shall include a discussion of the relevant authorities which support the position asserted, including, but not limited to, DOE rulings, regulations, interpretations and decisions. The applicant shall fully describe the events, acts or transactions that comprise the significantly changed circumstances, as defined in paragraph (e)(2), upon which the application is based. The applicant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding.

(c) The application should indicate whether the person requests an informal conference. A request for a conference must be in writing and shall be governed by the provisions of 10 CFR 205.171, which are incorporated by reference herein and made a part of this subsection.

(d) (1) If the DOE determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the DOE may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful the DOE may dismiss the application with prejudice.

(2) (i) If the applicant fails to satisfy the requirements of paragraph (b) of this section, the DOE shall issue an order denying the application. The order shall state the grounds for the denial.

(ii) The order denying the application shall become final within 5 days of its service upon the applicant, unless within such 5-day period an amendment to correct the deficiencies identified in the order is filed with the DOE.

(iii) Within 5 days of the filing of such amendment, the DOE shall notify the applicant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, the notice shall be an order dismissing the application as amended. Such order shall be a final agency order subject to judicial review.

(e) *Criteria.* (1) An application for modification or rescission of an order shall be processed only if the application demonstrates that it is based on significantly changed circumstances.

(2) For purposes of this subpart, the term "significantly changed circumstances" shall mean—

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based;

(ii) The discovery of a law, regulation, interpretation, ruling, order or decision that was in effect at the time of the proceeding upon which the application is based and which, if such had been made known to the DOE, would have been relevant to the proceeding and

would have substantially altered the outcome; or

(iii) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order of the DOE affecting the applicant was issued, which change has occurred during the interval between issuance of such order and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

(f) Upon consideration of the application and other relevant information received or obtained during the proceeding, the DOE shall issue an order granting or denying the application. The order shall include a written statement setting forth the relevant facts and the legal basis of the order. Such order shall be a final agency order subject to judicial review.

§490.56 Stay pending judicial review.

(a) Any person to whom a Violation Order or Violation Order for Immediate Compliance is directed may make application for a stay of such Order pending judicial review.

(b) The application shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the application and to the DOE action sought. Such facts shall include, but not be limited to, all information that relates to the satisfaction of the criteria in paragraph (e). A copy of the Order from which a stay is sought shall be included with the application.

(c) If the DOE determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the DOE may dismiss the application without prejudice. if the failure to supply additional information is repeated or willful, the DOE may dismiss the application with prejudice.

(d) The DOE shall grant or deny the application for stay within 5 business days after receipt of the application.

(e) *Criteria.* The grounds for granting a stay are:

(1) A showing that irreparable injury will result in the event that the stay is denied;

(2) A showing that denial of the stay will result in a more immediate serious hardship or gross inequity to the applicant than to the other persons affected by the proceeding;

(3) A showing that it would be desirable for public policy or other reasons to preserve the status quo ante pending a decision on the merits of the appeal or exception;

(4) A showing that it is impossible for the applicant to fulfill the requirements of the original order; and

(5) A showing that there is a likelihood of success on the merits.

(f) Upon consideration of the application and other relevant information received or obtained during the proceeding, the DOE shall issue an order granting or denying the application. The order shall include a written statement setting forth the relevant facts and the legal basis of the decision, and the terms and conditions of the stay.

(g) The grant or denial of a stay is not an order of the DOE subject to administrative review.

§ 490.57 Consent order.

(a) Notwithstanding any other provision of this Subpart, the DOE may at any time resolve an outstanding compliance investigation or proceeding with a Consent Order. A Consent Order must be signed by the person to whom it is issued, or a duly authorized representative, and must indicate agreement to the terms contained therein. A Consent Order need not constitute an admission by any person that DOE regulations have been violated, nor need it constitute a finding by the DOE that such person has violated DOE regulations. A Consent Order shall, however, set forth the relevant facts which form the basis for the Order. A Consent Order is a final Order of the DOE having the same force and effect as a Violation Order issued pursuant to § 490.53.

(b) At any time and in accordance with the procedures of § 490.55, a Consent Order may be modified or rescinded upon petition by the person to whom the Consent Order was issued, and may be rescinded by the DOE upon discovery of new evidence which is materially inconsistent with the evidence upon which the DOE's acceptance of the Consent Order was based.

(c) Notwithstanding the issuance of a Consent Order, the DOE may seek civil or criminal penalties or compromise civil penalties pursuant to Subpart G concerning matters encompassed by the Consent Order, unless the Consent Order by its terms expressly precludes the DOE from so doing.

(d) If at any time after a Consent Order becomes effective it appears to the DOE that the terms of the Consent Order have been violated, the DOE may refer such violations to the Department of Justice for appropriate action in accordance with Subpart G.

§ 490.58 Remedies.

A Violation Order, a Violation Order for Immediate Compliance, a Modification or Rescission Decision and Order, or a Consent Order may require the person to whom it is directed to make an appropriate adjustment in building or domestic hot water temperature, to post a correct Building Owner's Certificate, and to take such other action as the DOE determines is necessary to eliminate the effects of a violation.

Subpart G—Investigations, Violations, Sanctions and Judicial Actions

§ 490.61 Investigations.

Investigations will be conducted in accordance with the provisions set forth in 10 CFR 205.201.

§ 490.62 Violations.

Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements of any provision of this Part or any order issued pursuant thereto is a violation of the regulations stated in this Part.

§ 490.63 Sanctions.

(a) *General.* Any person who violates any provision of this Part or any Order issued pursuant thereto shall be subject to penalties and sanctions as provided herein.

(1) The provisions herein for penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of this chapter or any order issued pursuant thereto continues shall be deemed to constitute a separate violation within the meaning of the provisions of this chapter relating to criminal fines and civil penalties.

(b) *Civil penalties.* (1) Any person who violates any provision of this Part or any order issued pursuant thereto shall be subject to a civil penalty of not more than $5000 for each violation.

(2) The DOE may at any time refer a violation to the Department of Justice for the commencement of an action for civil penalties. When the DOE considers it to be appropriate or advisable, it may compromise, settle and collect civil penalties.

(c) *Criminal penalties.* (1) Any person who willfully violates any provision of this Part or any order issued pursuant thereto shall be fined not more than $10,000 for each violation.

(2) The DOE may at any time refer a willful violation to the Department of Justice for criminal prosecution.

(d) *Other penalties.* Willful concealment of material facts or false or fictitious or fraudulent statements or representations, or willful use of any false writing or document containing false, fictitious or fraudulent statements pertaining to matters within the scope of section 524(c) of the EPCA by any person shall subject such person to the criminal penalties provided in 18 U.S.C. 1001 (1970).

§ 490.64 Injunctions.

Whenever it appears to the DOE that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any regulation or order issued under this chapter, the DOE may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices and, upon a proper showing, a temporary restraining order or a preliminary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include, without limitation, a mandatory injunction commanding any person to comply with any such order or regulation.

Appendix

Waiver of the Provisions of Executive Order No. 12044 on "Improving Government Regulations" and the Department of Energy's Implementing Regulations

Pursuant to the authority vested in me by the Department of Energy Organization Act (Pub. L. 95–91) and the Department's regulations which implement the terms of Executive Order No. 12044 on "Improving Government Regulations" I hereby waive all of the rulemaking procedures contained in the Executive Order and implementing regulations with respect to a proposed rule which would implement the terms of the Emergency Building Temperature Restrictions that were approved by the Congress in Energy Conservation Contingency Plan No. 2 on May 10, 1979.

The continued reduction in World Crude oil production has resulted in shortages of essential fuels and major adverse effects on the national safety and the economy. Recent shortages of gasoline in some areas of the Nation have underscored the gravity of the situation and require that action be taken now to conserve available supplies.

One of the primary concerns of the Department at this time is to ensure that adequate supplies of distillate fuels are available this winter for home heating. Implementation of the Emergency Building Temperature Restrictions is an essential action that must be taken to conserve available supplies, and implementing those restricitons now, prior to the peak cooling season, will maximize the conservation potential.

In view of the need to implement the Emergency Building Temperature Restrictions Plan by July 1, 1979, and the emergency nature of the current energy supply shortages, I therefore find it in the public interest to waive the provisions of the Executive Order and the Department's implementing regulations.

Issued in Washington, D.C. on May 30, 1979.

John F. O'Leary,

Deputy Secretary, Department of Energy.

[FR Doc. 79-17287 Filed 5-31-79; 8:45 am]

BILLING CODE 6450-01-M

Reader Aids

Federal Register
Vol. 44, No.107
Friday, June 1, 1979

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.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects

FEDERAL REGISTER PAGES AND DATES, JUNE

31599-31938.....1

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 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.)**

TABLE OF EFFECTIVE DATES AND TIME PERIODS— JUNE 1979

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
June 1	June 18	July 2	July 16	July 31	August 30
June 4	June 19	July 5	July 19	August 3	September 4
June 5	June 20	July 5	July 20	August 6	September 4
June 6	June 21	July 6	July 23	August 6	September 4
June 7	June 22	July 9	July 23	August 6	September 5
June 8	June 25	July 9	July 23	August 7	September 6
June 11	June 26	July 11	July 26	August 10	September 10
June 12	June 27	July 12	July 27	August 13	September 10
June 13	June 28	July 13	July 30	August 13	September 11
June 14	June 29	July 16	July 30	August 13	September 12
June 15	July 2	July 16	July 30	August 14	September 13
June 18	July 3	July 18	August 2	August 17	September 17
June 19	July 5	July 19	August 3	August 20	September 17
June 20	July 5	July 20	August 6	August 20	September 18
June 21	July 6	July 23	August 6	August 20	September 19
June 22	July 9	July 23	August 6	August 21	September 20
June 25	July 10	July 25	August 9	August 24	September 24
June 26	July 11	July 26	August 10	August 27	September 24
June 27	July 12	July 27	August 13	August 27	September 25
June 28	July 13	July 30	August 13	August 27	September 26
June 29	July 16	July 30	August 13	August 28	September 27

CFR CHECKLIST; 1978/1979 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1978/1979. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1979):

Title	Price
1	$3.00
4	4.50
7 Parts:	
0–52	6.75
900–944	5.25
981–999	3.75
1000–1059	6.00
2852	6.00
2853–end	4.50
13	5.00
14 Parts:	
1200–end	3.50
16 Parts:	
150–999	4.25

CFR Unit (Rev. as of Apr. 1, 1978):

17	$8.25
18 Parts:	
0–149	5.00
150–end	5.00
19	6.00
20 Parts:	
1–399	3.50
400–499	5.00
500–end	4.50
21 Parts:	
1–99	4.00
100–199	6.00
200–299	2.75
300–499	5.75
500–599	5.00
600–1299	4.25
1300–end	4.50
22	5.50
23	5.00
24 Parts:	
0–499	8.25
500–end	9.00
25	5.50
26 Parts:	
1 (§§ 1.0–1.169)	5.75
1 (§§ 1.301–1.400)	4.00
1 (§§ 1.401–1.500)	4.75
1 (§§ 1.501–1.640)	4.75
1 (§§ 1.641–1.850)	4.75
1 (§§ 1.851–1.1200)	6.00
1 (§§ 1.1201–end)	6.50
2–20	4.75
30–39	5.50
40–299	5.50
300–499	4.75
600–end	3.00
27	8.75

CFR Unit (Rev. as of July 1, 1978):

28	$4.50
29 Parts:	
0–499	6.25
500–1899	6.25
1900–1919	7.00
1920–end	5.25
30	6.25
31	6.25
32 Parts:	
40–399	8.50
400–589	4.50
590–699	4.50
700–799	8.00
800–999	5.50
1000–1399	3.50
1400–1599	4.50
1600–end	3.00
32A	4.00
33 Parts:	
1–199	6.25
200–end	5.75
35	4.75
36	5.00
37	4.00
38	6.50
39	4.25
40 Parts:	
0–49	4.75
50–59	6.50
60–99	8.50
100–399	5.50
41 Chapters:	
1–2	6.50
3–6	5.75
7	2.75
8	2.75
10–17	4.75
18 Parts:	
1–52 (Vol. III, Rev. 7/31/78)	5.75
19–100	4.50
CFR Index	5.00

CFR Unit (Rev. as of Oct. 1, 1978):

42 Parts:	
1–399	$6.00
400–end	5.50
43 Parts:	
1–999	4.25
1000–end	6.50
44 [Reserved]	
45 Parts:	
1–99	4.75
100–149	5.75
150–199	5.25
200–499	3.50
46 Parts:	
1–29	3.25
30–40	3.25
41–69	4.50
70–89	3.75
90–109	3.25
110–139	3.25
140–155	3.50
156–165	4.25
166–199	3.00
200–end	6.50
47 Parts:	
0–19	5.00
20–69	5.75
70–79	5.25
49 Parts:	
1–99	3.25
1000–1199	5.00
1300–end	4.50
50	5.75

AGENCY ABBREVIATIONS

Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Department of Agriculture
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FTZB Foreign-Trade Zones Board
ITA Industry and Trade Administration
MA Maritime Administration
MBEO Minority Business Enterprise Office
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USFA United States Fire Administration
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

DOE Energy Department

BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
OE Office of Education
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
FDAA Federal Disaster Assistance Administration
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
FIA Federal Insurance Administration
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
RB Reclamation Bureau
SMRE Surface Mining Reclamation and Enforcement Office

JUSTICE Justice Department

DEA Drug Enforcement Administration
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections

LABOR Labor Department

BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

AID Agency for International Development
FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLS Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
ITC International Trade Commission
LSC Legal Services Corporation
MB Metric Board
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
RB Renegotiation Board
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

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

CIVIL AERONAUTICS BOARD

25627 5–2–79 / Notice of limited liability for baggage; alternative consolidated notice of liability limitations

ENERGY DEPARTMENT

Economic Regulatory Administration—

25621 5–2–79 / Domestic crude oil allocation entitlements program to reduce the level of benefits received under the small refiner bias, amendments

25828 5–2–79 / Incentive prices for newly discovered crude oil

22010 4–12–79 / Production incentives for marginal properties

[Corrected at 44 FR 25160, 4–27–79]

FEDERAL COMMUNICATIONS COMMISSION

24556 4–26–79 / Angola, Ind.; changes in TV broadcast station table of assignment

24555 4–26–79 / Columbia, N.C., changes in FM broadcast table of assignment

29071 5–18–79 / Employee responsibilities and conduct; creation of a Sunshine agenda

24288 4–25–79 / FM broadcast stations; changes in table of assignments; Dubach, La.

24289 4–25–79 / FM Brodcast stations; changes in table of assignments; Hayward, Wis.

38390 8–28–79 / Remote broadcast stations; extension of date of compliance with frequency specifications

24556 4–26–79 / Springfield, Mo.; TV broadcast station table of assignments

FEDERAL TRADE COMMISSION

19160 3–30–79 / Octane certification and posting for automobile gasoline

TRANSPORTATION DEPARTMENT

Coast Guard—

32112 7–24–78 / Additional equipment for vessels of 10,000 gross tons or more

26740 5–7–79 / Radar requirements for certain tankers of 10,000 gross tons or more

VETERANS ADMINISTRATION

28328 5–15–79 / Pension and parents' dependency and indemnity compensation rate increases

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing May 29, 1979

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, D.C.

WHEN: June 15 and July 6 at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

BOSTON, MASSACHUSETTS

WHEN: June 13 and 14, at 9:30 a.m. (identical sessions).

WHERE: John F. McCormack Federal Building, Conference Room 208, Boston.

RESERVATIONS: Call James Mullen, 617–223–2868.

LOS ANGELES, CALIFORNIA

WHEN: June 28 and 29 at 9:00 a.m. (identical sessions).

WHERE: Federal Building, Army Corps of Engineers Conference Room 7412, 300 N. Los Angeles Street

RESERVATIONS: Federal Information Center, 213–688–3800.

SAN FRANCISCO, CALIFORNIA

WHEN: June 28 and 29 at 9:00 a.m. (identical sessions).

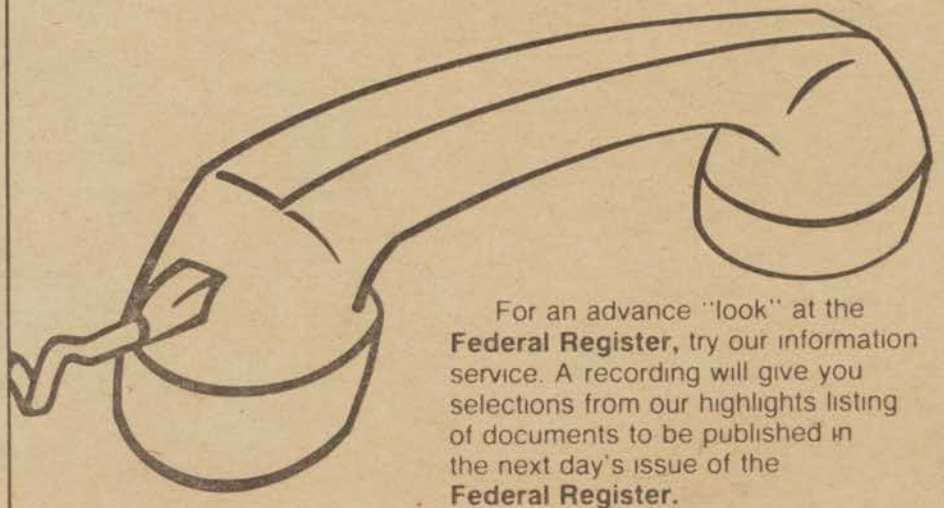
WHERE: Federal Building, Room 2007, 450 Golden Gate Avenue

RESERVATIONS: Call Mike Modena or Judy Barbee, Federal Executive Board, 415–556–0250.



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