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Friday
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Highlights

30039, 30114 **Federal Home Loan Banks** FHLBB amends rules on payment of FSLIC insurance on accounts evidenced by negotiable instruments. FHLBB also proposes to remove geographic restrictions on the establishment and use of remote service units by Federally chartered savings and loan associations. (2 documents)

30113 **"NOW" Accounts** FHLBB requests comments on eligibility of individuals and organizations to hold accounts at member institutions.

30227 **Treasury Notes—Series E-1986** Treasury/Sec'y announces interest rate of 13⅞ percent per annum.

30167 **Imports—Television** Commerce/ITA publishes results of study on whether various countries are transhipping televisions from Japan into the U.S.

30322 **Grains** USDA/FGIS amends regulations on supervision of weighing services. (Part IV of this issue)

30225, 30226 **Government Procurement** OMB gives guidance on administering the labor surplus area program and subcontracting with small businesses and small disadvantaged businesses. (2 documents)

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Highlights

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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30300 **Potentially Toxic Substances** EPA proposes that manufacturers and processors of dichloromethane, nitrobenzene, and 1,1,1-trichloroethane be required to test them for health and environmental effects. (Part III of this issue)

30168 **Large Power Transformers From the United Kingdom** Commerce/ITA issues preliminary results of administrative review of antidumping finding.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Cotton Fiber and Processing Tests

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Agricultural Marketing Service revises the schedule of fees for performing cotton fiber and processing tests to reflect increased costs in providing the service. This action also reflects a review of this rule as to language and applicability in accordance with Executive Order 12291.

DATES: Interim rule effective July 1, 1981; comments must be received on or before August 1, 1981.

ADDRESS: Comments may be mailed to Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 312, Annex Building, Washington, D.C., 20250. The options considered in developing this final rule, and the impact of implementing each option, are published in their entirety in "Supplementary Information."

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith (202–447–2167).

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291, and has been classified "nonmajor." William T. Manley, Deputy Administrator, Marketing Program Operations, has determined that this action will not have a significant impact on a substantial number of small entities.

Early harvested cotton from the 1981–82 cotton crop will be received by the Cotton Division for fiber testing services during the month of July 1981. To insure uniformity in the fee structure for the entire 1981–82 season, it is necessary to make the revised fees effective July 1, 1981. Due to the nearness of such effective date, an interim final rule with a comment period is necessary.

Background

Requests from cotton breeders, in 1941, led to the enactment of an amendment to the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–476). This amendment provides for "* * * analysis of fiber properties, spinning tests, and other tests of the quality of cotton samples submitted * * * by cotton breeders and other persons * * *" and is known as the Cotton Service Testing Amendment (7 U.S.C. 473d). This amendment further provides that the services are to be offered on a fee basis, with such fees to cover the costs of the service rendered.

Testing service is provided by a USDA fiber testing laboratory in Clemson, S.C. Tests are available, upon request, to private sources on a fee basis, and to USDA and cooperating governmental agencies on a transfer of funds basis.

While the testing laboratory provides important services to cotton breeders and other persons, it also contributes significantly to the USDA mission by providing information and analysis for: (1) quality reports and surveys, (2) cotton classing supervision, (3) screening cotton bales under consideration for use as staple standards. Services provided under the Cotton Service Testing Amendment are strictly on an at-cost basis. All other services are funded from appropriations.

Options Analysis

In complying with Executive Order 12291 this rule was reviewed on the basis of four options.

The laboratory offers modern and timely testing services. It is able to efficiently satisfy the demands placed on it. Therefore, no need is seen to increase the level of service. Should a long-term surge in demand occur, the question would be reexamined. Likewise, a reduction of the services offered, either in types or in volume, would be counterproductive to the furtherance of the best interests of the cotton industry and to the optimal utilization of governments resources due to the other activities which such a move would affect.

The Cotton Service Testing Amendment specifies that the Secretary of Agriculture is "* * * authorized to make analyses of fiber properties, spinning tests, and other tests of the quality of cotton samples * * *" It does not obligate the Secretary to perform the analyses; however, it has been determined that abolition of the services would be detrimental to the cotton industry and against the mandates of other programs.

The cotton fiber and processing tests are presently performed in a technologically modern manner. The tests are performed efficiently and with dispatch. The tests and the testing procedures are regularly reviewed by highly competent textile and fiber engineers. The services are now being provided at an optimal level for the industry and the government. There is no need for a change in capacity or capabilities.

Fees

During FY 1980, a total of 36,000 tests were performed for private sources for a total of $65,000 in fees collected. The current schedule of fees has been in effect since August 1, 1979. Operating costs have increased significantly since that time including, but not limited to, increased costs for supplies, salaries and benefits. To comply with the Cotton Service Testing Amendment requiring fees to cover the cost of the service, fees are increased effective July 1, 1981.

The fees for the individual tests offered to the public are calculated based on (1) labor costs, (2) cost of supplies, and (3) overhead. Since the last fee change, federal salaries have increased around 13%, utilities have jumped an average of 43%, and materials/supplies have increased by 75%. During this same period the total costs of providing testing services have increased close to 18%.

The average of the increases due to take effect July 1981 has been held down to 19%, or about 9% per year, approximately the yearly average jump in the GNP deflator price index.

Findings

The cotton fiber and processing testing service meets the needs of many segments of the cotton industry. The services provided play a limited but important role in the cotton industry and have a significant impact on the work of the USDA. Many of the tests performed are of a unique nature and impact on the research and development aspects of the cotton industry.

Based on the above reasons, it has been determined (1) that the cotton fiber and processing tests provided by USDA should continue to be offered as before and (2) the fees charged for the various tests should be increased an average of 19% to cover the costs of the service rendered.

Highlight of Changes to the Regulations

The introductory and definitional sections were simplified to conform with present day styling (§§ 28.950, 28.952, 28.955).

The micronaire reading will be based on two specimens from each sample, instead of one, so as to provide a higher level of accuracy, and to conform to the standards set by the International Standards Organization and the American Society of Testing and Materials (§ 28.956, item 7.0).

In order to keep up with technological advances in the textile industry an open-end spinning test has been added (§ 28.956, item 9.1).

The tests relating to blending and dyeing were deleted since, of late, there has been no demand for them. New tests are being developed for these areas and will be introduced should a demand for them be expressed (§ 28.956, items 26.0, 27.0, 28.0 and 29.0).

Individual High Volume Instrument measurements are deleted (§ 28.956, item 30.0) and are now offered only as a single aggregate test (§ 28.956, redesignated item 25.0).

At the request of the cotton industry, a test for measuring the amount of reducing substances (sugars) has been added. This test permits the identification of bales which may pose spinning problems due to excessive sugar content (§ 28.956, redesignated item 27.0).

The section relating to "Fees and charges for inspection and checkloading services" (old § 28.958) has been deleted. The services covered by this section are obsolete. Programs have changed and the provisions are out of date.

Most fees have been changed and the Section and/or item numbers have been redesignated so as to maintain a consistent numbering system.

Amendments. The following amendments are made to 7 CFR Part 28, Subpart E.

1. In § 28.950, paragraphs (c) and (e) are revised to read as follows:

§ 28.950 Terms defined.

* * * * *

(c) *Administrator.* The Administrator of the Agricultural Marketing Service, or any other officer or employee of the Service to whom authority has been delegated to act for the Administrator.

* * * * *

(e) *Director.* The Director of the Cotton Division, or any other officer or employee of the Division to whom authority has been delegated to act for the Director.

* * * * *

2. Section 28.952 is revised to read as follows.

§ 28.952 Testing of samples.

The Director or an authorized representative, upon written requests, shall make fiber and processing tests of the properties of cotton samples and report the results thereof to the persons from whom such requests are received, subject to compliance by such persons with the regulations in this subpart and to the payment by them of fees as prescribed herein.

3. Section 28.955 is revised to read as follows.

§ 28.955 Disposition of samples.

The remnants of samples accumulated in the making of tests under the regulations in this subpart shall become the property of the Government unless the applicant requests that such remnants be returned. Returns will be at the applicant's expense.

4. Section 28.956 is revised to read as follows.

§ 28.956 Prescribed fees.

Fees for fiber and processing tests shall be assessed as listed below.

Item No.	Kind of test	Fee per test
1.0	Furnishing USDA calibration cotton in the short, medium, long and extra long staple lengths, including standard values for length by both array and Fibrograph methods, strength by flat bundle method at ⅛-inch gauge, and maturity and fineness by the Causticaire methods:	
	a. By surface delivery, 1-lb. sample	$17.00
	b. By air delivery within the U.S., 1-lb. sample	20.00
	c. By air delivery outside the U.S., 1-lb. sample	24.00
2.0	Furnishing international calibration cotton standards with standard values for micronaire reading and Pressley fiber strength at zero gauge:	
	a. By surface delivery, ½-lb. sample	12.00
	b. By air delivery within U.S., ½-lb. sample	14.00
	c. By air delivery outside the U.S., 1-lb. sample	18.00
3.0	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ⅛-inch group, average length and average length variability as based on 3 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	40.00
	b. Cotton comber noils, per sample	50.00
	c. Other cotton wastes, per sample	60.00
3.1	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ⅛-inch group, average length, and average length variability as based on 2 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	35.00
	b. Cotton comber noils, per sample	40.00
	c. Other cotton wastes, per sample	50.00
3.2	Fiber array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers ½-inch and longer by weight, the average of fibers shorter than ½-inch by weight, average length, and average length variability as based on 3 specimens from each sample, per sample	45.00
4.0	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 4 specimens from a blended sample, per sample	4.50
	Minimum fee unless performed in connection with other tests requiring a blended specimen	9.00
4.1	Fiber length of ginned cotton lint by Fibrograph method. Reporting the length of each sub-sample and average length and average length uniformity for each group of replicate sub-samples as based on 2 specimens from each of 3 or more replicate unblended sub-samples, per sub-sample	3.50
	Minimum fee	7.00
5.0	Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gauge as specified by applicant. Reporting the average strength as based on 6 specimens from a blended sample, per sample	5.00
	Minimum fee unless performed in connection with other tests requiring a blended sample	10.00
5.1	Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gauge as specified by applicant. Reporting the strength of each sub-sample and the average strength for each group of replicate sub-samples as based on 2 specimens for each of 3 or more replicate unblended sub-samples, per sub-sample	3.00
	Minimum fee	9.00
5.2	Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch guage. Reporting the average strength and elongation as based on 6 specimens from a blended sample, per sample	5.50
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5.3	Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gauge. Reporting the strength and elongation of each sub-sample and the average of the group of replicate sub-samples as based on 2 specimens from each of 3 or more unblended samples, per sub-sample	3.50
	Minimum fee	10.50
6.0	Fiber maturity and fineness of ginned cotton lint by the Causticaire method. Reporting the average maturity, fineness, and micronaire reading as based on 2 specimens from a blended sample, per sample	7.00
	Minimum fee	21.00
7.0	Micronaire readings on ginned lint. Reporting the micronaire reading as based on 2 specimens from each sample, per sample	.40
	Minimum fee	4.00

Item No.	Kind of test	Fee per test
8.0	Neps content of ginned cotton lint. Reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender, per sample	9.00
9.0	Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6½, 9½, or 12½ pounds-per-hour into two of the standard carded yarn numbers of 8s, 14s, 22s, 36s, 44s, or 50s, employing a standard twist multiplier unless otherwise specified, per sample	100.00
9.1	Cotton carded yarn spinning test (open-end) for short staple (31/32nd inches and shorter) cottons. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at a carding rate of 12½ pounds-per-hour into 8s yarn using a sliver weight of 60 grains per yard; a rotor speed of 45,000 RPM; an opening roll speed of 7,200 RPM; a twist multiple of 4.5; and a rotor diameter of 46 millimeters	75.00
10.0	Spinning potentials test. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yarn number. This test requires an additional 4 pounds of cotton, per sample	90.00
11.0	Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 8 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4½, 6½, or 9½ pounds-per-hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified, per sample	125.00
12.0	Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 10 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns, per sample	175.00
13.0	Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 9 pounds of cotton into two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample	195.00
14.0	Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn neps and the classification and the fiber length of the cotton as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into two standard carded yarn numbers employing a standard twist multiplier, per sample	75.00
15.0	Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn	20.00
15.1	Processing and furnishing of additional yarn: Any yarn number processed in connection with spinning tests. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn	30.00
16.0	Twist in yarns by direct-counting method. Reporting direction of twist and average turns per inch of yarn:	
	a. Single yarns based on 40 specimens per lot of yarn	70.00
	b. Plied or cabled yarns based on 10 specimens, per lot of yarn	18.50
17.0	Skein strength of yarn. Reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant, per sample	7.00
17.1	Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin	3.00
17.2	Furnishing yarn wound on boards in connection with yarn appearance tests, per yarn number	3.00
18.0	Strength of cotton fabric. Reporting the average warp and filling strength by the grab method as based on 5 breaks for both warp and filling of fabric furnished by the applicant, per sample	12.00
18.1	Cotton fabric analysis. Reporting data on the number of warp and filling threads per inch and weight per yard of fabric as based on at least three (3) 6 x 6-inch specimens of fabric which were processed or furnished by the applicant, per sample	25.00
19.0	Color of ginned cotton lint. Reporting data on the reflectance in terms of Rd values and the degree of yellowness in terms of b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5 x 6½ inches and weigh approximately 50 grams per sample	.40
	Minimum fee	4.00
20.0	Furnishing color standards, including a set of standard tiles and a master diagram for use in calibrating Nickerson-Hunter Cotton Colorimeters, per set	90.00
20.1	Furnishing replacement calibration tiles for above sets, each tile	10.00
20.2	Furnishing a Colorimeter calibration sample box containing 6 cotton samples with color values Rd and +b plotted on a color diagram based on the Nickerson-Hunter Cotton Colorimeter, per box	18.00
20.3	Furnishing new Colorimeter readings on samples in calibration boxes returned for check readings, per 6-sample box	4.00
21.0	Furnishing copies of test data worksheets. Includes individual observations and calculations which are not routinely furnished to the applicant, per sheet	1.50
22.0	Foreign matter content of cotton samples. Reporting data on the non-lint content as based on the Shirley-Analyzer separation of lint and foreign matter:	
	a. For samples of ginned lint or comber noils, per 100-gram specimen	4.00
	Minimum fee	6.00
	b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen	10.00
	Minimum fee	20.00
23.0	Furnishing identified cotton samples. Includes samples of ginned lint, stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample	2.00
24.0	Furnishing additional copies of test reports. Includes extra copies in addition to the 2 copies routinely furnished in connection with each test item, per additional sheet	.75
24.1	Furnishing a certified relisting of test results. Includes samples or sub-samples selected from any previous tests, per sheet	5.00
25.0	High Volume Instrument (HVI) Measurements. Reporting micronaire, length (UHM), length uniformity, ⅛-inch gauge strength, color and trash content. Based on a 6 oz. (170 g) sample, per sample	1.30
	Minimum fee	13.00
26.0	Calibration cotton for use with High Volume Instruments, per 5 pound package	50.00
27.0	Sugar content of cotton. Reporting the percent sugar content as based on a quantitative analysis of reducing substances (sugars) on cotton fibers, per sample	3.00
	Minimum fee	12.00
28.0	Classification of ginned cotton lint is available in connection with other fiber tests, under the provisions of 7 CFR 28, §28.56, at the fees prescribed by 7 CFR 28, §28.116. Classification includes grade, staple, and micronaire reading based on a 6 oz. (170 g) sample.	

§ 28.958 [Removed]

§§ 28.959 through 28.962 Redesignated as §§ 28.958 through 28.961.

5. Section 28.958 is removed. Consequently the following changes have been made in the numbering of the subsequent sections:

§ 28.959 is redesignated § 28.958.
§ 28.960 is redesignated § 28.959.
§ 28.961 is redesignated § 28.960.
§ 28.962 is redesignated § 28.961.

Dated: June 1, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-16794 Filed 6-4-81; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 917

[Peach Reg. 13]

Fresh Pears, Plums, and Peaches Grown in California; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule.

SUMMARY: This regulation sets minimum grade and size requirements for shipments of specified varieties of fresh California peaches for the period June 5, 1981, through August 15, 1981. Such action is designed to promote orderly marketing of suitable quality and sizes of fresh California peaches in the interest of producers and consumers.

DATES: Interim rule effective June 5, 1981; comments which are received by July 6, 1981 will be considered.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been classified "not significant" and not a major rule. William T. Manley,

Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Peach Commodity Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on May 6, 1981, to consider supply and market conditions and other factors affecting the need for regulation. The committee estimates fresh shipments of California peaches at 13.1 million packages, compared with actual shipments of 12.8 million packages last season. The committee reports that the 1981 California peach crop is sizing normally and is of good quality.

The grade and size requirements are necessary to prevent the shipment of California peaches of a lower grade or smaller size than specified and are designed to provide ample supplies of good quality fruit in the interest of producers and consumers consistent with the declared policy of the act.

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), and good cause exists for making these regulatory provisions effective as specified in that (1) shipment of the current crop of peaches is underway; (2) the current California peach regulation (45 FR 32309; 44917) will expire May 31, 1981; (3) the California peach regulation was recommended by the committee following discussion at a public meeting; (4) California peach handlers have been apprised of these requirements for California peaches and the effective date; (5) the requirements are basically the same as those currently in effect.

Forms required for operation under this part are subject to clearance by the Office of Management and Budget and are in the process of review. They shall not become effective until such time as clearance by the OMB has been obtained.

Therefore, a new § 917.456 is added to read as follows: (§ 917.456 expires August 15, 1981, and will not be published in the annual Code of Federal Regulations).

§ 917.456 Peach Regulation 13.

(a) During the period June 5, 1981, through August 15, 1981, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade: *Provided*, That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(2) Any package or container of Armgold, Desertgold, Royal April, Royal Gold, or Springold variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(3) Any package or container of any type of Babcock, Bonjour, Cardinal, Dixired, Early Coronet, Early Royal May, Firecrest, First Lady, Flavorcrest, JJK–1, June Lady, May Lady, Merrill Gemfree, Royal May, Springcrest, Royal Crest, May Crest, or Tizz variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (3) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 79 peaches.

(4) Any package or container of Coronet, Indian Red, Merrill Gem, Redhaven, Redtop, or Regina variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (4) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(5) Any package or container of Angelus, Autumn Gem, Bella Rosa, Belmont, Cal Red, Carnival, Early Fairtime, Early O'Henry, Elegant Lady, Fairtime, Fay Elberta, Fayette, Fiesta, Fire Red, Flamecrest, Fortyniner, Franciscan, Gem Crest, Halloween, Jody Gaye, July Elberta (Early Elberta, Kim Elberta, and Socala), July Lady, Kearney, Mardigras, Merricle, O'Henry, Otani, Pacifica, Parade, Paradise, Preuss Suncrest, Red Cal, Redglobe, Red Lady, Regular Elberta, Rio Oso Gem, Scarlet Lady, Sparkle, Summerset, Summertime, Suncrest, Sun Lady, Toreador, Treasure, or Windsor variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (5) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 64 peaches.

(b) During the period June 5, 1981, through July 2, 1981, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), or (5) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(2) Such peaches in any container when packed other than as specified in subparagraph (1) of this paragraph (b) are of a size that a 16-pound sample,

representative of the peaches in the package or container, contains not more than 96 peaches.

(c) During the period July 3, 1981, through August 15, 1981, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), or (5) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in subparagraphs (1) or (2) of this paragraph (c) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(d) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Peaches (7 CFR 2851.1210–1223); and "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" mean the same as defined in Section 1380.19(18) of the "Regulations of the California Department of Food and Agriculture."

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

Dated: June 3, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-16849 Filed 6-4-81; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 917

[Plum Reg. 18]

Fresh Pears, Plums, and Peaches Grown in California; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule.

SUMMARY: This regulation sets minimum grade and size requirements for shipments of specified varieties of fresh California plums for the period June 5, 1981, through August 15, 1981. Such action is designed to promote orderly marketing of suitable quality and sizes of fresh California plums in the interest of producers and consumers.

DATE: Interim rule effective June 5, 1981; comments which are received by July 6, 1981 will be considered.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been classified "not significant" and not a major rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This aciton is based upon the recommendations and information submitted by the Plum Commodity Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on May 7, 1981, to consider supply and market conditions and other factors affecting the need for regulation. The committee estimates fresh shipments of California plums at 12.6 million packages, compared with actual shipments of 11.3 million packages last season. The committee reports that the 1981 California plum crop is sizing normally and is of good quality.

The grade and size requirements are necessary to prevent the shipment of California plums of a lower grade or smaller size than specified and are designed to provide ample supplies of good quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

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), and good cause exists for making these regulatory provisions effective as specified in that (1) shipment of the current crop of plums is in progress and this regulation should be applicable to all shipments during the season; (2) the current California plum regulation (45 FR 33596; 47115; 54724) will expire May 31, 1981; (3) the California plum regulation was recommended by the committee following discussion at a public meeting; (4) California plum handlers have been apprised of these requirements and the effective date; and (5) the requirements are essentially the same as those currently in effect.

Forms required for operation under this part are subject to clearance by the Office of Management and Budget and are in the process of review. They shall not become effective until such time as clearance by the OMB has been obtained.

Therefore, a new § 917.457 is added to read as follows: (§ 917.457 expires August 15, 1981, and will not be published in the annual Code of Federal Regulations).

§ 917.457 Plum Regulation 18.

(a) During the period June 5, 1981, through August 15, 1981, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(b) During the period June 5, 1981, through August 15, 1981, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(2) Any lot of packages or containers of Autumn Queen, Casselman, Empress, Freedom (42–26), Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, SW–1, and Swall Rosa plums unless such plums grade U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests

as determined to be proper by the Federal or Federal-State Inspection Service.

(c) During the period June 5, 1981, through August 15, 1981, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

Table I

Column A, variety	Column B, plums-per-sample
Ace	55
Amazon	64
Andys Pride	69
Angeleno	67
Autumn Rosa	72
Beauty	91
Bee Gee	65
Black Beaut	74
Black Knight	58
Burmosa	60
Casselman	63
Durado	74
Ebony	66
El Dorado	66
Elephant Heart	53
Empress	57
Freedom (42-26)	56
Fresno Rosa	62
Friar	56
Frontier	61
Gar-Rosa	71
Golden Glow	60
Grand Rosa	54
July Santa Rosa	69
Kelsey	47
King David	50
King's Black	58
Laroda	56
Late Santa Rosa (including Improved Late Santa Rosa and Swall Rosa)	64
Linda Rosa	63
Mariposa	61
Midsummer	63
Nubiana	58
President	57
Queen Ann	50
Queen Rosa	53
Red Beaut	74
Red Rosa	64
Redroy	58
Rosa Ann	69
Rosa Grande	63
Rose Ann	60
Royal Red	74
Roysum	74
Santa Rosa	69
Simka, Arosa, New Yorker	50
Standard	63
Tragedy	114
Wickson	51

(d) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the United States Standards for Fresh Plums and Prunes (7 CFR 2851.1520–1538).

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

Dated: June 3, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-16650 Filed 6-4-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

Petition To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Evidence of Family Relationship Between Petitioner and Beneficiary as Stepparent or Stepchild

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule eliminates the former requirements of establishing active parental interest in a stepchild's support, instruction, and general welfare by a petitioner before visa preference may be granted to a beneficiary as a stepparent or stepchild. The rule adopts the holding in *Palmer* vs. *Reddy*, 622 F.2nd 463 (CA–9, 1980) and the Board of Immigration Appeals decision in *Matter of McMillan* of January 13, 1981.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536 Telephone: (202) 633–3048

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536 Telephone: (202) 633–3946

SUPPLEMENTARY INFORMATION: On July 3, 1979, the Board of Immigration Appeals decided the *Matter of Moreira*, Interim Decision #2720 and again as Interim Decision #2792 (May 6, 1980) where it held that a visa petition by a stepmother in behalf of the illegitimate child of her husband required a showing that the stepparent had, prior to the child's eighteenth birthday, shown an active parental interest in the child's support, instruction, and general welfare. The Board's decision was followed by amending 8 CFR 204.2(c)(3) and (5) to add the qualifying criterion. The amendment was published in the **Federal Register** at 45 FR 41392 on June 19, 1980 to be effective on July 21, 1980.

In the *Matter of McMillan*, (January 13, 1981), the Board has reversed its position in *Matter of Moreira*, and has conformed to the holding of *Palmer vs. Reddy*, 622 F.2nd 463 (C.A.–9, 1980). In *Palmer*, the Ninth Circuit specifically rejected both the *Moreira* "active parental interest" test and its predecessor, the "close family unit" rule, concluding that persons who become stepchildren through the marriage of a natural parent prior to their eighteenth birthday are entitled to visa preference as a class under section 101(b)(1)(B) of the Act without further qualification. This rule amends the existing regulation by deleting the *Moreira* requirements and follows the holding in *Palmer* as interpreted by the *Matter of McMillan*.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date are unnecessary because this amendment is required to conform the regulation to the most recent case law.

This regulation is exempt from postponement and reconsideration under section 8(a)(2) of Executive Order 12291, and has been approved for promulgation by the Office of Management and Budget.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended:

PART 204—PETITION TO CLASSIFY ALIEN AS A PREFERENCE IMMIGRANT

In § 204.2, paragraphs (c)(3) and (5) are revised to read as follows:

§ 204.2 Documents.

* * * * *

(c) *Evidence of family relationship between petitioner and beneficiary.*

* * * * *

(3) *Petition for child.* If a petition is submitted by a mother in behalf of a child, regardless of the child's age, the birth certificate of the child showing the name of the mother must accompany the petition. If a petition is submitted by a father or stepparent in behalf of a child, regardless of age, a certificate of marriage of the parents, proof of legal termination of their prior marriages, and the birth certificate of the child must accompany the petition.

* * * * *

(5) *Petition in behalf of a parent.* If a petition is submitted in behalf of a mother, the petitioner's birth certificate showing the name of the mother must accompany the petition. If a petition is submitted in behalf of a father or stepparent, the petitioner's birth certificate and the marriage certificate

of his/her parent and stepparent must accompany the petition, as well as proof of the legal termination of their prior marriages, if any.

(Secs. 101, 103, and 204; 8 U.S.C. 1101, 1103, and 1154)

Certification

In accordance with 5 U.S.C. 605(b), this rule will not have significant economic impact on a substantial number of small entities and, it is exempt from postponement and reconsideration under section 8(a)(2) of the E.O. 12291.

Dated: March 4, 1981.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 81-16700 Filed 6-4-81; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Applications, Requests, Submittals, and Notices of Acquisition; Delegation of Authority

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: This rule amends Part 303 of FDIC's regulations to provide for a delegation of authority by FDIC's Board of Directors to the Director of the Division of Bank Supervision and thence to the Regional Directors to enter into memoranda of agreement relating to the avoidance, mitigation or acceptance of adverse effects on National Register or eligible property purusant to regulations of the Advisory Council on Historic Preservation which implement the National Historic Preservation Act.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT: Margaret M. Olsen, Senior Attorney, FDIC, 550 17th Street, N.W., Washington, D.C. 20429, (202) 389-4433.

SUPPLEMENTARY INFORMATION: The National Historic Preservation Act ("NHPA") requires agencies (including independent agencies with authority to license undertakings) to take into account the effect of an undertaking on any district, site, building, structure or object that is included or eligible for inclusion in the National Register before approving the undertaking. 16 U.S.C. 470f. The regulations of the Advisory Council on Historic Preservation ("Council") in relevant part require the agency to take the following steps. 36 CFR Part 800. The agency must first determine whether an undertaking would have an adverse effect on National Register or eligible property. If the undertaking will have an adverse effect, the agency must: (1) prepare a preliminary case report requesting the Council's comments, (2) advise the State Historic Preservation Officer ("SHPO") of this request, and (3) proceed with the consultation process set out in § 800.6 of the Council's regulations. Under § 800.6, the agency, the SHPO and the Executive Director of the Council are designated as the consulting parties and are to enter into a memorandum of agreement relating to the avoidance, mitigation or acceptance of adverse effects on National Register or eligibile property.

In order to expedite FDIC's processing of covered applications, the FDIC's Board of Directors has delegated the authority to enter into such memoranda to the Director of the Division of Bank Supervision and thence to the Regional Director of the Region in which the bank is located. Section 303.13 of FDIC's regulations (12 CFR 303.13) is amended to reflect this delegation.

This amendment relates solely to the internal practices and procedures of the FDIC. The Board of Directors has determined that the notice and delayed effective date requirements of the Administrative Procedure Act (5 U.S.C. 553) are not applicable. The amendment would not affect the recordkeeping or reporting requirements or the competitive status of any insured bank. In view of this, the FDIC has not explored any alternative regulatory approaches for small banks and has concluded that a cost-benefit analysis (including a small bank impact statement) regarding the change is unnecessary. Also, since the amendment is a rule of agency procedure, the requirements of the Regulatory Flexibility Act would not apply; however, the amendment will not have any significant economic impact on a substantial number of small banks.

12 CFR Part 303 is amended as follows:

1. The authority citation for Part 303 is revised as follows:

Authority: Secs. 2(5), 2(6), 2(7[j]), 2[9 "Seventh" and "Tenth"], 2(18), 2(19), Pub. L. 797, 64 Stat. 876, 881, 891, 893 as amended by Pub. L. 86-163, 74 Stat. 129; sec. 2, Pub. L. 87-827, 76 Stat. 953; Pub. L. 88-593, 78 Stat. 940; Pub. L. 89-79, 79 Stat. 244; sec. 1, Pub. L. 89-356; 80 Stat. 7; sec. 12(c), Pub. L. 89-185, 80 Stat. 242, sec. 3, Pub. L. 89-597, 80 Stat. 824; Title II, secs. 201, 205, Pub. L. 89-695, 80 Stat. 1055; sec. 2(b), Pub. L. 90-505, 82 Stat. 856; secs. 6(c)(7), (12), (13), Pub. L. 95-369, 92 Stat. 616-620; Title III, secs. 306, 309 and Title VI, sec. 602, Pub. L. 95-630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh" and "Tenth", 1828, 1829).

2. Section 303.13 is amended by adding a new paragraph (n) to read as follows:

§ 303.13 Other delegations of authority.

* * * * *

(n) *National Historic Preservation Act.*

The Board of Directors has delegated to the Director of the Division of Bank Supervision, or, where confirmed in writing by the Director of the Division of Bank Supervision, to the Regional Director of the Region in which the bank is located, the authority on behalf of the Board of Directors to enter into memoranda of agreement pursuant to regulations of the Advisory Council on Historic Preservation which implement the National Historic Preservation Act. The Director of the Division of Bank Supervision may limit his/her delegation of authority to the Regional Director to applications wherein the applicant has agreed in writing to conditions relating to the National Historic Preservation Act which may be imposed by the Regional Director.

By order of the Board of Directors June 1, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 81-16826 Filed 6-4-81; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 570

Insurance of Accounts; Interpretation

AGENCY: Federal Home Loan Bank Board.

ACTION: Interpretive rule.

SUMMARY: The Federal Home Loan Bank Board is issuing an interpretive rule regarding payment of FSLIC insurance on accounts evidenced by negotiable instruments. This rule merely clarifies existing FSLIC insurance coverage.

DATE: This interpretation is incorporated in the Board's rules and regulations as of May 29, 1981.

FOR FURTHER INFORMATION CONTACT: Michael D. Schley, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Telephone: (202) 377-6444.

SUPPLEMENTARY INFORMATION: Title 12 U.S.C. 1726(a) authorizes the Federal Savings and Loan Insurance

Corporation ("Corporation" or "FSLIC") to insure the accounts of federally and state-chartered institutions described therein. Pursuant to 12 U.S.C. 1728(a), the Federal Home Loan Bank Board has issued regulations at 12 CFR Parts 561 *et seq.* defining the insurance coverage provided by the FSLIC.

The insurance regulations at 12 CFR 561.3 define an "insured account" as "a savings account, tax and loan account, or checking account held by an insured member in an institution insured by the Corporation." An "insured member" is defined in general terms by 12 CFR 561.2 as the holder of an insured account at an insured institution. These regulations do not specifically resolve the question of who is to be treated as the insured member with regard to insured account funds evidenced by a negotiable instrument.

When the holder of a certificate account negotiates the certificate of deposit evidencing the account to a third party, the holder of the certificate becomes the owner of the account and should be treated as the insured member for purposes of settlement of insurance in the event of default of the institution. Similarly, when the holder of an insured NOW account or checking account gives a check to a third party, the drawer of the check considers the transaction as a transfer of funds from his account to the third party. Funds represented by a cashier's check, money order, or similar instrument issued by an insured institution are considered an insured "checking account" under 12 CFR 571.11a, and the institution is obligated to pay those funds to the holder of such instrument who presents it for payment.

Policy considerations dictate that the owner of such a negotiable instrument be treated as an insured member entitled to FSLIC insurance coverage for the account funds represented by the instrument. The owner of the instrument is entitled to payment of the funds, and is the party most interested in filing a claim for insurance coverage in the event of default of the institution. To rule otherwise would damage public confidence in insured institutions and would detrimentally affect the collectibility of such payment instruments. For reasons such as these the regulations of the Federal Deposit Insurance Corporation ("FDIC") at 12 CFR 330.11 and 330.12 specifically provide that the owner of a negotiable instrument evidencing an insured deposit obligation of an insured bank is entitled to FDIC insurance coverage as if the owner were shown as a depositor of the evidenced funds on the records of the insured bank. The insurance regulations of the National Credit Union Administration contain a substantially identical rule at 12 CFR 745.11 and 745.12.

The Board's regulations at 12 CFR 564.1 permit the FSLIC to determine "from the account contracts and books and records of the institution, *or otherwise*, the insured members thereof and the amount of the insured account or accounts of each such member" (emphasis added). Pursuant to this authority, the FSLIC has treated owners of negotiable instruments evidencing insured account funds as insured members (*see* Op.G.C. April 24, 1981); however, this rule of practice has never been codified.

The Board is issuing an interpretation of 12 CFR 564.1 in order to clarify who is the insured member with regard to funds represented by a negotiable instrument. This interpretive rule specifically designates the owners of such instruments as insured members for purposes of insurance settlement. In addition, this rule clarifies that a collecting institution acting solely as agent of the owner shall be treated as agent of the owner for purposes of receiving a disbursement from the FSLIC.

Because this is an interpretive rule, it is exempt from the notice, comment, and advance publication requirements of 5 U.S.C. 553. In accordance with Recommendation No. 76–2 of the Administrative Conference of the United States, this interpretive rule will be preserved in the *Code of Federal Regulations*.

Accordingly, the Board hereby amends Part 570, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 570—BOARD RULINGS

Add a new § 570.12, to read as follows:

§ 570.12 Insurance of accounts evidenced by negotiable instruments.

(a) *General.* Section 564.1 of this chapter authorizes the Corporation to determine the insured members of an institution in default "from the account contracts and the books and records of the institution, or otherwise." If any insured account is evidenced by a negotiable account certificate, negotiable draft, negotiable cashier's or officer's check, negotiable certified check, negotiable money order, negotiable traveler's check, negotiable letter of credit, or any other negotiable instrument, the owner of such instrument will be recognized for all purposes of claim for insured accounts to the same extent as if such person's name and interest were disclosed in the account contracts, books and records of the institution as an insured member, provided the instrument was in fact negotiated to such person prior to the date of the closing of the institution. Affirmative proof of such negotiation must be offered in all cases to substantiate the claim. For purposes of this section, the term "insured account" includes monies received by the insured institution in payment for a cashier's check, money order, traveler's check, or similar instrument payable by the institution or payable out of funds of the institution on deposit with another financial institution.

(b) *Collecting institution acting as agent.* Where an institution in default has become obligated for the payment of an item forwarded for collection by an institution acting solely as agent, the owner of the item shall be entitled to insurance coverage if the conditions of the preceding paragraph are met. Such collecting institution shall be recognized as the agent of such owner for the purpose of making an assignment of the rights of such owner against the insured institution to the Corporation and for the purpose of receiving payment on behalf of such owner.

(12 U.S.C. 1431(e)(2)(c), 1724, 1725, 1726, 1728; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 81-16740 Filed 6-4-81; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 79F-0051]

Polydextrose; Food Additives Permitted for Direct Addition to Food for Human Consumption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of polydextrose as a bulking agent, formulation aid, humectant, and

texturizer in certain specified foods. Pfizer Central Research, Pfizer, Inc., filed a petition requesting such use.

DATES: Effective June 5, 1981; objections by July 6, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: FDA announced in a notice published in the Federal Register of April 17, 1979 (44 FR 22816) that a food additive petition (FAP 9A3441) had been filed by Pfizer Central Research, Pfizer, Inc., 235 E. 42d St., New York, NY 10017, proposing that the food additive regulations be amended to provide for the safe use of polydextrose as a low-calorie bulking agent in certain foods, with secondary effects as a formulation aid, humectant, and texturizer.

FDA has evaluated data in the petition and other relevant material and concludes that polydextrose is safe under its prescribed conditions of use and that the food additive regulations should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 172 is amended in Subpart I by adding new § 172.841, to read as follows:

§ 172.841 Polydextrose

Polydextrose as identified in this section may be safely used in food in accordance with the following prescribed conditions:

(a)(1) Polydextrose (CAS Reg. No. 68424-04-4) is a partially metabolizable water-soluble polymer prepared by the condensation of a melt which consists of approximately 89 percent D-glucose, 10 percent sorbitol and 1 percent citric acid, on a weight basis.

(2) Polydextrose may be partially neutralized with potassium hydroxide.

(b) It is used in accordance with good manufacturing practices as a bulking agent, formulation aid, humectant, and texturizer in the following foods when standards of identity established under section 401 of the act do not preclude such use: baked goods and baking mixes (restricted to fruit, custard, and pudding-filled pies; cakes; cookies; and similar baked products); chewing gum; confections and frostings; dressings for salads; frozen dairy desserts and mixes; gelatins, puddings, and fillings; and hard and soft candy.

(c) If the food containing the additive purports to be or is represented for special dietary uses, it shall be labeled in compliance with Part 105 of this chapter.

(d) The label and labeling of food a single serving of which would be expected to exceed 15 grams of the additive shall bear the statement: "Sensitive individuals may experience a laxative effect from excessive consumption of this product".

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 6, 1981 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 5, 1981.

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

Dated: June 1, 1981

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-16838 Filed 6-4-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 573

[Docket No. 79F-0323]

Food Additives Permitted in Feed and Drinking Water of Animals; Crambe Meal, Heat Toasted

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to reflect the safe use of heat toasted crambe meal in feedlot cattle feeds. A food additive petition providing for this use was filed by the U.S. Department of Agriculture, Northern Regional Research Center, Peoria, IL.

DATES: Effective June 5, 1981; objections by July 6, 1981.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 9, 1979 (44 FR 65190), a notice was published to reflect the filing of a food additive petition (FAP-2176) by the U.S. Department of Agriculture, Northern Regional Research Center, 1815 N. University St., Peoria, IL 61604, proposing that Part 573 (21 CFR Part 573) be amended to provide for the safe use of crambe meal in the feed of feedlot cattle. Crambe meal is used as a source of protein in an amount not to exceed 4.2 percent of the total ration. FDA has evaluated the data in the petition and other relevant material and concluded that Part 573 should be amended to provide for the safe use of crambe meal as set forth below.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment. Therefore, an environmental impact statement will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding as required by 21 CFR 25.1(f)(1)(iv) may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 573 is amended by

adding a new § 573.310 to read as follows:

§ 573.310 Crambe meal, heat toasted.

(a) The additive is the seed meal of *Crambe abyssinica* obtained after the removal of oil from the seed and hull. The oil may be removed by pre-press solvent extraction or by solvent extraction alone. The resulting seed meal is heat toasted.

(b) The additive conforms to the following percent-by-weight specifications: moisture, not more than 11 percent; oil, not more than 4 percent; crude protein, not less than 24 percent; crude fiber, not more than 26 percent; glucosinolate calculated as epi-progoitrin, not more than 4 percent; goitrin, not more than 0.1 percent; nitrile calculated as 1-cyano-2-hydroxy-3-butene, not more than 1.4 percent. At least 50 percent of the nitrogen shall be soluble in 0.5 *M* sodium chloride. Myrosinase enzyme activity shall be absent.

(c) The additive is used or intended for use in the feed of feedlot cattle as a source of protein in an amount not to exceed 4.2 percent of the total ration.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 6, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 5, 1981.

(Sec. 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 348))

Dated: May 28, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-16456 Filed 6-4-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF STATE

Office of the Secretary

22 CFR Part 41

[Departmental Reg. 108.808]

Nonimmigrant Visas; Crew-list Visas

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Bureau is amending its regulations covering crew-list visas as they relate to payment of fees for the issuance of such visas. Also, the Bureau is changing reference to Immigration and Naturalization Service Form I-151—Alien Registration Receipt Card to IMS Form I-551.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT: Gerald M. Brown, Chief, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs, (202) 632-1900.

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service's Form I-151 referred to in § 41.127(b)(1) has been redesignated as Form I-551 to reflect that Service's regulations. In addition, the listing of crew-list visa issuance fees in paragraph (C) of § 41.127 has been eliminated and the wording of this paragraph has been changed to refer to the Schedule of Fees in section 22.1 of this Title. The current Schedule of Fees prescribes crew-list visa issuance fees on a range of $35.00 to $152.00 depending on the number of crew members included on the manifest. Compliance with section 553 of Title 5 of the United States Code as to Notice of Proposed Rulemaking and delayed effective date is unnecessary in this instance because the amendments are technical and administrative in nature. In addition, the amendments are exempt from sections 2 and 3 of Executive Order 12291 of February 17, 1981 under section 1(a)(3) of that Order.

1. In line twenty-six of § 41.127(b)(1) the reference to form "I-151" is changed to "I-551".

2. Paragraph (c) of § 41.127 is revised to read:

§ 41.127 Crew-list visas.

* * * * *

(c) *Fee.* A fee shall be charged in accordance with the Schedule of Fees for Consular Services set forth in § 22.1 of this chapter for the visaing of any crew list, except that no fee shall be charged for a crew-list visa issued in the case of an American vessel.

* * * * *

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

Dated: April 3, 1981.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 81-16727 Filed 6-4-81; 8:45 am]

BILLING CODE 4710-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1790-4]

Michigan State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On August 13, 1979 (44 FR 47350), the United States Environmental Protection Agency (EPA) proposed rulemaking and solicited public comment on revisions to the Michigan State Implementation Plan (SIP). These revisions included several requirements of the 1977 Amendments to the Clean Air Act which are not Part D requirements. On October 12, 1979, the State responded to EPA's notice of proposed rulemaking (44 FR 38587). No other public comments were received. The purpose of this notice is to announce EPA's final rulemaking action on these revisions to the Michigan SIP.

EFFECTIVE DATE: This rulemaking action becomes effective on July 6, 1981.

ADDRESSES: Copies of the SIP revision are available for inspection during normal business hours at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917

Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6038.

SUPPLEMENTARY INFORMATION: On April 25, 1979, the State of Michigan submitted revisions to its State Implementation Plan (SIP) to EPA. The submittal addressed several requirements of the 1977 Clean Air Act (Act) Amendments which are not Part D requirements. Although incorporation of these provisions is required by law, failure to achieve final approval by July 1, 1979 did not trigger the economic and growth sanctions associated with Part D.

On August 13, 1979 (44 FR 47350, 47357), EPA proposed rulemaking on these general requirements and invited public comment. On October 12, 1979, the State responded to EPA's notice of proposed rulemaking. No other public comments on these revisions were received. This notice announces EPA's final rulemaking action on these revisions to the Michigan SIP.

Section 110(a)(2)(K)—Permit Fees

This section requires the owner or operator of each major stationary source to pay the permitting authority as a condition of any permit required by the Act a fee to cover reasonable costs of processing an application for a permit and of implementing and enforcing the terms and conditions of the permit. Michigan has in effect Rule 366.82 which details a comprehensive air pollution surveillance fee system. EPA proposed to approve this system as meeting the requirements of section 110(a)(2)(K) on August 13, 1979 (45 FR 47350, 47358). No comments on this revision were received. Therefore, EPA approves the Michigan permit fee system as meeting the requirements of section 110(a)(2)(K).

Section 126—Interstate Pollution

Section 126(a)(1) of the Act requires that the SIP provide for written notice to nearby states of any proposed major stationary source which may significantly contribute to levels of air pollution in excess of the National Ambient Air Quality standards in that state. Except for an agreement with Canada, Michigan's SIP submittal of April 25, 1979, did not include procedures for the required written notice to other nearby states.

In the proposed rulemaking of August 13, 1979 (44 FR 47350, 47357), EPA proposed to disapprove this portion of the SIP unless Michigan submitted a schedule to develop these procedures and to submit them to EPA as a revision to the Michigan SIP.

State Response: In its October 12, 1979 response to the notice of proposed rulemaking, Michigan stated that it had an ongoing program of notification in cases of potential interstate pollution. The State committed itself to continuation of this program.

USEPA Final Determination: The procedures on which the state is relying have not been submitted to EPA as part of the Michigan SIP. Therefore, EPA disapproves this revision to the Michigan SIP as not satisfying the requirements of section 126(a)(1).

Section 126(a)(2) requires the State to identify existing major sources which may significantly contribute to levels of air pollution in neighboring states.

On October 31, 1977, the Chief of the Air Quality Division of the Michigan Department of Natural Resources (MDNR) sent letters with this information to each bordering state. EPA proposed to approve this action on August 13, 1979 (44 FR 47350, 47358). No comments on this revision were received. Therefore, EPA approves this revision to the Michigan SIP as meeting the requirement of Section 126(a)(2).

Section 127—Public Notification

Section 127 requires the SIP to contain measures for effective notification of the public on a regular basis of instances or areas in which any national primary ambient air quality standard is exceeded, to advise the public of hazards associated with such pollution and to enhance public awareness of measures which can be taken to prevent such standards from being exceeded. The Air Quality Division of the MDNR proposes to publish annually an Air Quality Report summarizing all validated air monitoring data collected in the previous calendar year. This Report will outline standards, generalized health and welfare effects and other monitoring concerns and will be mailed upon request.

In addition, MDNR proposes to distribute to major news outlets an annual article which not only lists the pollutants for which primary standards have been violated, but also contains: (1) Information regarding certain violations of ambient air quality standards for individual pollutants; (2) explanations of the primary health related standards and associated health effects for that pollutant and (3) methods by which members of the public may participate in enforcing the standards for the pollutant. Michigan has submitted Rules 1301 through 1308 to provide for notifying the public of air pollution episodes, the adoption of episode emission abatement programs, and the issuance of episode orders.

EPA proposed approval of this revision to the Michigan SIP on August 13, 1979 (44 FR 47350, 47358). No comments on this revision or USEPA's proposed approval were received. Therefore, EPA approves this revision to the Michigan SIP as meeting the requirements for public notification.

Section 128—State Boards

Section 128 of the Act requires that any board which approves permits or enforcement orders under the Act contain a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Act and that members of any such board adequately disclose any potential conflicts of interest. The Governor of Michigan submitted a questionnaire to the members of the Air Pollution Control Commission to determine which members could be certified as representing the public interest and as not deriving a significant portion of their income from persons subject to permits or orders. The response to the questionnaire indicated that the majority of the board membership met the requirements of section 128. The Governor has committed himself to having all prospective commissioners complete the questionnaire and to make appointments so that the commission will continue to represent the public interest as required by section 128 of the Act.

EPA proposed to approve the use of the questionnaire and the commitment of the Governor as meeting the requirements of section 128 of the Act on August 13, 1979 (44 FR 47350, 47357), on the condition that the Governor make a further commitment to submit the questionnaire annually to members of the Air Pollution Control Commission and to submit annually the results to EPA. Alternatively, the Governor or his designee must make a commitment to develop and adopt regulations assuring that the members of the Air Pollution Control Commission meet the requirements of this section.

State Response: The Governor in a letter dated April 10, 1981 committed to annually administer and submit this questionnaire.

EPA Final Determination: EPA believes that this commitment is adequate and therefore will approve Michigan's provisions for State Boards.

as meeting the requirements of Section 128 of the Act.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. The SIP approvals announced today are not major because they only approve State actions. They do not impose any new regulatory requirements. The disapprovals announced today are also not major because they impose no new regulatory requirements. The approved Michigan SIP currently contains no requirement for notifying neighboring State of pending SIP revisions and no requirement for State board disclosures of conflicts of interest. EPA's disapprovals do not change this status quo; they merely notify the state that its SIP continues to be deficient in these areas. Moreover, these requirements are largely procedural in nature. Any actions approving or disapproving submitted neighbor state notifications or state board disclosures would not be anticipated to have an annual effect on the economy of $100 million or more or a major economic impact on industry or the public.

This regulation was submitted for review to the Office of Management and Budget as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at EPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, IL 60604.

Under section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of the date of this publication. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by USEPA to enforce these requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Michigan was approved by the Director of the Federal Register on July 1, 1980.

(Sec. 110(a), 126 and 128 of the Clean Air Act as amended (42 U.S.C. 7410(a), 7426 and 7428))

Dated: April 9, 1981.

Walter C. Barber,

Acting Administrator.

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. Section 52.1170(c) is amended by revising paragraph (c)(16) and by adding paragraph (c)(38) to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(16) On April 25, 1979, the State submitted its nonattainment area plan for areas designated nonattainment as of March 3, 1978 and as revised on October 5, 1978. This submittal contained Michigan's Part D attainment plans for particulate matter, carbon monoxide, sulfur dioxide, transportation and new source review, plus a copy of Michigan's existing and proposed regulations. USEPA is not taking action at this time to include in the federally approved SIP certain portions of the submittal: provisions in R 336.1310 concerning open burning; 336.1331, insofar as it may pertain to process sources in the iron and steel category and site specific revisions; 1349, 1350, 1351, 1352, 1353, 1354, 1355, 1356 and 1357 as they pertain to specific iron and steel source operations; Part 5, Extension of Sulfur Dioxide Compliance Date for Power Plants Past January 1, 1980; Part 7, Emission Limitations and Prohibitions—New Sources of Volatile Organic Compound Emissions; R336.1701–1710 controlling minor sources of volatile organic compounds; Part 11, Continuous Emission Monitoring; Part 13, Air Pollution Episodes; Part 16, Organization and Procedures; and Part 17, Hearings.

* * * * *

(38) On April 10, 1981 the Governor of Michigan committed to annually administer and submit the questionnaire developed for the purposes of Section 128.

2. Section 52.1181 is added as follows:

§ 52.1181 Interstate pollution.

(a) The requirements of Section 126(a)(1) of the Clean Air Act as amended in 1977 are not met since the state has not submitted to EPA, as a part of its State Implementation Plan, the procedures on which the state is relying to notify nearby states of any proposed major stationary source which may contribute significantly to levels of air pollution in excess of the National Ambient Air Quality Standards in that state.

3. Section 52.1182 is added as follows:

§ 52.1182 State boards.

(a) The requirements of Section 128 of the Clean Air Act as amended in 1977 are not met since the state has not submitted to EPA, as a part of its State Implementation Plan, the measures on which the state is relying to insure that the Air Pollution Control Commission contains a majority of members who represent the public interest and do not derive a significant portion of their income from persons subject to permits or enforcement orders under the Act and that the board members adequately disclose any potential conflicts of interest.

[FR Doc. 81-16723 Filed 6-4-81; 8:45 am]

BILLING CODE 6560-38-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Parts 51–4 and 51–5

Workshop Responsibilities and Specification Changes

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule.

SUMMARY: The Committee amends its regulations on the files which workshops must maintain on blind persons and on the procedures relating to changes in specifications or other descriptions of commodities or services on the Procurement List. The change regarding blind persons limits the requirements to those required by law. The methods used by the Government in describing commodities have changed substantially since the current provisions of § 51–5.11 were established in 1973. The changes provide guidance regarding the actions to be taken when there is a change in the specification, description or designation of a commodity on the Procurement List or the scope of work or other conditions in the provision of a service on the Procurement List.

EFFECTIVE DATE: June 5, 1981.

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: On November 21, 1980, the Committee published a proposed rule (45 FR 77060) to revise § 51–4.3 of 41 CFR Part 51–4 and to revise § 51–5.11 and add § 51–5.12 of 41 CFR Part 51–5.

The background and reasons for the changes were discussed in the notice announcing the proposed rule. One comment was received on Part 51–4 which proposed that the rule be amended to distinguish between the physically handicapped and the mentally retarded in maintaining the files on the disabling conditions that cause an individual to qualify as other

severely handicapped. This comment was based on a misunderstanding of the requirements of the Committee's regulations regarding the need for recertification by a physician, psychiatrist, or psychologist of an other severely handicapped individual's disabling condition. If the disabling condition is of a permanent nature or is expected to degenerate, no follow-up report by a physician, psychiatrist, or psychologist is required.

In view of the above, the comment was not accepted. However, minor changes in wording were adopted in § 51–4.3(a)(6) and in § 51–4.3(b) (1) and (2) requiring the reports in each case to be "signed". These changes make it clear that the reports in the workshops' files must be signed by the person authorized to make the determinations contained in the respective reports. The wording in § 51–4.3(b)(2) has also been changed to clarify the fact that preadmission and reevaluation reports must state that the other severely handicapped individual is not capable of engaging in normal competitive employment.

One agency commented on two aspects of the proposed changes in Part 51–5. It pointed out that the requirement for the 90-day notification period contained no provision for a procuring activity to meet its emergency needs once a new specification or description had been adopted. A new paragraph (d) has been added to cover this contingency.

It also questioned the need for § 51–5.12 and pointed out that the composition or manner of fabrication of the replacement item might well affect its suitability for manufacture by the blind and other severely handicapped. Wording has been added in § 51–5.12 to require that a qualified workshop must be capable of producing the replacement item at a fair market price.

The specifications or descriptions for commodities on the Procurement List are being revised or updated on a continuing basis. From time to time those commodities are assigned new national stock numbers or other item designators generally without any significant change in the commodity itself. When this occurs, the new number or designators must be reflected on the Procurement List since each commodity on the Procurement List carries an identifying number or designator for control purposes.

The new § 51–5.12 will permit the Committee to make these administrative changes in the case of replacement commodities which have not been previously procured and which a qualified workshop can produce. This section would not apply where a commodity on the Procurement List is being replaced by another commodity which has previously been procured from commercial sources.

One additional change was made in the last sentence of § 5.11(b) where the words "To the date for its implementation", were changed to "to placing an order for a commodity covered by the new specification or description." This change removes a possible ambiguity of when a new specification is "implemented."

An administrative change has been made in § 51–5.1–2(b) to correct the address of the National Industries for the Blind.

This rule is not a major rule as defined in section 1(b) of Executive Order 12291 of February 17, 1981 and, therefore, a Regulatory Impact Analysis is not required under Section 3 of that Executive Order.

The recordkeeping requirements contained in § 51–4.3 have been approved through May 31, 1983, OMB No. 3037–0005. This has been reflected in § 51–4.3.

Accordingly 41 CFR Part 51–4 is amended as follows:

PART 51–4—WORKSHOPS

1. In § 51–4.3 add the recordkeeping authority note under the caption, and revise subparagraphs (6) and (7) of paragraph (a) to read:

§ 51–4.3 Responsibilities.

(The recordkeeping requirements of this section have been approved for use through May 31, 1983, Office of Management and Budget Number 3037–0005.)

(a) * * *

* * * * *

(6) Maintain a file on each blind individual which includes a written report reflecting visual acuity and field of vision of each eye, with and without glasses, signed by a person licensed to make such an evaluation.

(7) Maintain an ongoing placement program operated by or for the workshop to include liaison with appropriate community services such as the State employment service, employer groups and others; and list with one or more of these services those individuals capable of normal competitive employment.

2. Remove subparagraph 51–4.3(a)(8).

3. Revise paragraph 51–4.3(b) to read:

§ 51–4.3 Responsibilities.

* * * * *

(b) Each workshop for other severely handicapped participating under the Act shall, in addition to the requirements of paragraph (a) of this section, maintain a file for each other severely handicapped individual which includes:

(1) A written report signed by a licensed physician, psychiatrist, or qualified psychologist reflecting the nature and extent of the disability or disabilities that cause such person to qualify as other severely handicapped.

(2) Reports which state that the individual is not capable of engaging in normal competitive employment. These reports shall be signed by a person or persons qualified by training and experience to evaluate the work potential, interests, aptitudes, and abilities of handicapped persons and shall normally consist of preadmission evaluations and reevaluations prepared at least annually. The file on individuals who have been in the workshop for less than two years shall contain the preadmission report and, where appropriate, the next annual reevaluation. The file on individuals who have been in the workshop for two or more years shall contain, as a minimum, the reports of the two most recent annual reevaluations.

PART 51–5—PROCUREMENT REQUIREMENTS AND PROCEDURES

4. Change the address for the National Industries for the Blind in paragraph 51–5.1–2(b) to read as follows:

§ 51–5.1–2 Allocations and Orders.

* * * * *

(b) * * *

Agency and Agency Symbol
National Industries for the Blind, 3530 Moncure Avenue, Falls Church, Virginia 22041—IB

* * * * *

5. Revise § 51–5.11 including the caption to read as follows:

§ 51–5.11 Specification changes and similar actions.

(a) Specifications or other descriptions for commodities on the procurement list may undergo a series of changes to keep current with industry changes and agency needs. Since it is not feasible to show the latest revision

current on the publication date, only the basic specification or description is referenced in the procurement list. Procurement agencies shall notify the workshop and the central nonprofit agency concerned of the latest applicable specification or description.

(b) When a Government department or agency is changing the specification or description of a commodity on the Procurement List, including a change that involves the assignment of a new national stock number or item designation, the office assigned responsibility for the action shall obtain the comments of the Committee and the central nonprofit agency concerned on the proposed change and shall notify the workshop and the central nonprofit agency concerned at least 90 days prior to placing an order for a commodity covered by the new specification or description.

(c) Similarly for services, the procuring activity shall notify the workshop and central nonprofit agency concerned at least 90 days prior to the date that any changes in the scope of work or other conditions will be required.

(d) When, in order to meet its emergency needs, a procuring activity is unable to give the 90-day notification required in paragraphs (b) and (c) above, the procuring activity shall, at the time it places the order or change notice, inform the workshop and the central nonprofit agency in writing of the reasons it cannot meet the 90-day notification requirement.

6. Add a new § 51–5.12 to read as follows:

§ 51–5.12 Replacement commodities.

When a commodity on the Procurement List is replaced by another commodity which has not been previously procured, and a qualified workshop can produce the replacement commodity in accordance with the Government's quality standards and delivery schedules and at a fair market price, the replacement commodity is automatically on the Procurement List and shall be procured from the workshop designated by the Committee. The commodity being replaced shall continue to be included on the Procurement List until there is no longer a requirement for that commodity.

(Pub. L. 92–28, 41 U.S.C. 46–48c, 85 Stat. 77)

C. W. Fletcher,

Executive Director.

[FR Doc. 81–16792 Filed 6–4–81; 8:45 am]

BILLING CODE 6820–33–M

DEPARMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5952

[M–51236]

Montana; Emergency Withdrawal of Bob Marshall, Scapegoat, and Great Bear Wilderness Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 1.5 million acres of national forest lands in the Bob Marshall, Scapegoat, and Great Bear Wilderness Areas from mineral leasing in response to an emergency withdrawal resolution adopted by the House Interior and Insular Affairs Committee on May 21, 1981.

EFFECTIVE DATE: June 1, 1981.

FOR FURTHER INFORMATION CONTACT: Sue Bosma, 202–343–6486.

By notice and an appropriate Committee resolution of May 21, 1981, the Secretary of the Interior was informed by the House Interior and Insular Affairs Committee that an emergency situation exists in the Bob Marshall, Scapegoat, and Great Bear Wilderness Areas and that extraordinary measures should be taken to preserve values that would otherwise be lost. The resolution directs the Secretary to immediately withdraw all of the Federal lands in the Bob Marshall, Scapegoat, and Great Bear Wilderness Areas, within the Flathead, Helena, Lewis and Clark and Lolo National Forests, from all forms of disposition under all laws pertaining to mineral leasing and all amendments thereto, subject to valid existing rights. Therefore, pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, and in accordance with subsection (e) of Section 204 of the Act, it is ordered as follows:

1. Subject to valid existing rights and existing withdrawals and reservations, all of the Federal lands in the Bob Marshall, Scapegoat, and Great Bear Wilderness Areas, as designated by Public Laws 88–577, 92–395, and 95–546, are hereby withdrawn from all forms of disposition under all laws pertaining to mineral leasing and all amendments thereto, subject to valid existing rights. The lands aggregate approximately 1,537,000 acres in Flathead, Lewis and Clark, Missoula, Pondera, Powell, and Teton Counties, Montana.

2. The lands withdrawn by this order are depicted on U.S. Forest Service exterior boundary maps for the Bob Marshall, Scapegoat, and Great Bear Wilderness Areas. The maps are on file in the Bureau of Land Mangement, Division of Lands, Realty, and Withdrawals, Room 3070, Main Interior Building, 18th and C Streets N.W., Washington, D.C. 20240, and in the Bureau of Land Management's Montana State Office, Granite Tower, 222 North 32nd Street, Billings, Montana 59107.

3. Except to the extent that this order may withhold the aforementioned Federal lands from all forms of disposition under all laws pertaining to mineral leasing and all amendments thereto, subject to valid existing rights, all other provisions of law applicable to the aforementioned wilderness areas shall remain in full force and effect.

4. This emergency withdrawal shall remain in effect until January 1, 1984.

James G. Watt,

Secretary of the Interior.

June 1, 1981.

[FR Doc. 81–16716 Filed 6–4–81; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–250; RM–3404 and RM–3479]

FM Broadcast Station in Chubbuck, & Pocatello, Idaho; Changes Made in Table of Assignments; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action substitutes FM Channel 252A for FM Channel 280A at Chubbuck, Idaho. Channel 280A at Chubbuck is short-spaced to Channel 277 at Idaho Falls, Idaho. This action eliminates the short-spacing.

DATES: Effective July 20, 1981.

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

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

ERRATUM

Adopted: May 19, 1981.

Released: May 27, 1981.

By the Chief, Policy and Rules Division.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Chubbuck, and Pocatello, Idaho). BC Docket No. 80–250, RM–3404, RM–3479.

1. By *Report and Order* adopted April 10, 1981, and released April 23, 1981, (46 FR 23455; April 27, 1981) the Commission assigned Channel 280A to Chubbuck, Idaho, as that community's first FM assignment. In so doing, the Commission inadvertently overlooked a mileage separation conflict with the then pending assignment of Channel 277 to Idaho Falls, Idaho. The distance between the two communities is approximately 45 miles, while the required separation between third adjacent Class A and Class C channels is 65 miles. Channel 277 was recently assigned in Docket 80-249, adopted April 10, 1981. To correct this short-spaced assignment, we are now substituting Channel 252A for Channel 280A at Chubbuck. Channel 252A meets all the mileage separation requirements.

2. Accordingly, it is ordered, That effective July 20, 1981, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, IS AMENDED as follows:

City	Channel No.
Chubbuck, Idaho	252A

3. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

4. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau (202) 632-7792.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-16617 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 79-1; RM-366 and RM-3351]

Radio Broadcast Services; FM Broadcast Station in Clinton and Bald Knob, Arkansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 221A to Clinton, Arkansas, in response to a request filed by Weber-King Radio. The assignment could provide Clinton with a first FM and first local nighttime aural service. In addition, the license for Station KUCA, Conway, Arkansas, has been modified to specify Channel 217C.

DATE: Effective July 20, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 21, 1981.

Released: May 27, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Clinton and Bald Knob, Arkansas); BC Docket No. 79-1, RM-3166; RM-3351; second report and order; (proceeding terminated).

1. The Commission has before it the *Further Notice of Proposed Rule Making and Order to Show Cause*, 46 FR 9975, published January 30, 1981, proposing to assign Channel 221A, to Clinton, Arkansas, with a site restriction of approximately 10 kilometers (6 miles) and to modify the license for Station KUCA, Conway, Arkansas, from Channel 218C to Channel 217C.[1] Comments in support were filed by Weber-King Radio, the proponent of the Clinton assignment. A response to the Order to Show Cause was submitted by the University of Central Arkansas, licensee of Station KUCA.

2. Weber-King supports the proposal, states it will apply for Channel 221A, if assigned, and that it would provide reimbursement to Station KUCA for its frequency change. The University of Central Arkansas ("UCA") opposed the move to Channel 217C citing a reception problem with its present signal (on Channel 218C) in the Little Rock area and with the reception of Station KLRE-FM, Little Rock (Channel 213C) in the Conway area allegedly due to the closeness in frequency separation (5 channels or 1 MHz). A switch to Channel 217C or 4 channels removed would increase the problem according to UCA. A different frequency substitution, such as 89.0 MHz,[2] however, is recommended by UCA.

3. First, as to Clinton's needs, we have found sufficient justification for the assignment of Channel 221A which could provide a first FM and full-time local aural service to Clinton. We now turn to the issue concerning the modification of Station KUCA's license. We previously considered the availability of other frequencies reserved for noncommercial educational use at Conway,[3] and opted for Channel 217C to avoid reception problems with VHF television Channel 6, which is in operation at Mountain View, Arkansas, by Station KEMV. The distance from Conway to the Mountain View television station is 51.5 miles. As has been our policy in other cases involving possible interference to the reception of television Channel 6, we attempt to allocate frequencies in the upper portion of the noncommercial educational band. In this case, Channel 217C was the highest frequency available as a substitute for Channel 218C. The Commission's protection ratios which are used to allocate noncommercial educational frequency protects channels up to the third adjacency. See § 73.509(d)(3). The alleged problem here involves a fifth adjacent channel which we have proposed to be replaced by a fourth adjacent channel (Channel 213C, Little Rock, to Channel 217C, Conway). Therefore, even assuming a problem exists as it may in other areas of the country, our accepted standards do not ordinarily provide protection to the extent needed here. While we have no specific information as to the nature or extent of the reception problems involving Station KUCA and KLRE-FM, we may assume for argument's sake that a reception problem exists. Nevertheless, we believe that the potential problem to the reception of Channel 6 would be more serious. We have, since 1966, recognized the Channel 6 interference problem,[4] and we have sought to avoid the allocation of noncommercial educational frequencies on the lower end of the band.[5] We have, on occasion, gone so far in the cited cases as to reserve commercial channels for noncommercial educational use to avoid the Channel 6 interference problem. We do not believe such a step is necessary here since Channel 217C is available. As we have stated earlier, our protection standards do not extend to fourth adjacent channels[6] especially where no showing has been made as to the nature and extent of the problem or

[1] The required mileage separation between Channel 221A at Clinton, and Channel 218C at Conway is 65 miles. Taking into account the site restriction on the Clinton assignment, the channels would still be short-spaced by 24 miles.

[2] The frequency, 89.0 MHz, is not available for the main broadcast operation. Rather 88.9 MHz (Channel 205) or 89.1 MHz (Channel 206) could be utilized for this purpose.

[3] A study by our staff indicates that Channels 206, 207, 210, 211 and 217 are also available for use at Conway.

[4] See *Policy to Govern Change of FM Channels to Avoid Interference to TV Reception*, 6 R.R. 2d 672 (1966) and *FM Interference to TV Reception*, FCC 67-1012, *Public Notice* released September 1, 1967.

[5] See *Muncie, Indiana*, 59 FCC 2d 778 (1976); *Waco, Texas*, 10 FCC 2d 865, 872 (1967).

[6] See *Vandalia, Missouri*, 47 R.R. 2d 238.

the attempts undertaken to correct the reception difficulties. Therefore, we find that Channel 217C should be substituted for use by Station KUAC, Conway.

4. It is our impression that UCA did not oppose a modification of its frequency since it did not request a hearing on the proposal. Rather, we believe that UCA merely preferred an alternate substitute frequency. In paragraph 7 of the *Further Notice of Proposed Rule Making*, we indicated that the failure to request a hearing would be construed as consent to the proposed license modification. Nevertheless, since we normally give 30 days to submit a statement consenting to the license modification, see paragraph 6 *infra.*, UCA may use that process to inform us that it objects to the modification ordered herein. Should UCA refuse to consent, it would be necessary for it to apply for renewal of its license on Channel 217C at the license expiration date of June 1, 1982,[7] as is our policy in such cases.[8]

5. Accordingly, it is ordered, That effective July 20, 1981, pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, the FM Table of Assignments § 73.202(b) of the Commission's Rules is amended to read as follows for the city listed below:

City	Channel No.
Clinton, Arkansas	221A.
Conway, Arkansas	217C.

6. It is further ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license for Station KUCA held by the University of Central Arkansas is modified effective July 20, 1981, to specify operation on Channel 217C instead of Channel 218C with the condition that it will receive reimbursement for the switch in frequencies from the permittee of Channel 221A, Clinton, Arkansas. The licensee shall inform the Commission in writing by no later than July 20, 1981, of its consent to this modification. Station KUCA may continue to operate on Channel 218C until a permit is issued for Channel 221A at Clinton. In addition:

(a) At least 30 days before commencing operation on Channel 217C, the licensee of Station KUCA shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 217C.

(b) At least 10 days prior to commencing operation on Channel 217C, the licensee of Station KUCA shall submit the measurement data required of an applicant for an FM broadcast station; and

(c) The licensee of Station KUCA shall not commence operation on Channel 217C without prior Commission authorization.

7. It is further ordered, That the Secretary of the Commission shall send a copy of this *Order* by certified mail, return receipt requested, to the University of Central Arkansas, P.O. Box A, Conway, Arkansas, 72032.

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

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-16729 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

[7] See Section 73.1020 of the Commission's Rules.

[8] See *Transcontinent Television Corp.* v. *FCC*, 308 F. 2d 333 (1961); *Mitchell, South Dakota*, 62 FCC 2d 70 (1976).

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47 CFR Part 73

[BC Docket No. 80-317; RM-3542]

Radio Broadcast Services; FM Broadcast Station Piedmont, Missouri; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 285A to Piedmont, Missouri, in response to a petition filed by Wayne County Broadcasting Co., Inc. The assignment could provide Piedmont with a first fulltime local aural broadcast service.

EFFECTIVE DATE: July 20, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1981.

Released: May 28, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Piedmont, Missouri); BC Docket No. 80-317, RM-3542; report and order, (proceeding terminated).

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 45 FR 43811, published June 30, 1980, in response to a petition filed by Wayne County Broadcasting Co., Inc. ("petitioner"), proposing the assignment of Channel 285A to Piedmont, Missouri, as that community's first FM assignment. Supporting comments were filed by petitioner in which it reaffirmed its intent to file for the channel if assigned. No oppositions to the proposal were received.

2. Piedmont (population 1,906), in Wayne County (population 8,546),[1] is located approximately 175 kilometers (108 miles) south of St. Louis. It is presently served by daytime-only AM Station KPWB, licensed to petitioner. Channel 285A could be assigned to Piedmont in compliance with the minimum distance separation requirements.

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

4. We believe that the public interest would be served by the assignment of Channel 285A to Piedmont, Missouri. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first fulltime local aural broadcast service.

5. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. Accordingly, it is ordered, That effective July 20, 1981, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Piedmont, Missouri	285A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-16730 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

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

47 CFR Part 73

[BC Docket No. 80-568; RM-3548]

TV Broadcast Station in Paintsville, Kentucky; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF TV Channel 69 to Paintsville, Kentucky, in response to a petition filed by Hometown Television, Inc. The assignment could provide Paintsville with a first local television service.

DATE: Effective July 20, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1981.

Released: May 29, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Paintsville, Kentucky); BC Docket No. 80-568, RM-3548; report and order, (Proceeding Terminated).

1. Before the Commission is a *Notice of Proposed Rule Making*, 45 FR 64987, published October 1, 1980, proposing the assignment of UHF television Channel 69 to Paintsville, Kentucky, as that community's first television assignment. The *Notice* was issued in response to a petition filed by Hometown Television, Inc. ("petitioner"). Petitioner filed comments in which it reiterates its intention to apply for authority to construct and operate a station on Channel 69 on Paintsville, Kentucky. No oppositions to the proposal were received.

2. Paintsville (population 3,868),[1] the seat of Johnson County (pop. 17,539), is located approximately 70 kilometers (45 miles) south of Ashland. It has no local television service.

3. The Commission believes that the public interest would be served by assigning UHF television Channel 69 to Paintsville, Kentucky. Petitioner has shown that there is an apparent need for a first local television service to the community, and the assignment can be made in compliance with the minimum distance separation requirements.

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

4. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, That effective July 20, 1981, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Paintsville, Kentucky	69+

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-16731 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-449; RM-3576]

Radio Broadcast Services; FM Broadcast Station in Smithfield, Utah; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 280A to Smithfield, Utah, in response to a petition filed by Cache Valley Broadcasting Company. The assignment could provide Smithfield with a first local aural broadcast service.

DATE: Effective July 20, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1981.

Released: May 29, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Smithfield, Utah); BC Docket No. 80-449, RM-3576; *report and order*; (proceeding terminated)

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 45 FR 55240, published August 19, 1980, in response to a petition filed by Cache Valley Broadcasting Company ("petitioner"), proposing the assignment of Channel 280A to Smithfield, Utah, as that community's first FM channel. Supporting comments were filed by petitioner in which it reaffirmed its intention to file for the channel, if assigned. No oppositions to the proposal were received.

2. Smithfield (population 3,342), in Cache County (population 42,331),[1] is located in north central Utah near the Idaho border. Channel 280A could be assigned to Smithfield in compliance with the minimum distance separation requirements.

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

4. We believe that the public interest would be served by the assignment of Channel 280A to Smithfield, Utah. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first local aural broadcast service.

5. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. Accordingly, it is ordered, That effective July 20, 1981, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Smithfield, Utah	280A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-16732 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

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

47 CFR Part 73

[BC Docket No. 80-608; RM-3638]

TV Broadcast Station in Rio Grande City, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF TV Channel 40 to Rio Grande City, Texas, in response to a petition filed by Antonio L. Garza. The assignment could provide Rio Grande City with a first local television service.

DATE: Effective July 20, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1981.

Released: May 29, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Rio Grande City, Texas); BC Docket No. 80-608, RM-3638; report and order; (proceeding terminated).

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 45 FR 69497, published October 21, 1980, proposing the assignment of UHF television Channel 40 to Rio Grande City, Texas, as that community's first commercial television assignment. The *Notice* was issued in response to a petition filed by Antonio L. Garza ("petitioner"). Supporting comments were filed by the petitioner in which he restated has intention to apply for the channel if assigned. However, in those comments, petitioner states that, if assigned, it no longer intends to operate in a commercial capacity, but rather as a noncommercial bilingual educational station in order to more adequately serve the needs of the community. No comments in opposition to the proposal were received.

2. Rio Grande City (pop. 5,676),[1] seat of Starr County (pop. 17,707), is situated in south Texas near the Mexican border, and is approximately 210 kilometers (130 miles) southwest of Corpus Christi. It has no local television service.

3. The *Notice* requested petitioner to provide information regarding the need for a first local television station at Rio Grande City. In its supporting comments, petitioner asserts that the proposed assignment would provide the community with its first local television service and could serve as a means of educating its largely Hispanic population.

4. The Commission believes that the public interest would be served by assigning UHF television Channel 40 to Rio Grande City which could be applied for as a noncommercial educational station if desired. Petitioner has shown that there is an apparent need for a first local television service to the community, and the assignment can be made in compliance with the minimum distance separation requirements.

5. Mexican concurrence in the assignment has been obtained.

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, That effective July 20, 1981, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Rio Grande City, Texas	40

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-16733 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

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

47 CFR Part 73

[BC Docket No. 80-658; RM-3584]

TV Broadcast Station East St. Louis, Illinois; Change Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF TV Channel 46 to East St. Louis, Illinois, in response to a petition filed by International Black Baptist Bible College. The assignment could provide East St. Louis with a first local television service.

DATE: Effective July 20, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1981.

Released: May 29, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (East St. Louis, Illinois); BC Docket No. 80-658, RM-3584; report and order; (Proceeding Terminated).

1. Before the Commission is a *Notice of Proposed Rule Making*, 45 FR 82282, published December 15, 1980, proposing the assignment of UHF television Channel 46 to East St. Louis, Illinois, as that community's first local television assignment. The *Notice* was adopted in response to a petition filed by International Black Baptist Bible College ("petitioner"). Petitioner filed comments in which it incorporates by reference the information contained in its petition for rule making, and reaffirms its intention to apply for authority to construct and operate a station on Channel 46 in East St. Louis, if assigned. No comments in opposition to the proposal were received.

2. East St. Louis (pop. 69,996),[1] in St. Clair County (pop. 285,199), is located in southwest Illinois, directly across the Mississippi River from St. Louis, Missouri. It has no local television service.

3. The Commission believes that the public interest would be served by assigning UHF television Channel 46 to East St. Louis. Petitioner has shown that there is an apparent need for a first local television service to the community, and the assignment can be made in compliance with the minimum distance separation requirements.

4. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, That effective July 20, 1981, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

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

City	Channel No.
East St. Louis, Illinois	46

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-16734 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-319; RM-3547]

Radio Broadcast Services; FM Broadcast Station in Seneca, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 221A to Seneca, Kansas, in response to a petition filed by Kanza Broadcasters. The assignment could provide Seneca with a first local aural service.

EFFECTIVE DATE: July 20, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1981.

Released: May 28, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Seneca, Kansas); BC Docket No. 80-319, RM-3547; *report and order;* (proceeding terminated).

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 45 FR 45601, published July 7, 1980, in response to a petition filed by Kanza Broadcasters ("petitioner"), proposing the assignment of FM Channel 221A to Seneca, Kansas, as that community's first FM assignment. Supporting comments were filed by petitioner in which it reaffirmed its intent to file for the channel if assigned. No oppositions to the proposal were received.

2. Seneca (population 2,182), in Nemaha County (population 11,825),[1] is located approximately 153 kilometers (95 miles) north of Topeka, Kansas. Channel 221A could be assigned to Seneca, provided the transmitter site is located approximately 5.6 kilometers (3.5 miles) south of Seneca to comply with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

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

4. We believe that the public interest would be served by the assignment of Channel 221A to Seneca, Kansas. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first local aural broadcast service.

5. Authority for the adoption of the amendment is herein contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. Accordingly, it is ordered, That effective July 20, 1981, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Seneca, Kansas	221A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-16735 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-514; RM-3591]

Radio Broadcast Services; FM Broadcast Station Irmo, South Carolina; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 272A to Irmo, South Carolina, in response to a petition filed by Santee-Cooper Broadcasting Company. The assignment could provide Irmo with a first local aural service.

DATE: Effective July 20, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1981.

Released: May 28, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Irmo, South Carolina); BC Docket No. 80-514, RM-3591; report and order (proceeding terminated).

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 45 FR 58621, published September 4, 1980, in response to a petition filed by Santee-Cooper Broadcasting Company ("petitioner"), proposing the assignment of FM Channel 272A to Irmo, South Carolina, as that community's first FM assignment. Supporting comments were filed by petitioner in which it reaffirmed its intent to file for the channel, if assigned. No oppositions to the proposal were received.

2. Irmo (population 517), in the counties of Lexington (population 47,288), and Richland (population 198,161),[1] is located approximately 16 kilometers (10 miles) northwest of Columbia, South Carolina, the State Capital. Channel 272A could be assigned to Irmo, provided the transmitter site is located approximately 7.7 kilometers (4.8 miles) northeast of the community to comply with the minimum distance separation requirements of Section 73.207 of the Commission's Rules.

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

4. We believe that the public interest would be served by the assignment of Channel 272A to Irmo, South Carolina. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first local aural broadcast service.

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

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

5. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. Accordingly, it is ordered, That effective July 20, 1981, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Irmo, South Carolina	272A.

7. It is further ordered, That this proceeding is terminated.

8. For further information regarding this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-16736 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 297 (Sub-5)]

Motor Carrier Rate Bureaus—Implementation; Final Rules and Standards

AGENCY: Interstate Commerce Commission.

ACTION: Decision; Final Rules and Standards.

SUMMARY: The Motor Carrier Act of 1980 (Act) provides new standards to govern the activities of motor carrier rate bureaus. On December 30, 1980, the Commission served a decision which set out rules and standards and required motor carrier rate bureaus to file new or amended agreements. That decision was effective February 2, 1981, and the new or amended agreements were to be filed 15 days after our decision on petitions to reopen and reconsider. In response to these petitions, the Commission issued final rules and standards in a decision served May 11, 1981. This document today sets forth the final rules and standards contained in the decisions served December 30, 1980 and May 11, 1981.

DATES: New or amended agreements must be filed by May 26, 1981. Comments on these agreements must be filed by July 10, 1981. Reply comments by the bureaus must be filed by July 30, 1981.

ADDRESS: All documents (original and 15 copies) must be submitted to: Interstate Commerce Commission, Room 5340, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, 202-275-7656.

SUPPLEMENTARY INFORMATION: This document is the latest document in a chain of actions related to the motor carrier rate bureau proceeding. For the benefit of the reader, we are setting out the applicable **Federal Register** documents in this proceeding.

At 45 FR 86736, December 31, 1980, documents were published providing for notice of availability of decision, policy statement and for conforming amendments to 49 CFR Part 1331.

At 46 FR 6971, January 22, 1981, the Commission extended the effective date of these final rules and standards contained in the decision and extended the time for filing new or amended agreements.

At 46 FR 16102, March 11, 1981, the date for filing new or amended agreements was set at 15 days from the date of our decision on the petitions to reopen.

This document clarifies CFR citations in the headings to certain previous **Federal Register** documents. In the notice of decision served December 30, 1980, and published in the **Federal Register** of December 31, 1980 (45 FR 86736-86737), the CFR citation in the heading "49 CFR Part 1331" is corrected to read "49 CFR Chapter X, Subchapter D". In subsequent documents which added a supplemental notice to the decision served December 30, 1980 (46 FR 2295, January 8, 1981), corrected the notice of decision served December 30, 1980 (46 FR 10920, February 2, 1981), and deferred and corrected the filing date for agreements (46 FR 15277, March 5, 1981; 46 FR 16102, March 11, 1981), the CFR citation in the headings "49 CFR Part 1331" is corrected to read "49 CFR Chapter X, Subchapter D". In documents which deferred the filing date for agreements and deferred both the effective date of the decision served December 30, 1980, and the effective date of conforming amendments to the CFR (46 FR 6971, January 22, 1981; 46 FR 7385, January 23, 1981), the CFR citation in the headings "49 CFR Part 1331" is corrected to read "49 CFR Chapter X, Part 1331 and Subchapter D".

Dated: May 29, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam. Commissioner Gilliam concurred in the result. Commissioner Clapp concurred with a separate expression.

Agatha L. Mergenovich,

Secretary.

Note.—This material will not appear in the code of Federal Regulations.

Served: December 30, 1980.

Interstate Commerce Commission

[Ex Parte No. 297 (Sub-5)]

Motor Carrier Rate Bureaus—Implementation of Pub. L. 96-296

Decided: December 19, 1980.

Rate bureau provisions of the Motor Carrier Act of 1980 explained and implemented.

Decision

I. Introduction

This proceeding was instituted on August 1, 1980,[1] pursuant to section 14 of the Motor Carrier Act of 1980, Pub. L. 96-296. That provision establishes new requirements and standards for motor carrier rate bureaus as a condition precedent to their continued antitrust immunity. The act further provides that motor carrier rate bureaus may continue to function under their previously granted immunity provided they: (1) Submit new or amended agreements to the Commission for approval within 120 days of the enactment of the statute; and (2) observe the requirements and standards of the act as well as any implementing regulations during the time amended agreements are being prepared, submitted, and considered by the Commission.

In our instituting notice, we adopted rules and interpretations to facilitate interim compliance with section 14 of the act.[2] We also invited public comment on whether our interim rules and interpretations should be adopted as the final standards. This decision represents our conclusions based upon our analysis of the statute, its legislative history, and public comments.

To preserve their antitrust immunity, motor carrier rate bureaus will be required to file new or amended agreements in conformity with our final standards. Revisions will be required only when existing agreement provisions are inconsistent with the final rules. To clarify our rules, we are offering sample amendments for bureau consideration.[3] The precise wording of

[1] 45 F.R. 55734 (August 21, 1980).

[2] This decision was stayed on October 6, 1980, by the United States Court of Appeals for the Fifth Circuit in No. 80-7674, *American Trucking Associations, Inc., et al. v. United States of America and Interstate Commerce Commission.*

[3] To the extent necessary, we are also ordering changes in bylaws. Bylaws must be consistent with

Continued

our samples need not be adopted. However, in any case where bureau amendments fail to conform to our final standards, we will disapprove the proposed amendments and consider terminating the agreement.

Sixteen rate bureaus, the American Trucking Associations, Inc., and the National Classification Committee (the Rate Bureaus) object to the institution of this proceeding for substantive matters other than quorum requirements. They believe that Congress carefully and narrowly tailored each of the requirements and prohibitions of section 14 as a limitation on the Commission's discretion. They argue that the substantive provisions were designed to be self-executing. They support this position by referring to Congress' specific direction that we establish by regulation reasonable quorum standards. The omission of similar language in other provisions of section 14 allegedly demonstrates that Congress did not envision a broad-based rulemaking to establish general rate bureau standards. According to these respondents, Congress contemplated a simple two-stage process. A first-stage submission of new or amended agreements by each bureau was to be followed by the consideration and disposition of each new or amended agreement by the Commission on a case-by-case basis.

Although certain provisions of section 14 are self-executing, the diversity of opinion expressed in the comments demonstrates that further clarification and interpretation is necessary. Under general principles of administrative law, notice and comment rulemaking is preferable to case-by-case adjudication when an agency is determining the standards that will govern the future conduct of an industry. *SEC* v. *Chenery Corp.*, 332 U.S. 194 (1947); *Morton* v. *Ruiz*, 415 U.S. 199 (1974); *NLRB* v. *Majestic Weaving Co.*, 335 F. 2d 854 (1966); *Pressly* v. *FCC*, 437 F. 2d 716 (1970).

In our notice, we referred to a second stage of this proceeding in which we would review the amended agreements on the basis of the revised national transportation policy (NTP) for motor carriers, 49 U.S.C. 10101(a)(7). We are not requiring rate bureaus to file briefs on the issue with their amended agreements. Instead, we will presume that a new agreement which is entirely consistent with the terms of this decision is not inconsistent with the NTP. We will, however, review the terms of each agreement filed for consistency.

Section 10706(b)(2) now requires Commission approval of collective ratemaking agreements "upon a finding that the agreement fulfills each requirement of this subsection, unless the Commission finds that such agreement is inconsistent with the [NTP]." It is apparent that a substantial change in the burden of proof associated with the approval of rate bureau agreements has been mandated by Congress.

In addition to the change in the burden of proof, Congress also established the Motor Carrier Ratemaking Study Commission. The Study Commission was directed to prepare and submit to the President and Congress before January 1, 1983, a comprehensive report assessing the merits of the collective ratemaking process and whether there is a need for continued antitrust immunity. A second-stage proceeding to evaluate each of the amended agreements on the basis of the revised NTP could interfere with the role of the Study Commission. Accordingly, when an amended agreement is in compliance with this decision, we will grant it antitrust immunity unless a substantial doubt has been raised that the agreement is consistent with the public interest.

We requested comments on whether our clarification of the various statutory provisions should be codified in the Code of Federal Regulations (CFR). We observed that, while regulations seem to be required for quorum standards, other statutory provisions are self-executing.

Having reviewed the comments, we have decided against codification. Our decision in the original *Rate Bureau Investigation*, 349 I.C.C. 811 (1975) and 351 I.C.C. 437 (1976),[4] has operated satisfactorily without codification. Copies of this decision will be available upon request and through publication in the Interstate Commerce Commission Reports. In addition, the sample amendments or their substance will appear in the approved rate bureau agreements which the bureaus will make available to the public upon request. Rules at 49 CFR Part 1331 applicable to motor rate bureaus which are inconsistent with or superceded by this decision will be repealed. To the extent rules governing bureau conduct remain relevant (§§ 1331.5 and 1331.6) they will be incorporated as standards in this decision.

Within 20 days from the service date of this decision, the motor carrier rate bureaus shall file new or amended agreements in conformity with the act as we have interpreted it in this final decision. This filing shall supercede any filing that may have been submitted for the purpose of satisfying the October 29th statutory deadline. Interested persons shall then have 45 days to comment upon the proposed agreements' compliance with our interpretation of 49 U.S.C. 10706(b). This time period is adequate to allow interested parties to study the proposed agreement at the Commission or at the bureau. The comments should refrain from addressing general issues of public interest unless a prima facie showing can be made that the agreement is inconsistent with the NTP. A copy of any comments filed shall be served on the respective bureaus and they will have 20 days to reply. Specific proceedings will be instituted only in the event of a prima facie showing or an inconsistency between this decision and the amended agreements.

II. New Standards Related to Bureau Operations

A. *Identification and description of the member carriers.*—49 U.S.C. 10706(b)(3)(A) provides that:

> Each carrier which is a party to an agreement must file with the Commission a verified statement that specifies its name, mailing address, and telephone number of its main office; the names of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses and affiliates of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000. In this subparagraph, "affiliate" means a person controlling, controlled by or under common control or ownership with another person and "ownership" means equity holdings in a business entity of at least 5 percent.

The sparse response to the requirements of identification and description suggests that those requirements are, in fact, self-explanatory. In response to certain questions asked in the comments, we note that: (1) The requirement applies only to business and not nonprofit organizations; and (2) the term "person" is defined in the 49 U.S.C. 10102(15).

B. *Right of Independent Action.*—49 U.S.C. 10706(b)(B)(ii) provides:

> [T]he organization may not interfere with each carrier's right to independent action and may not change or cancel any rate established by independent action after the date of enactment of this subsection, other than a general increase or broad rate

our interpretations. Since not all of the new procedures are applicable to each bureau, amendments will be required only in those areas applicable to a bureau's activities.

[4] Affirmed *Motor Carriers Tariff Ass'n, Inc.* v. *United States*, 559 F. 2d 1251 (4th Cir. 1977).

restructuring, except that changes in such rates may be effected, with the consent of the carrier or carriers that initiated the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items.

Collective ratemaking by motor common carriers was immunized from the antitrust laws by the Reed-Bulwinkle Act in 1948. The carriers engage in these collective activities through rate bureau organizations which function pursuant to Commission-approved agreements. To mitigate the anticompetitive effects of collective ratemaking, Congress required rate bureaus to give their members the absolute right of independent action. Because the right of independent action is central to the grant of antitrust immunity, the Commission has always prohibited any interference with the free exercise of this right.

In Notification of Rate Proposals, 358 I.C.C. 487 (1978), we defined independent action as:

> any action taken by a common carrier member of a rate bureau,* * *.
>
> (i) to establish a rate to be published in the appropriate rate bureau tariff, or to cancel a rate for that carrier's account, or
>
> (ii) to instruct the rate bureau that an existing rate (whether established by independent action or collective action), that is proposed to be changed or canceled, be retained for that carrier's account and published in the appropriate bureau tariff, or
>
> (iii) to have published for its account in the appropriate rate bureau tariff a rate established by the independent action of another carrier. This definition applies regardless of the manner in which the carrier joins in the rate, as long as the rate published for the joining carrier's account is the same as the rate established by the other carrier under independent action 49 CFR 1331.6(A)(1).

We adopt this definition here as well as the 49 CFR 1331.6 requirements for changing rates published under independent action. Independent actions may be taken by one carrier, on a single-line rate, or by interlining carrier on a particular joint-line rate. As defined, independent action is not limited to the establishment of a separate rate for the account of one carrier. It also includes changes to any published rate made only for the independent actor's account, as well as the refusal to agree to particular changes sought by other carriers.

Recognizing that ratemaking freedom is crucial to price competition, our notice proposed to ban the docketing, publication, circulation, or discussion of independent actions in advance of Commission filing. We reasoned that rate bureaus exist primarily as a forum for collective action on matters related to more than one carrier. Independent action is not related to these activities or to the functioning of the bureau on matters of collective interest. Subject to the exceptions in the statute, the bureau's role with respect to independent action should be limited to the administrative function of tariff publication, as directed by the independent actor.

The majority of commentors oppose this proposal. Both shippers and carriers challenge our authority to make this requirement and the practical need for it. A number of shipper interests believe the simultaneous docketing proposal is self-defeating. They argue that independent actions should be exposed to public scrutiny before they become effective. The 30-day statutory notice period allegedly is not adequate. Without advance docketing, they maintain that a massive shipper monitoring effort would be necessary. They also argue that the benefits of independent action under simultaneous docketing are illusory and even harmful to shippers. For rate increases, they argue that without rate bureau docketing, shippers will inadvertently use carriers which proposed rate increases that became effective through independent action. For rate reductions, they argue that the actual benefits of an independent action would be shortlived or nonexistent. Westinghouse contends that by examining each new tariff publication carriers can "quickly inform the rate bureau to publish the same provision as the one established independently by another." National Small Shipments Traffic Conference and Drug and Toilet Preparation Traffic Conference (NASSTRAC/D&TPTC) allege that even if a carrier can obtain a temporary jump on its competitors, the advantage would be brief and minimal since few shippers would be aware of the independent action in time to tender freight. They also question the carriers' ability to advise shippers in advance of independent action rate reductions. The Bureau of Competition of the Federal Trade Commission disagrees with this analysis, contending that rates established under simultaneous docketing would enjoy sufficient lead time to make the action profitable to its initiator. Those shippers supporting our proposal urge that we require greater notice to shippers through bureau docket bulletins.

Our concern that collective ratemaking not interfere with independent action is a key part of this decision. As will be discussed, *infra*, we have taken many actions over the years to protect the right of independent action. However, following review of the comments, we do not believe it necessary, at this time, to ban advance notice of independent actions. Instead, we will require all agreements submitted for our approval to meet the following requirements which are consistent with our authority both prior and subsequent to the Motor Carrier Act of 1980:

(1) Proponents of independent actions have the absolute right to decide whether or when rate bureaus will docket these actions [*];

(2) The bureau must comply with the instructions of the proponent of an independent action with regard to whether or not the action should be docketed, and in the absence of explicit instructions shall refrain from docketing until the proposal has been filed with the Commission.

(3) There may be no rate bureau discussion of independent actions until they have become effective.

Carrier members of a rate bureau may publish an independent action in their own tariffs, or they may publish them in a bureau's tariffs, using the bureau as the tariff publishing agent. Independent actions published in a carrier's own tariffs are subject only to the notice requirements in 49 U.S.C. 10761–10766. Under those requirements, an independent actor need not notify other carriers or shippers of its proposal.

When a carrier chooses to publish its independent action in a bureau tariff, a particular procedure is usually followed. The carrier directs the bureau to publish an independent action, and the bureau will generally "docket" the action. "Docketing" consists of entering the proposal in bureau's files and then giving notice of the proposal to other carrier members of the bureau and shipper subscribers to this publication. Under this commonly used procedure, the bureau does not immediately file the independent proposal with the Commission. Instead, the bureau gives the members of the bureau time, generally 10 to 15 days, to indicate whether they want to join in the independent action and have it published for their accounts, and may also accept shipper protests which are then forwarded to the proponent of the action. After this waiting period ends, the bureau files the independent action with the Commission for the account of the proponent (unless instructions to withdraw it are given) and for any joining carriers.

Our proposal gives proponents of independent actions the absolute right

[*] Subject to three exceptions, discussed *infra*, related to general increases and broad rate restructurings and the restrictions applying to independent actions which change or cancel independent actions of other carriers.

to specify the publishing details when the bureau acts as publishing agent. Thus, an independent actor may request that no "docketing" occur (i.e., that no notice of the proposal be given to anyone), that docketing and filing with the Commission occur simultaneously (i.e., that notice of the proposal be given to other carriers and shippers concurrently with Commission filing), or that docketing occur some specified length of time prior to filing (*e.g.*, giving notice to other carriers and shippers 15 days prior to Commission filing). This gives the independent actor the same degree of control over a bureau-published independent action as the proponent has over publication in its own tariff. Essentially, we confer on an independent actor the same rights it had under the statute prior and subsequent to the Motor Carrier Act of 1980.

Prior to the 1980 amendments, rate bureaus had to grant each party to the agreement "the absolute right" to take independent action. The Commission has always interpreted that absolute right to mean that a carrier member of a rate bureau had to be completely free to choose between publishing its independent actions in its own tariffs, or having them published by the rate bureau. Thus, a bureau could not require a carrier to publish independent actions in the proponent's own tariff, *Rocky Mountain Motor Tariff Bureau, Inc.—Agreement*, 293 I.C.C. 585, 594–96 (1954), nor could the bureau require that idependent actions only be published in the bureau's tariffs, *Central States Motor Common Carriers—Agreement*, 289 I.C.C. 517, 524–25 (1953). Instead, the carrier had to be free to assign publication to an agent or to make its own publication, and in the latter case, the bureau could not require the carrier to conform to bureau procedures. *Rocky Mountain, supra*. Given these basic principles, we held, in *Southern Motor Carriers—Agreement*, 297 I.C.C. 603, 610 (1956), that any procedures or rules established by the bureau which might limit or restrain the right of a carrier to act independently in the publication of rates is objectionable, unless a stipulation is made that such procedures are advisory in nature only and not mandatory or binding upon the rights and privileges of any member.

These cases and others establish the principle that the right of independent action requires independent actors to have exactly the same publication options under a bureau agreement as they have with respect to proposals published totally apart from the bureau. It follows, therefore, that under the old law a bureau would have had to obey an independent actor's instruction to publish the independent proposal without any notice to anyone, advance or otherwise.

This principle is unaffected by the fact that most, if not all, bureau agreements incorporate provisions for the advance notice docketing procedure which are generally phrased in mandatory terms, and which give the impression of being firm requirements. The principle is also unaffected by the fact that the Commission long ago formally recognized the advance notice practice, and approved its use. See *Notice of Independent Action*, 332 I.C.C. 22, 23 (1967). As shown by the cases cited above, the advance notice procedure, even though commonly used, cannot be mandatory in a case of independent action. In fact, some current bureau agreements (*e.g.*, Rocky Mountain Motor Tariff Bureau) contain the exact language the Commission used in *Southern Motor Carriers, supra*, to emphasize that bureau procedures do not bind independent actors.

Some parties who submitted comments in the instant rulemaking, however, most notably the Rate Bureaus and NASSTRAC/D&TPTC argue that 49 CFR 1331.5 requires advance notice of all independent actions taken through a rate bureau.

This interpretation is incorrect. 49 CFR 1331.5 does not preclude a carrier from ordering a bureau to publish an independent action without notice.

49 CFR 1331.5 states:

> When independent action is announced and tariff publication is to be made by a publishing agent operating pursuant to an agreement under section 5a of the Interstate Commerce Act, notification thereof will be given by the agent to the same extent and in the same manner that the agent gives notice of actions proposed under procedures for collective consideration of the parties to the agreement; and no other joint or collective procedures under the agreement are thereby invoked.

This rule was adopted in Ex Parte No. 253, *Notice of Independent Action*, 332 I.C.C. 22 (1967). When we instituted Ex Parte No. 253 we knew that carriers often used bureaus to publish independent actions, and that the bureaus made a practice of giving advance notice of the proposals. 332 I.C.C. at 23. We were also aware that independent actions with advance notice could take on the characteristics of collective actions because advance notice allowed other carriers to join an independent action prior to its filing with the Commission. Prior to issuance of this rule, we had required the bureaus to notify shippers and the general public of ordinary collective actions, but had never required bureaus to notify *shippers* of independent actions that could in effect be converted to collective action through advance notice. Ex Parte No. 253 determined that the bureaus should be required, when a carrier proposes an independent action in which other carriers could join, to provide the same notice to shippers that they gave to carriers in the case of independent actions and to shippers and carriers in cases of collective actions. This conclusion (332 I.C.C. at 30) reflected the fact that the two kinds of actions were alike. Ex Parte No. 253 did no more than make the notice requirements for advance noticed independent actions equal to those for collective actions. Thus, Ex Parte No. 253 does not require the bureau to give advance notice of all independent actions. Rather, it simply requires the bureau also to notify shippers when advance notice of an independent action is given to carriers. Ex Parte No. 253 did not take away each carrier's well-established right to direct the bureau to publish an independent action without any advance notice.

The Motor Carrier Act of 1980 does not change this longstanding policy permitting carriers to specify exactly how they wish a bureau to handle their independent action requests. As relevant here, section 10706(b)(2) provides that a collective ratemaking agreement:

> Such agreement may be submitted to the Commission for approval by any carrier or carriers which are parties to such agreement and shall be approved by the Commission upon a finding that the agreement fulfills each requirement of this subsection, unless the Commission finds that such agreement is inconsistent with the transportation policy set forth in section 10101(a) of this title. The Commission may require compliance with reasonable conditions consistent with this subtitle to assure that the agreement furthers such transportation policy.

Two of the requirements referred to in this provision concern independent actions and are contained in new 10706(b)(3)(B)(ii) and (iii). In the words of the new act's legislative history these requirements place "strict limitations upon rate bureau treatment of independent actions * * *" H. Rept. 96–1069, 96th Cong., 2d sess. 30 (1980).

The key is the prohibition against bureau interference with a carrier's right of independent action. There is no indication in the statute or its history that this language makes the right of independent aciton any less absolute than it was under the old law. Rather, the new act, if anything, makes the right even more absolute by statutorily

prescribing the scope of bureau power to change or cancel independently set rates, and by prohibiting bureau protests or complaints against any independent action. Neither the new act nor its legislative history indicated that Congress intended to overturn the Commission's existing policy in this area.

From this analysis, it follows that the right to take independent action in bureau tariffs includes not only the right of each carrier to determine whether its action will be docketed but also the right to direct the bureau as to when it should be docketed, if it pursues this route. That is, each carrier may specify any period of advance docketing [6] or docketing simultaneous with Commission filing. Bureau agreements may not, in any way, restrict this exercise of choice. To ensure that these decisions are made by independent actions, *each agreement must require that, in submitting independent actions, the proponent must indicate in writing exactly whether the item is to be docketed or not and, if it is to be docketed, when docketing is to occur.* If specific instructions are not given, the bureau may not process the proposal until they are received.

As we are authorizing bureaus to docket independent actions in advance it is necessary to affirm a restriction on this process. There may be no bureau discussion of independent actions until they become effective.

This does not necessarily prohibit other carriers from having an independent action proposal published for their own actions. In effect, the carrier proposing an independent action will choose whether this is possible when it gives the bureau docketing instructions. If it wishes to gain a competitive advantage it may request docketing simultaneous with or after filing of a tariff schedule at the Commission. If a carrier chooses this course of action, we will not destroy its competitive advantage by granting other carriers special permission to file on less than statutory notice. Competitors may, without discussion of any sort, act independently to notify the bureau that they wish similar rate adjustments for their own accounts (again, subject to docketing instructions given to the bureau by each). If a competitor desires adjustment to its own account, it may request docketing under normal collective ratemaking procedures (subject to statutory restrictions on permissable discussion).

If, on the other hand, the independent actor requests the bureau to docket before a tariff supplement is filed, it is possible for a competitor to have the independent action published for its own account with the same effective date. The decision to join must be made, however, without discussion or collective agreement of any sort. If the competitor wants discussion, it may docket a similar proposal for collective action, but we will not permit the collectively discussed adjustment to become effective on less than statutory notice. To the extent necessary, we will amend outstanding special permission orders consistent with this approach.

In effect, the independent actor will control the process. It will have the ability to gain a competitive advantage if it so desires. We will not make simultaneous docketing mandatory, since there may be legitimate reasons why this would not be appropriate in certain situations. However, we intend to monitor independent action docketing practices closely and take any necessary action if we detect a consistent pattern of noncompetitive behavior.

Ex Parte No. 253, *supra*, recognized that independent actions could in effect, be converted to collective ones. We stressed at 332 I.C.C. 31–32 that "the similarity of procedure to be adopted between independent and conference [collective] action is to extend merely to the giving of public notice and not to any other procedures involved in collective consideration." This language indicates that an agreement permitting such discussion of independent actions would be unlawful. In fact, the Rate Bureaus state that they do not now permit discussion of independent actions after docketing. The Bureaus define docketing as:

> A term of art used in the transportation industry to refer to the ministerial procedure of entering in writing a proposed action, collective or individual, in the files of the bureau and providing notice of it to all interested persons upon its receipt by the bureau and prior to filing with the Commission * * *. Docketing entails only notice of a carrier's instruction to the bureau in the exercise of its right of independent action. It does not serve to institute collective procedures of any sort.

On their reply statement they also state:

> Some parties, notably the FTC and OSC, support the ICC's proposed bar on bureau discussion of IA's. Other parties, including DOT, question the ICC's proposal. None of these parties takes cognizance of the fact that the *bureau provides no means for discussion or collective consideration of IA's.* And the Commission expressly barred any such discussion in Ex Parte No. 253, *Notice of Independent Action, supra.* Hence, these parties are raising an issue that simply does not exist * * *. (Emphasis in original.)

Accordingly, our conclusion to ban any discussion of independent actions docketed by a bureau upon request of a proponent merely continues the current bureau practice.

We believe this conclusion is also consistent with the new act. As discussed above, Congress was especially concerned with guaranteeing the integrity of independent actions, distinct from collective ones, and we assume it was aware of our findings on this subject. While new section 10706(b)(3)(B)(i) might be read to allow discussion of independent actions following docketing we believe this section must be read as applying only to proposals docketed for *collective* action. Any other interpretation would constitute a dramatic change and there is no indication that Congress intended one. In fact, the legislative history of this section refers to section 4 as limiting the permissible scope of collective ratemaking.

We previously permitted the practice of docketing independent action in advance of filing to continue as long as it was not an "imperative requirement." See *Middle Atlantic Conference—Agreement*, 283 I.C.C. 683, 689 (1957) and *Southern Agreement, supra* at 616. However, circumstances have changed greatly under the new act. Competition has been assigned a primary role in rate regulation. While carriers always had the right not to docket independent actions, it was rarely, if ever, exercised. With the new emphasis on competition in rates and entry, it is an appropriate complement to the new act to encourage the carriers to take all actions, including the choice of whether or when to docket independent rate changes, to improve their competitive position.

To the extent that carriers continue to choose advance docketing of independent actions the practical concerns raised here by shippers are moot. Furthermore, a carrier's choice to docket simultaneously with tariff filing or not to docket at all need not result in the dire consequences shippers predict.

There has been and continues to be a great expansion in competitive alternatives. Shippers need not accept whatever rate or service is provided. They are now able to find more responsive transportation alternatives in most situations. Liberalized and expedited entry and restrictions removal policies make it relatively easy for a shipper to obtain quickly more responsive common or contract carrier service. Indeed, a carrier will have a clear incentive not only to apprise

[6] I.e., advance notice to shippers and carriers.

shippers of its own rates and services, but to alert shippers to the advantages its offerings enjoy over those of its carrier competitors.

Accordingly, we are not persuaded by arguments that without advance notice carriers can indulge in and benefit from surreptitious behavior. As the providers of a service in a competitive environment, carriers will be forced to become more responsive to their customers' needs and more aggressive in their pursuit of business and expansion. To be secretive or to act contrary to the best interest of shippers, will result in lost business. Carriers may advertise new rates and services in a variety of ways, and need not necessarily rely on the bureau docket bulletins as the most effective way to provide shippers with advance notice.

Advance docketing is not essential to the best interest of shippers, carriers, and the general public. With respect to the shippers and the public, competition will provide the most effective, albeit not the only, safeguard. Carriers may advertise new rates and services in many ways, including through their marketing and sales departments so that shippers may be informed of changes in advance. We disagree with the shippers' implication that they have a right when dealing with this industry, as opposed to any other to receive more advance notice of competitors' rates. In addition to the statutory notice period, traditional Commission remedies remain available in the case of unlawfulness.

In response to our earlier proposal, the Rate Bureaus assert that the carriers will be harmed because simultaneous docketing precludes them from concurrently exercising their right to compete. We cannot accept this argument. A carrier exercising its choice as to how or whether to provide notice to competing carriers should encourage real competition through the potential reward to the independent actor. Competing carriers may not use the rate bureau procedures to negate the effect of innovative rate proposals.

Rockwell International questions whether shippers may continue their practice of submitting proposals to the rate bureau without carrier sponsorship. In the *Rate Bureau Investigation*, we instituted the 120-day final disposition rule to insure reasonably expeditious processing of shipper proposals. Congress adopted this longstanding policy, and we reaffirm a shipper's right to submit rate proposals directly to the bureau.

With three exceptions, section 10706(b)(3)(B)(ii) of the act provides that rate bureaus "may not change or cancel any rate established by independent action." The three exceptions apply to tariff simplification, removal of discrimination, and elimination of obsolete items. This means that no carrier may propose a change in another carrier's independently set rate under the guise of its own independent action or as a collective proposal. We agree with the Rate Bureaus that this limitation should not be construed as a notice and consent requirement on a carrier seeking to change or cancel its previous independent action through a subsequent independent action. We make the following interpretations with regard to the three exceptions:

(1) Tariff simplification does not contemplate changes to independent rates for purposes of rate equalization. Rate equalization is not equivalent to tariff simplification.

(2) An item is obsolete only when a carrier has gone out of business or has verified that status in writing. Copies of such consent statements shall be made available to any interested party upon reasonable request and at a reasonable charge.

(3) Removal of discrimination, as noted by DOT, does not encompass the equalization of rates charged by different carriers.

The written consent of the carrier which initiated the independent rate must be obtained and kept on file before a rate change may be made under these three circumstances. Written consent must be voluntary without any kind of direct or indirect pressure or coercion and may not be waived under any circumstances.

General increases and decreases and broad rate restructurings are not subject to the same notice and consent requirements. However, these adjustments may not have the effect of canceling or eliminating any rate differential or difference in the application of rates established previously by independent action without prior written authorization of the initiator and any participants. General increases, reductions, or restructurings may only adjust independently established rates by the same amount or percentage as they change rates established through collective procedures for similar movements.

Sample amendment:

There is reserved to each carrier participating in a tariff published by this organization the free and unrestrained right to take independent action either before or after any determination is made under any procedure of this organization. Each carrier, in submitting an independent action proposal to the bureau for filing in its tariffs, has the right to prohibit docketing by the bureau and the right, if it chooses to have the item docketed, to establish the item of that docketing. New rates or other new tariff items proposed under independent action and docketed will not be discussed before or after ICC filing.

This organization will change or cancel a rate established by independent action only for the purposes of tariff simplification, removal of discrimination, or elimination of obsolete items.

With the exception of a member carrier changing or canceling its own independent action for its own account; the organization will use the following procedures to change or cancel an independently established rate, whether the change or cancellation is proposed under collective procedures or under the right of independent action:

1. Each carrier whose independently established rate would be affected, shipper, and other interested parties will be provided 14 days' notice (not counting the date the notice is sent) of any meeting at which a proposal to change or cancel a rate establishd by independent action will be considered. Notice will include: the rate, if there is one, limitations of weight or other restrictions pertaining to the existing rate and the proposed rate, the commodities moving under the rate, the relevant origin and destination points, each carrier whose independently established rate is proposed to be changed or canceled and the identity of the proponent of the change or cancellation.

2. Member carriers, shippers, and other interested parties shall have at least 14 days, after notice is sent to express their views to the appropriate committee of this organization. Their views may be expressed in writing, in person, or by any other means consistent with the established procedures of this organization.

3. A change or cancellation in independently established rates will only apply to those affected carrier members if those members have sent, and this organization has received, written consent to the change or cancellation. The written consent will clearly identify the rate and the change, and will be signed by a representative of the consenting carrier member. The rate will continue to be treated as an independently established rate for the account of any affected carrier which does not give written consent to the change or cancellation. This requirement may not be satisfied by written proxy.

General rate increases and broad rate restructurings are excepted from these requirements. However, these collective adjustments will not cancel rate differentials or differences in the application of rules existing as a result of any independent action taken previously, unless the initiator and any other participants in that independent action desiring to eliminate such rate differentials or applications first notify this organization in writing.

C. *Rate Bureau protests.*—49 U.S.C. 10706(b)(3)(B)(iii) provides:

[T]he organization may not file a protest or complaint with the Commission against any tariff item published by or for the account of any motor carrier of property.

The act imposes a total prohibition against bureau protests and complaints. Contrary to the assertion of NASSTRAC/D&TPTC, we have no discretion in this matter. The Rate Bureaus correctly contend that since the statute is clear, adoption of any implementing rule is unnecessary.

D. *Employee docketing.*—49 U.S.C. 10706(b)(3)(B)(iv) provides:

> [T]he organization may not permit one of its employees or any employee committee to docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers.

Having interpreted the term "docket" to include "propose," our notice prohibited organization employees from proposing changes in tariff items published by or for the account of member carriers. We interpreted the phrase "act upon" to refer to the consideration of proposed changes and any determination or recommendation concerning their merits, publication, or effectiveness. Thus, we proposed a broad prohibition which would include screening performed by committees, if bureau employees participated in committee consideration or determination.

We did not prohibit employees from providing legal advice to carriers. Nor did we prohibit them from developing general cost data to support general increases or acting as moderators at meetings, provided they did not participate in the substance of the discussions.

Historically, the Commission has been concerned that the judgment of rate bureau employees not be substituted for the judgment of the member carriers, particularly with regard to the level of rates and charges. In 1956, we stated that "[s]uch practices are contrary to the spirit, if not the letter, of section 5a and of the Commission's approval of section 5a agreements." *Southern Agreement, supra* at 617.

The legislative history of the new act indicates that Congress shares our continuing concern. Senate Report No. 96–641, 96th Cong., 2d sess. 14 (1980) expressed the Committee's strong belief "that rate bureau employees should play less of a part in determining carrier rates than the carriers themselves." S. Rept., *supra* at 14. The House Report also notes that "* * * many have contended that the entire process is controlled largely by rate bureau employees rather than by the carriers themselves." H. Rept., *supra* at 27.

On the other hand, Congress expressed respect for the expertise of rate bureau employees. The Senate Report noted that a strict prohibition against employee recommendations regarding changes in tariff items was removed from the Senate bill and replaced with the current provision. The report observed "* * * it is clear that these individuals have a good deal of expertise and that their recommendations are valuable to the member carriers." S. Rept., *supra* at 14. The House Report concurred, noting that "Many of these rates bureaus are staffed by skilled rate experts with technical expertise to process rate applications and to make recommendations and proposals to the members of the bureaus for changes in basic rate structure." H. Rept., *supra* at 27.

All of the parties agree that employees should not initiate or submit rate proposals nor make final determinations to adopt, reject, or otherwise dispose of proposals. The parties also stress the importance of employee expertise in developing effective competitive rate proposals. However, several parties state that the Commission has exceeded its statutory authority by limiting the activities of bureau employees to developing general increase cost data, presiding over meetings, and giving legal advice. The Motor Carriers Traffic Association, Inc., asserts that smaller carriers will be unable to engage in informed competitive pricing without the technical help and analysis of the bureau. The Oil Field Haulers Association, Inc., emphasizes that the role of bureau employees is to use their expertise in consultation with the carrier, so that dockets reflect the precise intentions of the proponent and comply with the Commission's tariff publishing rules.

The Rate Bureaus oppose our interpretation, alleging that it is inconsistent with the legislative history and incompatible with section 10706(b)(3)(D)(iv), which allows rate bureaus to provide "support services" for member carriers. The Rate Bureaus observe that our interpretation results in certain inconsistencies. For example, they question how shipper comments relating to general increases and decreases may be considered if the employees are prohibited from participating in the substance of carrier discussion.

The National Industrial Traffic League (NITL) agrees that employees should neither originate nor make a final determination or set policy about a rate proposal. NITL supports our interpretation but requests that it be clarified to permit the analysis of docketed proposals by rate bureau employees. The analysis would be upon the request of a member and could not result in a recommendation.

Respondents' arguments are persuasive and we will adopt and ratify the following rate bureau statement:

> Thus, the term "docket," as used here, refers to the act of proposing rates and the terms "act upon any proposal" refer to the act of determining whether to adopt, or otherwise dispose of a proposal. The statute does no more and no less than bar *these* employee activities and, in doing so, it accomplished the Congressional purpose of assuring that carriers will propose their own rates and make their own decision. (Rate Bureau comments at 27.)

Accordingly, we will permit bureau employees to offer the full benefit of their expertise to the member carriers. Upon request, they may perform the analysis and offer the advice that will enable the proponent of a rate change to docket the proposal in proper form. However, employee advice shall be available only as a resource to the carrier(s) which actually initiates the tariff proposals. We emphasize that any employee advice concerning independent action proposals shall remain confidential. Bureau expertise must not be used to compromise independent competitive pricing strategies. As an adjunct to our findings regarding the docketing of independent actions, no employee may divulge the existence of any instruction of a carrier member not to docket an independent action, or the absence of any explicit instruction on handling or docketing of an independent action, to any other carrier.

Our final interpretation of this section is compatible with a majority of the comments. However, compliance with this section will require substantial reorganization by the National Classification Committee (NCC). This issue is being addressed further in Ex Parte No. MC–98 (Sub-No. 1), *Investigation of Motor Carrier Classification System.* The NCC, in their joint comment with 10 regional rate bureaus observed specifically that:

> the restriction [in this section] was aimed at the prior practice of some bureaus, much criticized during the hearings on the MC Act, of allowing employee committees to propose rates and make dispositions of docketed proposals that became final absent appeal to a carrier committee. (Rate Bureau comment at 27.)

We agree that Congress intended to prevent this practice. However, it is our understanding that the NCC functions in this proscribed manner. The National Classification Board, an employee committee, makes a "recommended" disposition on all docketed

classification proposals. Their recommendation becomes final, absent reconsideration by the board or appeal to the elected members of the NCC. The NCC, and all other bureaus relying on employee boards to initiate and/or to dispose substantively of tariff change proposals, shall submit amended agreements which comply with the new act.

Sample amendment.

Employees and employee committees of this organization will neither initiate a proposal nor determine whether to adopt, reject, or otherwise dispose of a proposal effecting a change in any tariff item published by or for the account of any member carrier.

Employees and employee committees may provide expert analysis and technical assistance to a member carrier in developing or evaluating a carrier initiated rate or rule proposal. Any advice concerning an independent action proposal shall remain confidential.

E. *Open meetings.*—49 U.S.C. 10706(b)(3)(B)(v) provides:

Upon request, the organization must divulge to any person the name of the proponent of a rule or rate docketed with it, must admit any person to any meeting at which rates or rules will be discussed or voted upon, and must divulge to any person the vote cast by any member carrier on any proposal before the organization.

The legislative history demonstrates strong congressional concern for closed rate bureau proceedings. Most objectionable is the practice of secret voting on specific rate proposals. The monitoring of rate bureau meetings is considered necessary to protect the public interest and foster the competitive goals of the act. The statutory sunshine requirement allows for adequate monitoring and provides a reasonable safeguard against potentially illegal activity.

Implicit in the unconditional right to be admitted to bureau meetings is the responsibility of the rate bureaus to afford reasonable notice of scheduled meetings. To protect that right, discussion or voting on rates will not be permitted unless the meeting is reasonably noticed. Reasonable notice of all meetings to discuss and/or vote on rates or rules shall be given by the organization in its docket bulletin. In addition to stating the time and place of the meeting, the notice must identify the rates or rules which will be on the agenda. If the subject concerns a rate, a list or general description of the commodities moving under the rate, the appropriate origin and destination points, the justification for the proposed action, and any other useful or relevant data shall be included in the notice.

We interpret the phrase "any person" to include representatives of motor carriers, nonbureau competitors, carriers by other modes, shippers, public interest groups, and government agencies. We agree with the Rubber Manufacturers that admission to meetings cannot be contingent upon compliance with any conditions or procedures. Thus, the unconditional right to attend meetings precludes any requirement of advance notice to the bureau. It also includes the right to take notes or use recording devices provided the conduct of the meeting is not disrupted.

Although the statute does not specifically permit any limitation on the number of attendees at meetings, it must be recognized that considerations of room capacity and safety may dictate reasonable limitations. Any unreasonable or arbitrary attempt to limit attendance at meetings is unacceptable.

The phrase "upon request" shall encompass all requests, however presented. The Rate Bureaus object to the requirement that requests for identification of a proponent and for votes cast should be answered immediately. Clearly, this information is readily available and its rapid retrieval should not burden the organization. A prompt response is necessary since dilatory actions tend to negate the usefulness of the information. Because of the availability of modern methods for tabulating and computerizing votes, the bureau's contention that 2 or 3 days are needed to respond is generally unacceptable unless a holiday or weekend intervenes. Requirements for written requests and the charging of a requestor for this information is unacceptable. Under the act, this information function is a basic responsibility of the bureaus. Further, the form of a request need not be limited to asking how a carrier voted on a specification. For example, bureaus must respond to requests for the indentity of those carriers which to approve or disapprove a particular item. The requestor cannot be expected to know the names of every voting carrier in order to get information to which he is entitled.

The basic thrust of open meetings is to protect the public's interest in rates established through collective procedures. The congressional mandate for sunshine is acknowledged by the Rate Bureaus. While based on convenience, the rate bureaus' reliance upon mail voting and telephonic communications could be interpreted as contrary to the sunshine requirement. Nevertheless, we will refrain from prohibiting their use. Instead, the bureaus are cautioned not to use these procedures to circumvent the restrictions on voting or discussion. If there is abuse, we will reopen this issue to consider corrective measures.

This section does not require admittance to or divulgence of information from meetings devoted to internal personnel rules and procedures of the organization.

Sample amendment:

Upon the request of any person, the name of the proponent of a rule or rate docketed with this organization, and the vote cast by any member on any proposal before this organization, shall be promptly divulged.

Any person requesting admittance to a meeting at which rates or rules are being discussed shall be admitted immediately. Note taking and sound recordings by attendees are permissible, provided the conduct of the meeting is not disrupted.

Notice shall be given of meetings at which rates or rules may be discussed and/or voted on. It will state the time and place of the meeting, the rate proposals or rules to be discussed or voted on, a list or general description of the commodities moving under the rate, the relevant origin and destination points, the justification for the proposed action, and any other relevant information.

Notice of meetings will be transmitted at the same time to each receiver (subscriber), member and nonmember, of the organization's docket bulletin.

F. *Proxy voting.*—49 U.S.C. 10706(b)(3)(B)(vi) provides:

The organization may not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented.

In our notice, we proposed a signed and dated proxy with a brief statement of the type or duration of the authorization. The proxy could remain effective for 2 years, and there was no limit on the number of proxies a carrier could hold. The bureau would be responsible for maintaining copies and insuring compliance.

The Special Counsel comments favorably, and the Rate Bureaus reiterate their opposition to a specific rule or interpretation. However, our section on general standards, *infra*, and the relationship between general standards and proxy voting require modification of this proposal.

Section 10706(b)(3)(B)(i) provides that after January 1, 1981, only carriers with authority to participate may vote upon specific rate proposals. Under the general standards section, we have decided to require a simple written certification of authority on each voting ballot. Consistent with this approach, a proxy holder would be required to complete the ballot's certification of

authority for the absent carrier. As the Rate Bureaus observe, it would be difficult, if not impossible, to determine whether the absent carrier posssses appropriate authority for as many as several hundred votes per meeting. Therefore, we will require the proxy to specify the docket item(s) to be voted on and to contain a certification that the giver of the proxy possesses authority to participate in each specified item. In effect, the practicalities of adopting the Rate Bureau approach mean that a proxy can only extend to particular tariff proposals.

We will also require clear instructions to the proxy holder regarding how votes should be cast. Consistent with the congressional mandate, this will eliminate the proxy holder's voting discretion when it does not possess authority. This requirement also recognizes that the proxy holder and giver may be competitors, and their interests may not coincide. Each carrier should make its own decisions based on the demand for and the cost of its services. Proxies may not be accepted for the purpose of certifying permission to cancel any item established by independent action which the carrier represented by proxy either initiated or joined. Notice of approval to cancel such items must take the form of a letter so that it may be kept on file, and so that copies can be distributed on request and at reasonable charge.

To assure compliance with these requirements, the bureau shall provide standard proxy forms. A copy of each proxy exercised shall be made part of the voting record. A proxy may be revoked at any time, either by subsequent written verification or by the member carrier appearing at a meeting and voting on its own behalf. There is no limit to the number of proxies a carrier may hold.

Sample amendment:

Any carrier voting for another must possess a written proxy. The proxy must be dated and contain the signature of the carrier releasing the vote, the specific item or items for which the vote is released, the directions on how each vote is to be cast, and written certification that the carrier possesses authority for each specified docket item.

The bureau will provide standard proxy forms to members, and a copy of all proxies exercised will be made part of the voting record. There is no limit to the number of proxies a carrier may hold. A proxy may be revoked at any time by a subsequent written revocation or by the carrier appearing at the meeting and voting on its own behalf.

G. *Quorum standard.*—49 U.S.C. 10706(b)(3)(F) provides:

The Commission shall, by regulation, determine reasonable quorum standards to be applied for meetings of organizations established or continued under an agreement approved under this subsection.

In our notice, we decided that the use of a percentage figure was appropriate because it treats all bureaus equally, regardless of their size. For the discussion of rates and rules, we proposed 35 percent of the organization's membership as the quorum for the organization meeting and 35 percent of a committee's membership as the quorum for the committee meeting. Our decision was directed at preventing the Nomination of meetings by a small number of carriers.

The Rubber Manufacturers, the Special Counsel, and the National Association of Specialized Carriers, Inc. (NASC) support the 35-percent quorum. Western Motor Tariff Bureau, Inc., expresses satisfaction with a 35-percent quorum, provided it does not apply to organizational or other bureau meetings where tariff rates or rules are not discussed. Motor Carriers Tariff Association, Inc., a bureau consisting of smaller carriers, states that the 35-percent quorum, even when supplemented by proxy voting, would substantially impair its operations. Since small carriers lack the personnel to attend frequent meetings, it asserts that even a 25-percent representation has been difficult to achieve.

The Rate Bureaus support a 30-percent quorum. They oppose the application of the quorum standard to general membership meetings, contending that it would be unworkable and would stifle the bureaus' ability to conduct rate-related business. They also object to defining a quorum as a fixed percentage of the entire membership. The Rate Bureaus point out that this definition would be impractical because in most cases 35 percent of total bureau membership would greatly exceed the membership of even the largest bureau rate committees. Moreover, they note that the proposed definition would be inconsistent with traditional concepts of parliamentary procedure which relate the quorum exclusively to the size of the particular group or subgroup that is involved.

Establishment of the quorum at 30 percent of membership of the organization *or* 50 percent of the committee holding the meeting is reasonable from our perspective and appears generally acceptable to the participants. This was our intent in the notice. The quorum requirement shall apply to any bureau meeting when discussion includes the following subjects: general rate increases and decreases, tariff restructurings, specific rate adjustments, or rules and classifications proposed for tariff publication. Carrier members present by means of a proxy shall count towards the satisfaction of the quorum requirement. We will consider individual bureau requests for lower quorum requirements, but an exception will be granted only where genuine hardship is demonstrated.

Sample amendment:

At any meeting of the organization or committee of the organization, at which rates, rules, or classifications are discussed or considered, 30 percent of the membership of the organization or 50 percent of the committee shall constitute a quorum.

H. *Final disposition of cases.*—49 U.S.C. 10706(b)(3)(B)(vii) provides:

[T]he organization shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may extend such period, subject to review by the Commission.

Congress essentially adopted Commission policy in this area. The statute provides that extensions beyond 120 days would be "subject to review by the Commission." In our notice, we construed this clause as an actual requirement that the bureaus petition for an extension of the 120-day time limit. We provided that petitions must be received at least 30 days prior to the expiration of the time limit or the pending proposal would automatically terminate.

The Rate Bureaus, the Rubber Manufacturers, and the Special Counsel oppose the prior approval provision. They assert that the congressional intent was simply to codify Commission policy and that the statutory language cannot support more than an after-the-fact review. The Rate Bureaus point out that it is not always possible to know by the 90th day whether an extension will be necessary. The Rubber Manufacturers assert that automatic termination would adversely affect the shipping community, the original proponent and principal beneficiary of the rule. It would permit the carriers to disapprove a rate proposal without action and therefore without the individual accountability that is contemplated by the sunshine provisions of the new act. With one exception, all parties support the continuation of the current policy with Commission oversight to prevent abuse. Rockwell International advocates an automatic approval policy whenever the 120-day time limit has expired. Rockwell International asserts that this

is the most effective method to deal with inaction on shipper proposals.

We are persuaded that the statutory language contemplates an after-the-fact review along the lines established in our *Rate Bureau Investigation*. However, in adopting the Rate Bureau approach, we also adopt the construction of the 120-day period that was contained in our notice. If the 120th day falls on a Saturday, Sunday, or public holiday, the final day for disposition will be the first working day thereafter.

As our policy has been in effect for a few years, we assume that the bureaus have already amended their bylaws to reflect this requirement. However, as necessary they should amend their bylaws to include the above construction of the 120-day provision.

III. Standards for Member Carrier Voting and Discussion of Collectively Established Rates

A. *General standards.*—49 U.S.C. 10706(b)(3)(B)(i) provides:

> [S]ubject to the provisions of subparagraphs (C) and (D) of this paragraph, (I) the organization may allow any member carrier to discuss any rate proposal docketed, but (II) after January 1, 1981, only those carriers with authority to participate in the transportation to which the rate proposal applies may vote upon such rate proposal.[7]

The intent to infuse additional competition into the ratemaking process cannot be more evident than in the provisions which define the limits for discussion and voting on collectively established rates. In contrast to rates established by independent action, collectively established rates, whether single or joint line, may be docketed, discussed, and voted upon by any member carrier until January 1, 1981. After that date, docketing and discussion may continue in the traditional manner, but voting is limited to those carriers with authority to operate under the proposed rates.

To guarantee that voting is limited to carriers with the appropriate authority, we proposed that each bureau submit a plan for identifying eligible carriers. The bureau would be required to make a sworn certification that each vote taken is limited to carriers with the requisite authority.

The Rate Bureaus contend that anything beyond their enforcement of an individual carrier certification is a practical impossibility. Specifically, they refer to the number of carriers that may be voting in any one instance and both the length and complexity of the certificates. The problem is compounded by the difficulty in ascertaining joint-line authorities, the effect of commercial zones and restriction removals, and the accuracy of the bureau's records. Additionally, they object to an individual sworn certification contending that it would constitute an extreme and highly disruptive burden in view of the number of ballots cast during a meeting. In the alternative, they propose including a written affirmation on the voting ballot. They assert that this will be equally effective since a carrier voting without authority will be in violation of the agreement and subject to penalties regardless of a sworn certification.

The Special Counsel suggests that a sworn certification raises more questions than it answers. It questions who will take the oath and execute the document and seeks clarification as to whether the oath must be taken with first-hand knowledge of each operating authority. The Special Counsel proposes that we emphasize that the bureau and its members will lose their antitrust immunity, at least for the particular vote, as a result of the participation by an ineligible carrier. With this understanding, the bureaus would be permitted to develop their own plans.

Realistically, there may be instances in the future when a quorum may be convened but only one or two carriers will have the requisite authority to vote on a specific rate proposal. In these circumstances, the bureau may be able to comply with the proposed certification requirement. Nevertheless, we are persuaded that our proposal is impractical for the average bureau vote and unnecessarily severe since voting by an ineligible carrier would expose the bureau and its membership to antitrust prosecution on that particular vote. Accordingly, we shall adopt the bureau proposal and require that a written affirmation be made part of the voting ballot for each individual vote. However, if the bureau has actual knowledge of carrier violations, it must take appropriate action to enforce this provision. Failure to do so may lead to its being considered a party to the violation.

The Automobile Transporters Tariff Bureau, Inc., questions whether a member carrier may vote on a collective action rate proposal if it has authority to participate in the transportation to which the rate applies but is not a party to the tariff because of a prior independent action. Our primary concerns are that there be no restraint upon the right of independent action and that authority to participate is honored as the threshold requirement in voting. Beyond this, the membership of the individual bureaus may determine whether to require participation in the tariff item as an additional requirement in voting upon collective action rates.

Rockwell International questions the status of a rate proposal when a quorum has convened but none of the carriers present, in person or by valid proxy, possess authority to participate in the transportation service to which the rate proposal applies. Section 10706(b)(3)(B)(i) establishes actual authority as the prerequisite for voting. Accordingly, there can be no voting unless at least one carrier present, in person or by proxy, possesses the authority for a lawful vote.

Sample amendment:

> While any member carrier may discuss (unless otherwise proscribed) any collectively established rate proposals docketed, after January 1, 1981, only those carriers with authority to participate in the transportation to which the proposed rates apply may vote on the rates.
>
> A written affirmation will be made by each carrier for itself and for the proxies it holds concerning individual eligibility to vote on collectively established rates after January 1, 1981.

B. *Single-line rates.*—49 U.S.C. 10706(b)(3)(D) provides:

> No agreement approved under this subsection may provide for discussion of or voting upon single-line rates on or after January 1, 1984, except that such date shall be July 1, 1984, if the Motor Carrier Ratemaking Study Commission does not submit its final report under section 14(b)(4) of the Motor Carrier Act of 1980 on or before January 1, 1983 * * *

In our notice, we stated that compliance with this section required the prohibition of advance docketing of single-line movements in rate bureau proposals. A single-line rate is defined in section 10706(b)(1) as a "rate, charge, or allowance proposed by a single motor common carrier of property that is applicable only over its line and for which the transportation can be provided by that carrier."

The Rate Bureaus oppose our proposal, contending that the section may never take effect or its effective date may be delayed pending the report of the Motor Carrier Ratemaking Study Commission. They assert that it is premature to adopt any interpretations. We cannot agree. The public and the industry will benefit from a clear and comprehensive statement interpreting this section. Moreover, section 10706(b)(4) provides that we may issue regulations to implement the restrictions

[7] Subparagraphs (C) and (D) refer to released rates, zone of rate freedom adjustments and single-line rates. They are discussed elsewhere in this decision.

of section 10706(b)(3)(D) to take effect on or after the date antitrust immunity is terminated.

The Mobile Transportation Rate Bureau, Inc., the Gulf Ports Association, Inc., and the Rate Bureaus maintain that our proposal is unreasonable and contrary to the intent of Congress. They argue that a prohibition of advance docketing will not serve the public interest. We believe our amended standards for independent actions and reasoning for them apply equally here. Carriers must be given the choice whether to give advance notice to their competitors of single-line rates changes, and if it is given through the docket, the timing of the notice. Congress decided to eliminate antitrust immunity for discussion and voting on single-line rates. As the Special Counsel observed, advance docket notice to competitors of single-line rate changes should not be allowed to circumvent the ban on collective action. Contrary to the assertions of the parties, specific permission to carriers to choose not to or how to docket is necessary precisely to accomplish congressional intent. In the practical sense, the choice not to docket would produce any independent action. Therefore, with respect to single-line rates, all rate bureau agreements shall be modified to permit carriers to prohibit, after January 1, 1984 (or July 1, 1984), docketing in advance of filing or to direct the timing of the docketing. Discussion and voting are prohibited after this date. The agreements shall also prohibit inclusion of single-line and joint-line rates in one proposal.

The Department of Defense inquires whether the definition of single-line rates includes household goods tariffs and section 10721 (government) tenders, when these rates are published on a mileage basis, without regard to origin or destination ("general application rates"). The problem stems from the applicability of one set of rates to both single and joint-line movements. Nevertheless, it is clear that rates which apply to any single-line movement of household goods fall within the statutory definition of single-line rates. In the past, household goods carriers sought exemption from the requirements of the *Rate Bureau Investigation, supra,* asserting that their service is "unique" and unlike that of general-commodity carriers. The exemption was denied upon a finding that there is no substantive difference in the respective collective ratemaking processes. There is nothing in the act or legislative history to suggest that an exemption was contemplated for household goods tariffs. Rather, the legislative history reveals Congress' recognition that this section would require extensive procedural changes. Both the House and the Senate Reports observed.

> Under current practices, most tariff rates are identical for both single-line and joint-line movements. Thus when [the carriers] discuss individual rates, they generally do not distinguish between single-line and joint-line rates. This has not always been the case, however, and need not be in the future.
>
> * * * * *
>
> The Committee is aware of the fact that this will result in a significant change in the way that motor carriers price their services. It will mean that consideration of single-line and joint-line rates must be done separately. It will put a greater burden upon individual carriers to determine their own cost structures and or the most optimum rates from their individual company point of view to offer the shipping public. But on balance, the Committee believes that there will be public benefits that greatly outweigh the burdens of changing to a new system—namely, more competitive pricing. H. Rept., *supra* at 27–28; & Rep., *supra* at 13.

Accordingly, household goods carriers will be required to revise their agreement to the same extent as all other motor common carriers of property.

Section 10721 provides antitrust immunity for government traffic in the following terms:

> A carrier may quote or tender a rate established under an agreement made and approved under section 10706 of this title, but the exemption from the antitrust laws provided by that section applies only when the filing requirements of this paragraph are met.

Section 10706 is the source of antitrust immunity for the collective determination of tenders for government traffic, provided carriers comply with the filing requirements of section 10721. Since section 10706 provides the scope of the immunity, the elimination of antitrust immunity on single-line rates in section 10706(b)(3)(D), effective January 1, 1984 (or July 1, 1984), must also apply to government traffic. Therefore, after antitrust immunity is lifted, carriers shall not collectively set single-line rates for tender or quotation on government traffic.

Sample amendment:

> After January 1, 1984 (or July 1, 1984), all single-line rate proposals will be treated as independent actions. After this date, there shall be no discussion or voting on single-line rates by the bureau members or committees. Single-line rates shall not be included in the same item as joint-line rates, except as authorized by 49 U.S.C. 10706(b)(3)(B).

IV. Specific Exceptions to These Standards

A. *General increases and decreases.*—49 U.S.C. 10706(b)(3)(D)(i) provides an exception to the limitation on single- and joint-line ratemaking for general increases and decreases. This exception is subject to the following restrictions:

> (1) The agreement must provide procedures to give shippers at least 15 days' notice of a proposal;
>
> (2) Shippers must be given the opportunity to present comments on the proposal before it is filed with the Commission;
>
> (3) Discussion of these proposals must be limited to industry average carrier costs; and
>
> (4) After January 1, 1984 (or July 1, 1984), there may be no discussion of individual markets or particular single-line rates, even if discussion is limited to industry average costs.

We interpreted "notice" to mean advance notification to shipper subscribers through the bureau's docket bulletin. Since the act gave us discretion to require a longer notice period, we proposed that notice be issued at least 4 weeks before filing and that at least 2 weeks be provided for filing and serious consideration of written comments. For the purposes of this decision, we adopt the definition of a general increase contained in 49 CFR 1331.6(a)(5):

> A "general increase," when the term is used in reference to a motor common carrier rate increase, is a proposed general adjustment of substantially all the rates published in a rate bureau's tariff or tariffs.

The Rate Bureaus object to the implementation of this section before 1984. They assert that the exception for voting and discussion on general increases and decreases applies only to the single-line voting and discussion restriction which takes effect in 1984. We disagree. There is nothing in the act or legislative history to indicate that the effectiveness of this section was to be delayed until 1984. Rather, the delayed implementation of only the portion of the section relating to individual markets and particular single-line rates, convinces us that none of the other provisions should be delayed. Until January (or July) 1, 1984, rate bureaus may permit, but not require, single-line rates to be filed under collective procedures. This will permit a carrier, if it chooses, to submit single-line rates for discussion and voting. After the elimination of this possibility in 1984, docketing of all single-line rates will be tantamount to docketing of independent actions and no filing under collective procedures will be permissible. In addition, apart from the exceptions stated in section 10706(b)(3)(D), no proposal which includes both single-line and joint rates may be discussed or voted on as of the 1984 cutoff date.

The Rubber Manufacturers and the NITL support our proposal with the former reciting the advantages of greater dialogue and the resolution of disputes before Commission filing. The bureaus generally contend that a 4-week notice period before Commission filing is too long. A bureau could give notice, allow 2 weeks for comments, meet for discussion and voting, and still be required to wait another 2 weeks before the 4-week period expires. The Special Counsel suggests that the 15-day notice period provided in the section is sufficient.

The Western Motor Tariff Bureau, Inc., and NASC point out that a notice period "before the filing date of the proposal" may not be the most effective way to provide adequate notice. The legislative intent was to facilitate shipper comment on pending rate proposals. Practicality dictates that shipper comments should arrive before the bureau meets to discuss and vote. Therefore, the critical time element is the time of the meeting rather than the time of filing. These respondents suggest that the notice period should be expressed in terms of the time before the meeting.

We agree that the proposed 4-week notice period before filing may produce unnecessary delay. Consistent with bureau suggestions, we will reframe the notice period in terms of time before discussion or voting. We will adopt a 15-day notice period prior to discussion and/or voting. Consistent with our treatment of the 120-day time limit for disposition of rate bureau dockets, the 15-day period will not include Saturdays, Sundays, or legal holidays. This formulation can also apply to mail voting. However, if mail voting is utilized, the bureaus must arrange to inform the carriers of shipper comments early enough to permit serious consideration. Shipper comments shall be accepted until the time of the meeting.

The American Paper Institute, Inc. (API), questioned whether the term "industry average carrier cost information" includes regional average costs. API states that national cost data lacks probative value in a discussion of a regional bureau's tariff change. We accept API's interpretation. In our opinion, the discussion of regional industry average costs is permitted by the statute.

In this regard, the Rate Bureaus argue that Congress did not intend to limit all discussion to industry average costs when a general increase or decrease is being considered. The Rate Bureaus interpret this section as restricting cost discussions to regional industry average costs. Other pertinent issues, including the need for an increase, its effect on shippers, and its lawfulness, remain appropriate grounds for discussion. However, the act plainly states and the legislative history corroborates that "discussion of such increase is limited to industry average carrier costs." Some of the topics of discussion suggested by the Rate Bureaus, such as the need for an increase or its lawfulness, would be inextricably involved in a full discussion of costs. However, we cannot interpret the unambiguous words of Congress to condone discussion beyond "industry average carrier costs." In any case, we do not see this as a problem. To the extent any carrier believes that a general rate increase will adversely affect its own competitive posture or that of its shippers, it may take independent action.

Sample amendment.—General rate increases and decreases may be discussed and voted on only if:

(1) Shippers receive notice, through docket bulletin publication, at least 15 (excluding Saturdays, Sundays and legal holidays) days prior to the time a proposal is to be discussed and/or voted upon;

(2) Shippers are accorded the opportunity to present either oral or written comments for consideration at the meeting;

(3) Shippers' comments are given appropriate weight and consideration in discussion and voting upon the proposals;

(4) Discussion is limited to regional industry average carrier cost information; and after January 1, 1984 (or July 1, 1984), discussion may not include individual markets or particular single-line rates.

B. *Changes in tariff structures.*—49 U.S.C. 10706(b)(3)(D)(iii) extends the same exception granted for discussion and voting on general increases or decreases to changes in tariff structures (broad rate restructurings). The exception applies if discussion is limited to industry average carrier costs, and does not include discussion of individual markets or particular single-line rates after the elimination of antitrust immunity for single-line rates.

DOT urges us to interpret the phrase "broad rate restructuring" and to state how we will insure that restructuring will not be used to interfere with independent action rates. This record does not permit us to formulate a definition. We defer to Ex Parte No. MC-82, *New Procedures in Motor Carrier Revenue Proceedings* where a comprehensive record on this issue has been assembled.

For interim guidance we note a colloquy which generally discusses changes in tariff structure. This statement presents the view that a change in tariff structure is broad in scope and nature; may affect both single- and joint-line rates over a large geographical area; may involve multiple commodities, rates, rate scales, origins and destinations; and may include both increases and reductions in rates. See 126 Cong. Rec. H5411 (daily ed. June 19, 1980) (remarks of Rep. Boner).

Contrary to API's observations, our interpretation of this section was not intended to complicate matters. We intended to make clear that calling something a broad tariff change could not be used to evade other statutory restrictions, such as the protections for independent action or the ban on collective setting of single-line rates effective in 1984.

The proper forum for discussion of rate relationships and other restricted topics is between the affected shipper and its carrier. The carrier may then propose necessary changes either for its own account or for collective action.

Sample amendment:

Discussion of changes in tariff structure (broad tariff restructurings) is limited to regional industry average carrier cost information. After January 1, 1984 (or July 1, 1984), discussions of individual markets or particular single-line rates are also prohibited.

C. *Zone of freedom and released rates.*—49 U.S.C. 10706(b)(3)(C) provides:

No agreement approved under this subsection may provide for discussion of or voting on rates to which the provisions of section 10708(d) or 10730(b) of this title apply, except that rates established or filed under section 10730 of this title before the date of enactment of the Motor Carrier Act of 1980 or changes with respect to such rates may be discussed or voted on under agreements approved under this subsection until January 1, 1984.

Section 10708(d) establishes a zone of rate freedom for motor carriers of property and freight forwarders. Essentially, carriers are allowed increases up to 10 percent above rates in effect the year before and reductions down to 10 percent below rates in effect on July 1, 1980, without Commission intervention on the reasonableness issue. Subsection (d)(4) continues our authority to suspend and investigate any rate proposal within the zone on the basis of discriminatory or predatory pricing.

This section prohibits discussion of and voting on adjustments within the zone and released rates. The legislative history states that no collective action on these items is permitted, and that the rates may be proposed only by individual carriers (H. Rept., *supra* at 29), i.e., through independent actions.

Section 10708(d)(4) provides antitrust immunity for the "docketing and publication" of rates in the zone. The legislative history indicates that the purpose of this immunity is to permit the Rate Bureaus to perform administrative functions relating to rates which cannot be collectively considered or established. To emphasize that there is to be no collective consideration of these rates the drafters stated:

> The Committee does not intend by the use of the language "docketing and publication of such rates" to preclude the Commission from issuing rules and regulations to assure that carriers who utilize the zone of rate freedom do so individually and not collectively. (H. Rept., *supra* at 75.)

As with ordinary independent action proposals, if a proposed rate change is docketed in advance of filing, all competing carriers are notified and the advantage the independent actor might otherwise have had is nullified, especially in the short run. To protect the purpose of zone pricing and its independent nature it is necessary to affirm the right of proponent carriers to ban the docketing of zone rates or to have the sole discretion to choose when and for how long they will be docketed. Again, in the absence of explicit instructions for handling and docketing from the proponent of an independent action, the bureau may not docket the item until the proposal has been filed with the Commission.

We believe that our proposal is consistent with the immunity granted by the act for docketing and publication of zone rate proposals. The act denies us authority to disallow bureau docketing or publication of zone rates. However, the legislative history establishes that we may issue rules and regulations to assure that docketing and publication of zone rates do not become a subterfuge for collective consideration. Moreover, since advance docketing offers opportunity for informal carrier discussion, failure to take action risks negating the act's specific prohibition against discussion of or voting on zone rates. Moreover, our amended approach does no more than give each carrier member of the bureau the right it already had to direct bureau processing of its independent actions.

Section 10730(b) pertains to released rates. It permits the establishment of rates for the transportation of property (other than household goods) which limit the carriers' liability to a value established by written declaration of the shipper or by written agreement between the carrier and shipper. This section specifically prohibits any discussion of or voting on released rates if the rates have not yet been established when the act goes into effect. The legislative history states that all collective ratemaking on new released rates is prohibited. In view of our decision on zone rates, we believe that the same standards for docketing of new released rate proposals are warranted. Contrary to Rate Bureau assertions, the legislative history does not require advance docketing to assure that shippers are informed at all stages of the process. The legislative history does require that the carriers, in their tariffs or by any other means, fully and clearly inform shippers "about the kinds of rates and liability rules they agree to." Competition, along with recourse to traditional Commission remedies, will provide a safeguard against unreasonable and discriminatory released rates. Carriers acting individually may and should inform shippers in advance of released rate filings by consulting with them. If the "fully informed" requirement of the legislative history were to be interpreted as advocated by the Rate Bureaus, Congress would not have banned rate bureau discussion.

Section 10706(b)(3)(C) also provides that until January 1, 1984, the ban against discussion or voting shall not apply to rates already in effect. After January 1, 1984, released rates regardless of the date they were established may not be the subject of collective action. The legislative history is silent as to what constitutes a new as opposed to an already effective released rate for the purposes of permissible collective action. This presents interpretation problems since existing released rates established collectively may be expanded or substantially revised. We will interpret the limitation on collective action such that the expansion of a preexisting released rate or the inclusion of related new commodities under preexisting released rates, for whatever reason, will result in the establishment of a new released rate for the purpose of activating the statutory ban against collective action. To avoid further proceedings before the Commission individual carriers may choose to establish new released rates rather than attempting to amend released rate orders.

As noted, no discussion or voting on zone of rate freedom adjustments or new released rates is permitted by the statute. If a carrier wishes, it may permit docketing of these adjustments prior to filing with the Commission. However, unlike independent actions, other carriers do not have the option of docketing the same proposal under normal collective ratemaking procedures. They may, however, notify the bureau (individually and without discussion) that they want similar rate adjustments for their own publication. We will not permit use of special permission authority to circumvent another carrier's competitive initiative in this situation. Until January 1, 1984, our treatment of "old" released rates will be identical to that afforded independent actions.

Sample amendment:

> Each carrier has the right to determine whether or how the bureau will docket rate adjustments under 49 U.S.C. 10708(d) and 10730(b). No discussion or voting on rates proposed under the zone of rate freedom is permitted. Released rates, as defined by section 10730(b), may only be discussed or voted on, until January 1, 1984, if collectively established or filed with the Interstate Commerce Commission prior to July 1, 1980.

D. *Changes in commodity classification.*—49 U.S.C. 10706(b)(3)(D)(ii) provides an exception to the limitations on single- and joint-line ratemaking for changes in commodity classification. We noted that under this exception all carriers would continue to discuss and vote on changes, whether or not they hold authority to transport the commodities for which classification changes are proposed. The breadth of activity covered under this exemption is being determined in Ex Parte No. MC-98 (Sub-No. 1), *supra*.

The NCC, the New England Motor Rate Bureau, the Bulk Carriers Conference, and any other bureaus which develop and maintain freight classifications may continue functions permitted under the exception without need for an amendment to implement this provision. However, all bureau operations, including classification change procedures, must comply with the other new standards including those relating to open meeting, employee docketing, proxy, and quorum. The new standards will generally require conforming amendments from all bureaus.

The House Committee expressed concern that abuse of this section might result in collectively set single-line rates after 1984. The Committee stated that it "intends that changes in commodity classification solely for the purpose of affecting single-line rates to individual shippers or individual markets would not be immune from the antitrust laws." H. Rept., *supra* at 28. Allegations that the commodity classification is being used to set single-line rates may be made through the strike mechanism of the Tariff Integrity Board (TIB), *infra*, or through investigation, suspension, or

complaint procedures. These congressional concerns prompted us to expedite our deliberations in Ex Parte No. MC-98 (Sub-No. 1), *supra*.

E. *Permissible bureau functions.*—49 U.S.C. 10706(b)(3)(D)(iv) provides that the prohibition against the discussion of or voting on single-line rates and the requirement that voting be limited to carriers with authority to participate in the transportation to which the rate proposal applies do not apply to:

> [P]ublishing of tariffs, filing of independent actions for individual member carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

Activities are not included in the prohibition on rate discussion. Bureaus may continue to perform these services for carrier members without the requirement of a new amendment.

V. Burden of Proof of Violations and Effect of Violations

49 U.S.C. 10706(b)(3)(E) provides:

> In any proceeding in which a party to such proceeding alleges that a carrier voted, discussed, or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote, discussion, or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

This section places the burden of proof upon the alleging party to show that the violation occurred. The reference to "parallel behavior" (behavior of one or more parties that is similar or identical, absent proof of intent to agree) means that it is not sufficient to show that a carrier ultimately published the same rate. A showing of parallel behavior without more would not establish an unlawful price-fixing agreement. This is a difficult level of proof.

To assure bureau compliance with the act, we will rely, in part, on shipper monitoring. The open meeting requirement will obviously encourage compliance. However, because it is unrealistic to expect most shippers to attend meetings, we believe some recordkeeping requirement is also necessary. As an interim standard, we required bureaus to make sound recordings of all meetings.

With the exception of DOT and the Bureau of Competition of the Federal Trade Commission, the parties oppose a sound recording requirement. The bureaus and various shipper interests contend that the sunshine provision of open meetings is an adequate deterrent to illegal activity. They argue that sound recordings inhibit the free exchange of ideas, and will prove more burdensome, time consuming, and expensive than beneficial. The Rate Bureaus refer to the *Rate Bureau Investigation*, where we rejected a verbatim transcript requirement, findjng instead that the record failed to support a program of constant monitoring.

The Rate Bureaus submit that the Staggers Rail Act of 1980 adopts a limiting sound recording requirement and if Congress intended a similar requirement for motor carrier bureaus, it would have expressly provided for it. The Rubber Manufacturers suggest that imposition of a sound recording requirement should be instituted as a remedial measure, only upon a strong showing that a bureau has exceeded the boundaries of permissible activities. As an alternative, NITL suggests that the bureaus be required to file the minutes of their meetings, including the voting record on each docket, with the Commission. The minutes would be kept confidential.

We have decided against a sound recording program at this time. Our regulations at 49 CFR 1253.20 provide that every carrier organization operating under an approved agreement is required to maintain reports or minutes of all oral proceedings. These records must be filed and kept readily available for examination by Commission representatives.

In our notice, we expressed concern for the lack of definite remedies for proven rate bureau violations. We anticipated a need for immediate administrative remedies to assure the integrity and consistency of our regulation. In addition to the possible remedy of withdrawal of immunity for serious and continuing violations, we proposed to adopt a standard providing that proof of significant violations of an approved agreement will result in tariff rejection. Allegations of lesser violations would subject the tariff item to suspension or investigation.

The Rate Bureaus contend that the specific requirements of section 14 of the new act do not expressly provide for withdrawal of immunity. Rather, section 14 is said to provide continued immunity under previously approved agreements during the period new or amended agreements are being considered by the Commission. The bureaus infer that Commission action under section 10706 can do no more than determine whether or not an agreement qualifies for approval. As long as bureau agreements conform to section 14, the congressional grant of immunity allegedly protects "all parties and other persons with respect to making or carrying out the agreement."

The Rate Bureaus also oppose rejection or suspension and investigation as remedies for violations of rate bureau procedures. They argue that specific remedies are neither contemplated nor authorized by the act, and that the Commission lacks authority to create a new "remedy" for perceived violations of the antitrust law.

We believe that the bureaus' restrictive interpretation of our responsibilities is neither warranted by the act nor in keeping with the goals of the NTP.[8] The Commission's responsibilities uner section 10706 do not preclude withdrawal of rate bureau immunity. As a practical matter, the power to grant approval implies a power to reconsider and withdraw the approval. Exercise of the power to reconsider and withdraw immunity is necessary if the Commission is to perform effectively its express duties under the act. Moreover, if we accepted the Rate Bureau interpretation, we would effectively be limiting section 10706(b)(3)(E) to antitrust proceedings. Since the section refers to "any proceeding" we think it is sufficiently broad to apply to rejection, suspension and investigation, and complaint proceedings provided the burden of proof falls on the party alleging rate bureau improprieties. *American Trucking Assns.* v *United States*, 344 U.S. 298, 309–10 (1953), and *Permian Basin Area Rate Cases*, 390 U.S. 747 (1968). Moreover in *Atchison, Topeka & S. F. Ry. Co.* v. *Aircoach Transp. Assn.*, 253 F. 2d 877, 886 (D.C. Cir. 1958),[9] and *Luckenback-Steamship Company* v. *United States*, 179 F. Supp. 605, 613 (1959)[10] the courts concluded that although the Commission does not have *exclusive* primary jurisdiction over questions of "5a" coverage whenever antitrust violations are raised, the agency may, nevertheless, make the first decision on such matters since it is charged with administering the statute under which the agreements were approved.

Pursuant to 49 U.S.C. 10762(e), the Commission is expressly authorized to reject tariffs published in violation of the act or our regulations. See *Acme Fast Freight, Inc. Common Carrier*

[8] The NTP constitutes substantive law to be implemented by the Commission. See *American Lines* v. *L&N.R. Co.*, 392 U.S. 571 (1968); *Schaffer Transportation Co.* v. *United States*, 355 U.S. 83 (1957); *Dixie Carriers* v. *United States*, 351 U.S. 56 (1956); *Need for Defining Reasonable Dispatch*, 351 I.C.C. 812, 829 (1976).

[9] Certiorari denied at 361 U.S. 930 (1960).

[10] Judgment partially vacated but antitrust phase affirmed at 364 U.S. 280.

Application.[11] The courts have concluded that regulatory agencies possess inherent authority to reject tariff matter and have construed that authority to extend beyond technical requirements of form and order. *Municipal Light Bds.* v. *FPC*, 450 F. 2d 1341, 1346 (D.C. Cir. 1971), cert. denied, 405 U.S. 989 (1972).

We recently established a TIB [12] to act in those cases where our limited tariff examination program fails to identify unlawful tariff before they become effective.

In our notice, we proposed to reject tariffs when they were shown to have been adopted or published under procedures that violated rate bureau agreements. The TIB will entertain all allegations of rate bureau agreement violations. Those found to have merit will be submitted to the Office of Consumer Protection for detailed investigation. After receiving the results of this investigation the TIB may act or send its recommendations to the Commission for possible action. A shipper may file a verified complaint seeking to have tariff material stricken before, or within 60 days after, the effective date of the tariff.

In addition to seeking rejection, a shipper may seek suspension or investigation on the grounds of rate bureau agreement violations. As we have the power to strike or reject a tariff for these violations, we clearly have the power to take this less drastic action.

This process is obviously related to the strike mechanism. If a tariff suspended on the grounds of possible rate bureau violations is subsequently stricken, the suspension or investigation proceeding will be moot. On the other hand, a final decision not to strike for the reason that a clear violation has not been proven will leave the disputed tariff in place and thereby permit the continuation of the suspension or investigation proceeding.

Frequent rejections or formal proceedings in which rate bureau violations are proven for tariffs of a particular bureau may suggest a pattern of abuse which would warrant more serious study of a bureau under 49 U.S.C. 10706(b) and the NTP.

In addition to rejecting tariffs which have been adopted or published under procedures which violate approved agreements, we retain the option of referring the findings of any investigation into such violations to the antitrust enforcement agencies. We reiterate that the only permissable activity which enjoys immunity from the antitrust laws is that carried out under the detailed procedure in the agreement and bylaws. We intend to enforce vigorously compliance with these procedures so that the public may enjoy the benefits Congress anticipated when it enacted the rate bureau provisions of Pub. L. 96–296.

VI. Additional Considerations

This decision is intended to consolidate in one place all of our substantive regulations and interpretations with respect to motor carrier rate bureaus. Therefore, it is appropriate that we review previous Commission actions to determine which have been superceded by this decision.

In our *Rate Bureau Investigation, supra*, we made 26 findings of fact regarding the operation of rate bureaus. Several of these findings, as they apply to motor carrier rate bureaus, are modified or reversed as a result of this decision. For instance, finding 13 decided that public notice of rate proposals need not identify the proponent. This finding has now been superceded by the requirements mandated for changing or canceling independently established rates. Finding 22 prohibited the rate bureaus from protesting the independent actions of their members. This prohibition has been expanded to embrace the independent action of any motor carrier. Findings 24 and 25 found the continuation of antitrust immunity to be in the public interest. The act essentially lifted the antitrust immunity with respect to zone rates and new released rates, and effective January 1, 1984, will lift immunity for single-line rates and all released rates.

To the extent that these and any other findings contained in the *Rate Bureau Investigation* are inconsistent with this decision they are reversed.

Several regulations in Part 1331 of Title 49 of the CFR entitled "Section 5a Applications," [13] are modified or made inapplicable to motor carrier rate bureaus by this decision. While notice of particular changes to the CFR was not given in our August decision, it is clear that there was actual notice of the possibility of such changes. In fact, many commentors referred to our existing rules. Accordingly, we believe we may finalize repeal of inconsistent regulation concurrent with adoption of this new set of standard. The following sections generally provide the procedures for new rate bureau applications and remain applicable to motor carriers:[14]

49 CFR 1331.1 Form and contents of application.
49 CFR 1331.2 Required exhibits.
49 CFR 1331.3 Procedure.
49 CFR 1331.4 New parties to an agreement.

The intent of § 1331.5, Public Notice, has been discussed and incorporated in our new standards. It will be revised to apply to nonmotor bureaus.

Section 1331.6 as it applies to motor bureaus is repealed. Relevant portions of it are incorporated in this decision. It remains applicable to other than motor carrier rate bureaus and will be retitled, and other necessary conforming amendments made. (See concurrently issued **Federal Register** notice of final rules.)

VI. Ultimate Findings and Conclusions

Upon consideration of the entire record in this proceeding, we find that the above interpretations and sample amendments are consistent with the congressional intent expressed in the new act and its legislative history and are within our authority to prescribe.

The following is a list of the Special Permission Authorities canceled. Any other permission of like impact are also canceled.

Name of agent	Special permission No.
Rocky Mountain Motor Tariff Bureau, Inc	80–2711–M
Motor Carriers Traffic Association Incorporated	80–4413
Steel Carriers' Tariff Association, Inc	77–3130–M
Eastern Central Motor Carriers Association, Inc	80–2433–M
New England Motor Rate Bureau, Inc	80–2779–M
Central and Southern Motor Freight Tariff Association	80–2516–M
National Association of Specialized Carriers, Incorporated	80–4037 81–0515
Central States Motor Freight Bureau, Incorporated	80–2518–M
Niagara Frontier Tariff Bureau, Inc	81–0499
Intermountain Tariff Bureau, Inc	81–0511
Western Motor Tariff Bureau, Inc	81–0500
Oil Field Haulers Association, Inc	81–0517
Southern Motor Carriers Rate Conference	80–2822–M
Middlewest Motor Freight Bureau	72–3559–M 76–2509–M
Middle Atlantic Conference	80–2527
Ohio Motor Freight Tariff Committee	80–3227–M

This proceeding does not significantly affect the quality of the human environment or the conservation of energy resources and will not have an adverse impact on small business.

[11] 17 M.C.C. 549 (1939), affirmed *sub nom. Acme Fast Freight* v. *United States*, 30 F. Supp. 968 (1940), affirmed 309 U.S. 638 (1940).

[12] Ex Parte No. 367, *Tariff Integrity Board.*—I.C.C.—(decided September 27, 1979), modified, I.C.C.—(decided September 25, 1980).

[13] The title and format of this part reflect the pre-4R Act statute when section 5a applied to all regulated carriers. The 4R Act created a new section 5b exclusively pertaining to rail carriers. Section 5b is recodified at 49 U.S.C. 10706(a) and section 5a is recodified at 49 U.S.C. 10706(b). Our rule changes reflect these amendments.

[14] Other rules, *e.g.*, 49 CFR 1253.20, remain applicable.

Commissioner Gilliam, concurring:

In my concurring opinion to the notice adopting interim rules and interpretations in this proceeding, I set out my preliminary views on the role of the Commission under section 14 of the Motor Carrier Act of 1980. My position was basically that the strict, self-executing standards exacted by the Congress are evidence of their intent to reduce the substantial discretion previously invested in the Commission to approve or disapprove agreements. After reviewing the comments filed in response to the notice, I remain convinced that my initial interpretation is correct. I believe this decision proves my point.

The majority's decision marks a retreat from the proposal contained in the notice. There are some valid interpretations made in the decision, but on the whole it provides very little guidance and merely traces the requirements of the statute. This is the main reason I am concurring in the result, because with one major exception, this decision will make no appreciable difference.

The one exception is the section on remedies for rate bureau violations which I discussed in my previous opinion. I do not believe the Commission has the authority under the statute to suspend and investigate rate proposals on the basis of alleged rate bureau violations. My reading of the statute is that the *status quo* remains unchanged in this area and that the exclusive remedy is disapproval of the agreements. As I stated before, if carriers do not adhere to the specific terms of their agreements then they are automatically operating without immunity subject to the operation of the antitrust laws, regardless of any action taken by the Commission. As far as tariff rejection on the basis of alleged violations is concerned, it is arguable that in egregious situations the Commission may be able to reject tariffs before they go into effect on these grounds.

I am already on record in Ex Parte No. 367, *Tariff Integrity Board*, as questioning whether tariff rejection after the fact is legally defensible. This is precisely the type of situation that I feared when I dissented in that case. Tariff rejection on the basis of antitrust violations carries with it severe consequences for carriers. This is not merely a technical publishing error that we are talking about, but the spector of antitrust prosecution that we are raising in summarily rejecting a tariff on this basis. I believe the Commission should stick to its area of expertise—transportation. We bring this expertise into play in the rate bureau area when we review agreements for approval based on compliance with the statutory standards and the goals of the transportation policy. There is an agency vested with the power to enforce the antitrust laws. It is the Justice Department not the Commission acting on our behalf. Congress has spoken on the question of rate bureaus. We should implement their intent and not attempt to increase our regulation whether it be through actual formal proceedings or through our enforcement efforts.

Issued under authority of Pub. L. 96-296, 49 U.S.C. 10321 and 10706, and 5 U.S.C. 553.

By the commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Gilliam concurring with a separate expression. Commissioner Clapp reserves his right to submit a separate expression at a later date.

Agatha L. Mergenovich,
Secretary.

Appendix A

List of parties

1. Alaska Carriers Association, Inc.
2. Aluminum Association, Inc.
3. American Bakers Association.
4. American Paper Institute, Inc.
5. American Retail Federation.
6. American Trucking Associations, Inc.
7. Automobile Transporters Tariff Bureau, Inc.
8. Bureau of Competition, Federal Trade Commission.
9. Bulk Carrier Conference, Inc.
10. Central and Southern Motor Freight Tariff Association, Inc.
11. Central States Motor Freight Bureau, Inc.
12. Grant M. Davis, Ph. D.
13. Department of Defense.
14. Department of Transportation.
15. Drug and Toilet Preparation Traffic Conference, Inc.
16. Eastern Central Motor Carriers Association, Inc.
17. Firestone Tire and Rubber Company.
18. Georgia Freight Bureau, Inc.
19. Gulf Ports Association, Inc.
20. Heavy & Specialized Carriers Tariff Bureau.
21. Household Goods Carriers' Bureau, Inc.
22. Middle Atlantic Conference.
23. Middlewest Motor Freight Bureau.
24. Mobile Transportation Rate Bureau, Inc.
25. Motor Carriers Traffic Association, Inc.
26. National Association of Specialized Carriers, Inc.
27. National Classification Committee.
28. National Industrial Traffic League.
29. National Small Shipments Traffic Conference, Inc.
30. New England Motor Rate Bureau, Inc.
31. Niagara Frontier Tariff Bureau, Inc.
32. Office of Special Counsel, Interstate Commerce Commission.
33. Ohio Motor Freight Tariff Committee, Inc.
34. Oil Field Haulers Association, Inc.
35. Oxford Chemicals, Inc.
36. Pacific Inland Tariff Bureau.
37. Rockwell International Corporation.
38. Rocky Mountain Motor Tariff Bureau, Inc.
39. Rubber Manufacturers Association.
40. Southern Motor Carriers Rate Conference.
41. Steel Carriers' Tariff Association, Inc.
42. Western Motor Tariff Bureau, Inc.
43. Westinghouse Electric Corporation.

[Ex Parte No. 297 (Sub-No. 5)]

Motor Carrier Rate Bureaus—Implementation Clarification and Errata

We are changing our order served December 30, 1980, because it does not accurately reflect the Commission vote in various respects. In addition, we are resolving ambiguities and inconsistencies, making minor editorial changes, and correcting typographical errors. 49 U.S.C. 10322(g)(1).

1. Page 1, line 2 of text, insert "(Act.)" after "Pub. L. 96-296.".

2. Page 1, lines 5, 9, and 13 of text, change "act" to "Act".

3. Page 3, line 34, change "act" to "Act".

4. Page 3, line 38, change "49 U.S.C. 10706(b)." to "49 U.S.C. 10706(b) and any unrelated new amendments."

5. Page 4, line 5, after "agreements." add the following paragraph:

Section 14(e) of the Act grants rate bureau interim antitrust immunity. To continue that existing immunity Section 14(e) requires the bureaus to (1) comply with 49 U.S.C. 10706; (2) comply with the requirements of this decision; and (3) submit amended agreements to the Commission for approval.

To meet these three conditions precedent, the bureaus shall take the following steps. Bureaus shall comply with 49 U.S.C. 10706 until this decision becomes effective, after which the bureaus shall also comply with this decision. On the date we have prescribed, bureaus shall file amended agreements reflecting 49 U.S.C. 10706 and this decision's requirements.

If all of these steps are taken in the prescribed sequence, the existing antitrust immunity will continue uninterrupted until the Commission finally disposes of the amended agreement.

6. Page 5, line 1, change "any" to "[A]ny".

7. Page 5, line 11, revise to read "action. (49 U.S.C. 1331.6(A)(1))".

8. Page 5, line 15, change "carrier" to "carriers".

9. Page 5, line 40, change "which proposed rate increases that" to "whose rate increases".

10. Page 7, line 1, change "docketing" to "Docketing".

11. Page 9, line 16, change "actions" to "action".

12. Page 9, line 33, change "act's legislative history" to "Act's legislative history,".

13. Page 9, line 35, change "H. Rept." to "H.R. Rept."

14. Page 9, line 39, change "act' to "Act".

15. Page 10, line 1, change "act" to "Act".

16. Page 10, line 14, delete and insert "not docket the proposal until it has been filed with the Commission."

17. Page 10, line 16, change "advance" to "advance,".

18. Page 10, line 23, change "advantage" to "advantage,".

19. Page 10, line 36, delete and insert "effective date. The decision to file a similar independent action must be made, however, without dis-".

20. Page 11, line 16, change "The Bureau" to "They".

21. Page 11, line 23, change "On" to "In".

22. Page 11, line 33, change "act." to "Act."

23. Page 11, line 38, change "docketing" to "docketing,".

24. Page 12, lines 7 and 11, change "act" to "Act".

25. Page 12, line 27, delete "carrier".

26. Page 13, line 2, change "other" to "other,".

27. Page 13, line 19, change "act" to "Act".

28. Page 14, line 16, correct spelling for "time".

29. Page 14, line 16, after "docketing." insert the following:

In the absence of explicit instructions for handling and docketing from the proponent of an independent action, the bureau may not docket the item until the proposal has been filed with the Commission.

30. Page 14, line 17, change "before or after ICC filing." to "until they have become effective.".

31. Page 14, line 18, insert the following additional paragraph:

When a carrier submits an independent action to the bureau and chooses to have the item docketed, notification will be given by the bureau to the same extent and in the same manner that the bureau gives notice of actions proposed under collective procedures.

32. Page 14, lines 44 and 45, and page 15 lines 1–5, should be printed in 8-point type.

33. Page 15, line 36, change "act" to "Act".

34. Page 15, line 40, delete "S. Rept., supra at 14."

35. Page 16, lines 3 and 14, change "H. Rept." to "H. R. Rept.".

36. Page 16, line 5, change "noted" to "notes".

37. Page 17, line 1, change "persuasive" to "persuasive,".

38. Page 17, line 9, after "carriers." insert "We will also continue the practice permitting shippers to obtain the assistance of rate bureau employees in developing and presenting tariff proposals."

39. Page 17, line 9, change "they" to "bureau employees".

40. Page 17, line 12, change "carrier(s)" to "party(ies)".

41. Page 17, line 13, change "initiates" to "initiate(s)".

42. Page 17, line 39, change "act." to "Act."

43. Page 18, line 5, after "member carriers" insert "or shippers" and after "a carrier" insert "or shipper".

44. Page 18, line 16, change "act." to "Act."

45. Page 19, lines 12, and 13, delete and insert the following

venes. Charges and requirements for written requests to obtain this information are unacceptable. Under the Act, this information

46. Page 19, line 17, change "which" to "which vote".

47. Page 19, line 19, change "he" to "it".

48. Page 23, line 4, change "act." to "Act".

49. Page 23, line 8, delete "International".

50. Page 25, line 23, add "*".

51. Page 26, line 4, change "rates" to "rate".

52. Page 27, line 7, change "H. Rept" to "H. R. Rept." and "S. Rep." to "S. Rept.".

53. Page 28, line 5, change "act" to "Act".

54. Page 28, line 22, after "delayed." delete remainder of paragraph and insert the following:

Section 10706(b)(3)(D) states that section 10706(b)(3)(B)(i)(II) only applies to general rate increases under the stated conditions. Apparently, general rate increases would be impossible as of January 1, 1981, when the requirement of actual authority for voting becomes effective, unless the restrictions were observed. Literally, carriers without authority to participate in every rate affected by a general rate increase could not vote. This clearly was not contemplated by Congress, and we have no choice but to conclude that the restrictions in subparagraph (D)(i) must take effect immediately.

55. Page 29, line 31, "act" to "Act".

56. Page 29, lines 41 and 42, change "." to ":", begin on next line with "General" indented and in 8-point type.

57. Page 30, line 35, change "effect" to "effective".

58. Page 31, lines 18 and 29, change "H. Rept." to "H. R. Rept."

59. Page 31, line 39, change "filled" to "filed".

60. Page 31, line 34, change "nature" to "nature,".

61. Page 32, lines 2, 8, and 17, change "act" to "Act" or "Acts".

62. Page 32, line 6, delete "Moreover," and change "since" to "Since".

63. Page 32, line 7, change "offers" to "offers the".

64. Page 32, line 35, change "rates" to "rates,".

65. Page 32, lines 35 and 36, change "established" to "established,".

66. Page 33, line 4, change "Commission" to "Commission,".

67. Page 33, line 11, delete ", however,".

68. Page 33, line 13, change "We" to "However, we".

69. Page 33, line 22, at the end of the sentence, add the following additional material:

In the absence of explicit instructions for handling from the proponent of an independent action, the bureau may not docket the item until the proposal has been filed with the Commission.

70. Page 34, line 2, change "H." to "H.R.".

71. Page 34, line 8, at the end of the sentence, add the following additional material:

Abuse of this exception could lead to withdrawal of Commission approval for the collective consideration of classification proposals.

72. Page 34, line 17, change "Activities" to "The activities listed above".

73. Page 34, line 33, change "act" to "Act".

74. Page 34, line 36, change "some" to "a".

75. Page 35, line 11, change "limiting" to "limited".

76. Page 35, line 34, change "act" to "Act".

77. Page 35, line 38, change "Commission action" to "the Commission".

78. Page 36, lines 3, 7, and 29, change "act" to "Act".

79. Page 37, line 2, change "unlawful tariff" to "unlawful tariffs".

80. Page 37, line 6, delete everything after "agreements." and insert the following material:

The Tariff Integrity Board will entertain all allegations of rate bureau agreement

violations. Those found to have merit will be submitted to the Office of Consumer Protection for detailed investigation. The results of this investigation and the Tariff Integrity Board's recommendations will be submitted to the Commission for possible action.

81. Page 37, line 26, change "a bureau" to "the bureau".

82. Page 38, line 13, change "act" to "Act".

83. Page 38, line 25, change "regulation" to "regulations".

84. Page 38, line 26, change "standard" to "standards".

85. Page 39, line 3, change "VI" to "VII".

86. Page 39, line 6, change "act" to "Act".

87. Page 39, line 5 of concurring opinion, change "exacted" to "enacted".

88. Page 41, line 1, change "Appendix A" to "Appendix".

89. Page 41, line 2, delete and insert "List of parties filing comments".

90. Page 44, lines 31 and 32, delete and insert the following new material:

5. The quorum for holding meetings at which rates, rules, or classifications are discussed or considered is 30 percent of the membership of the organization or 50 percent of the membership of the respective committee.

91. Page 44, line 38, insert the following additional material:

7. To retain antitrust immunity, the bureaus shall comply with 49 U.S.C. 10706 and this decision, when it becomes effective. Then, on the prescribed date, the bureaus shall submit for our approval agreements amended in accordance with 49 U.S.C. 10706 and this decision.

Dated: January 29, 1981.

By the Commission, Chairman Gaskins, Vice Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Served: May 11, 1981.

Interstate Commerce Commission

[Ex Parte No. 297 (Sub-No. 5)]

Motor Carrier Rate Bureaus—Implementation of Pub. L. 96-296

Decided: April 27, 1981.

Petitions to reopen and reconsider granted in part. Certain clarifications offered.

Appearances as shown in prior decision.

Decision *

By the Commission.

The National Association of Specialized Carriers, Inc., (NASC), the National Small Shipments Traffic Conference jointly with the Drug and Toilet Preparation Traffic conference (NASSTRAC/DTPTC), and various motor carrier rate bureaus (Bureaus)[1] have petitioned pursuant to 49 CFR 1100.98(d) for reopening and reconsideration of our decision served December 30, 1980.[2]

We are persuaded that the decision should be reopened and modified in certain aspect.[3] We will also respond to a number of issues raised in the petitions and make clarification of our earlier decision as necessary. Issues raised in the petitions and not addressed here were considered and were concluded properly and adequately resolved in the prior decision as supplemented by the Notice.

Advance Notice of Independent Actions

NASC, NASSTRAC/DTPTC, and the Bureaus allege that the December decision is materially in error because it wrongly concludes that 49 CFR 1331.5's advance notice procedure need not be mandatory when carriers adjust rates independently. They argue that our December decision, in effect, reversed 1331.5 and cannot be justified under provisions of the act, as amended, which clearly contemplate a continuation of past rules covering independent actions (IA's).

We disagree. As pointed out in our December decision and clarified in our Notice (p. 2-No. 31), if notice of an IA is given, the public and the carriers will receive it at the same time. It is equality of notice which 1331.5 prescribes and which the December decision retains. The argument that the December decision is internally inconsistent regarding bureau docketing actions when a carrier has not given specific instruction was adequately addressed in the Notice (p. 2, Nos. 16 and 29).

Rate Increases

NASSTRAC/DTPTC also contend that the December decision fails to protect the rights of shippers and the public in not requiring advance notice of independent actions increasing rates or restricting available service. This issue, however, was directly addressed in our December decision and also discussed in our denial of the petitions for stay. The stay decision (p. 2), served January 29, 1981, discusses the procedural remedies available to shippers. Moreover, both decisions describe the congressional intention to rely on marketplace forces to protect shippers and the public (decision, p. 12 and stay, p. 3).

Special Permissions

NASC and the Bureaus argue that cancellation of the special permission orders authorizing short notice publication of rate changes is unlawful because it was done without notice. However, the stay decision (p. 2) points out that special permission authorizations (which are, from a procedural standpoint, informal agency actions) may be withdrawn at any time and that, in any event, the Bureaus were given more than 30 days' notice but failed to show the cancellation inappropriate.

Recording Devices

NASC contends that allowing recording devices to be used at bureau meetings constitutes material error. We disagree.

The December decision (p. 18) responds to the clear congressional concern that rate bureau meetings be open in order to ensure adequate public monitoring of collective actions. In our view, this outweighs speculation that recordings could be used in frivolous litigation. There are adequate legal safeguards to prevent that from becoming a reality.

Quorums

Next, the Bureaus and NASC criticize our prescription of quorum percentages. The Bureaus contend that the 50-percent requirement for committee membership is unworkable. While we are not persuaded by the criticisms of inadequate notice and lack of flexibility that (the December decision (p. 22) provides for relaxation of the quorum standards where genuine hardship exists), we have been persuaded that the 30-percent requirement is appropriate for committee, as well as general meetings. The prior decision is amended accordingly. It is, thus,

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*Editorial Note.—Pages referred to in parenthesis are pages in the Original Decision.

[1] Central and Southern Motor Freight Tariff Association, Inc., Central States Motor Freight Bureau, Inc., Eastern Central Motor Carriers Association, Inc., Middle Atlantic Conference, Middlewest Motor Freight Bureau, National Classification Committee, New England Motor Rate Bureau, Inc., Niagara Frontier Tariff Bureau, Inc., Pacific Inland Tariff Bureau, Rocky Mountain Motor Tariff Bureau, Inc., and Southern Motor Carrier Rate Conference.

[2] On January 29, 1981, we issued a Notice of Clarification and Errata, referred to here as the Notice. That document addresses a number of the issues raised in the petitions.

[3] NASSTRAC/DTPTC request than we delete a sentence, attributed to them, which asserts that a total prohibition against bureau protests and complaints is discretionary (decision p. 15). The sentence beginning with "Contrary * * *" and ending with "* * * matter." (lines 10 and 11) is to be struck from the prior decision.

unnecessary to address NASC's request for interpretation.

Single-Line Rates

NASC and the Bureaus challenge the December decision's interpretation (at pp. 25–27) of 49 U.S.C. 10706(b)(3)(D)'s effect on single-line rates. They contend that the inclusion serves no useful purpose, ignores Congress' intention to have the Motor Carrier Ratemaking Study Commission (Study Commission) resolve this issue, and is prejudicial.

In our view Congress did not intend to preclude totally our discussion of this section. Indeed, we note that 49 U.S.C. 10706(b)(4) permits us to issue regulations implementing 10706(b)(3)(D), once antitrust immunity is terminated. The December decision clearly provides only our interpretation of 49 U.S.C. 10706(b)(3)(D) for the public's understanding of our position. Given the role of the Study Commission, our decision does not purport to resolve with finality the underlying issues.

General Increases and Decreases and Tariff Structure Changes

NASC and the Bureaus also question the December decision's handling of general increases and decreases. They argue that our decision misreads 49 U.S.C. 10706(b)(3)(D)(i) and implements it prematurely.

We find these concerns unjustified. In our Notice (p. 4, No. 54) we clarified our views regarding the (D)(i) restrictions' present applicability and stated our belief that they are immediately effective. It is clear that Congress did not intend that the limitation on voting to those with actual authority to participate in the transportation to which a rate applies would eliminate general rate increases. The language of section 10706(b)(3)(D) indicates that this is true only so long as the (D)(i) restrictions are observed, however.

Another related issue raised by petitioners involves the limitation on discussions of general increases or decreases and tariff structure changes to regional industry average carrier cost information. Petitioners argue that, because a bureau is composed of carriers operating nationally, it is inappropriate to limit discussions to regional cost data.

In our prior decision, at pages 29 and 30, we discussed this issue and concluded that industry (and, therefore, national) average cost discussions also are permitted by the statute. Inadvertently, the sample amendments use the phrase "regional industry average cost." As the word "regional" should not have appeared, we now strike it.

We appreciate NASC's concern in this area. We had no intention to limit a bureau's discussion more narrowly than the scope of its agreement. We realize that a bureau such as NASC, with its scope defined by type of transportation rather than geographic boundaries, has a clear need to discuss more than regional industry average costs.

At the same time, however, we believe API's concerns (decision, p. 29) is a valid one. Bureaus should take care that the cost data they submit are representative of the needs of that bureau's membership.

The alleged inconsistency in our method of calculating the 15-day notice period for general increase proposals (decision, p. 29) compared to the 120-day compliance period (decision, p. 23) misunderstands our intent. Our discussion of the 15-day requirement was intended to exclude only those Saturdays, Sundays, or legal holidays falling on the 15th day. We did not intend to eliminate all weekends and holidays from the 15-day computation. Under the statute, 15 calendar-days must elapse before the general increase proposal discussion notice requirement can be fulfilled.

Zone of Freedom and Released Rates

All three petitioners challenge the December decision's findings (at pp. 31–33) relating to independent actions under the zone of freedom and the released rates provision (49 U.S.C. 10706(b)(3)(c)). NASC contends that advance notice is required under 49 CFR 1331.5 and does not chill competition. This argument, however, ignores the congressional intent in 10706(b)(3)(c) to insulate actions taken under this section from collective consideration (decision, p. 31). The discretion authorized in our decision helps to ensure that actions taken under the zone are not collective.

NASSTRAC/DTPTC request clarification of the December decision's statement that carriers should consult with and provide information regarding released rates to shippers in advance. We envision carriers consulting with shippers and agreeing in advance to particular released rates. Advance agreement is necessary if a carrier proposes to eliminate full value rates. On the other hand, no shipper approval is required (although we would still encourage it) if a new released rate will alternate with existing full value rates. We see no need to establish detailed requirements regarding the negotiations.

The Bureaus disagree with the December decision's interpretation of what constitutes a "new" as opposed to an existing released rate (decision, pp. 32–33). They argue that our interpretation is contrary to the Motor Carrier Act of 1980 and was established in contravention of 5 U.S.C. 553(b)(A). However, as we stated in our stay decision, a notice of proposed rulemaking is sufficient if it provides a description of the subjects and issues involved in the rulemaking. *California Citizens Band Association* v. *United States*, 375 F. 2d 43, 48 (9th Cir. 1967); *Ethyl Corp.* v. *Environmental Protection Agency*, 541 F. 2d 1, 48–49 (D.C. Cir. 1976). Here the public was informed that we were considering issues involved in implementing the released rate provision. A description of what constitutes a new or changed released rate was an integral part of this implementing process and could reasonably be expected. Finally, we cannot agree that Congress precluded our interpretation of this section. A discussion of its ramifications was necessary in determining where the public interest lies. In implementing this section, an interpretation of what constituted a new released rate was unavoidable. The Bureaus' arguments do not convince us that our definition is improper.

10706 Unrelated New Amendments

NASSTRAC/DTPTC charge that the December decision limits shipper comments on proposed amendments to bureau agreements solely to those amendments implementing section 10706. However, as stated in our Notice (p. 1, No. 4), interested parties may also comment on "any unrelated new amendments." Thus, comments addressing any nonsection 10706 proposed amendment will be accepted and reviewed.

49 CFR 1331.6

NASSTRAC/DTPTC criticize the December decision (p. 38) as having repealed 49 CFR 1331.6 when its abolition would render p. 5 of the decision unintelligible. However, the decision at p. 38 provides that "relevant portions of it are incorporated in this decision." At page 5, we specifically incorporated the § 1331.6 definition of independent action rates as well as its requirements for changing these rates.

Definition of Notice

NASSTRAC/DTPTC believe that adequate notice of bureau meetings (decision, p. 18) should be defined. They suggest that to be reasonable, notice should be at least 14 days if by first-class mail and 10 days if a more expeditious form of notice is used.

We believe it unnecessary at this time to define the term "reasonable notice."

What is reasonable will depend on the particular circumstances surrounding a proposal. Because of the interest expressed by NASSTRAC/DTPTC in this issue, however, we note that typically, bureaus give no less than 15 days' notice of items being considered for collective action, and we believe this is reasonable.

Proxy Voting

The Bureaus criticize the December decision's (at pp. 20–21) implementation of the act's proxy voting provision, 49 U.S.C. 10706(b)(3)(B)(vi). They contend that our implementation renders proxies useless in situations where a proposal is amended, and thus, our implementation is inconsistent with the congressional affirmation permitting proxy voting.

We disagree. Proxy voting is not eliminated but circumscribed in conformance with the congressional mandate that ratemaking results from an individual carrier's appraisal of the demand for and cost of its particular services. Proxies may indicate the breadth of the carrier's position, i.e., to what extent it would approve an amendment.

Burden of Proof and Effect of Violations

The December decision (at pp. 34–37) properly delineated the factual presentation necessary to demonstrate a violation of this section. The decision's description of violation remedies, including the use of the Tariff Integrity Board (TIB) to reject tariffs, is criticized by the Bureaus as exceeding our delegated authority.

We find that the Bureaus' contentions regarding burden of proof and effect of violations under 49 U.S.C. 10706(b)(3) are without merit. Our Notice (p. 5, No. 80) clarifies the TIB's role in enforcing 10706(b)(3). Under the December decision's procedures and as stated in the stay decision (p. 2), tariffs violating rate bureau agreements will only be rejected upon complaint. TIB procedures provide the Bureaus with a full hearing and appeal rights. In our view, the December decision properly describes our authority to reject tariffs (decision, p. 36) adopted in violation of rate bureau agreements.

This decision will not significantly affect the quality of the human environment or conservation of energy resources.

Commissioner Clapp, concurring in part and dissenting in part:

As my concurrence to the decision served December 30, 1980 notes, a meaningful Commission oversight and enforcement role would make the elaborate tariff rejection mechanism unnecessary. There is reason to believe, however, that we inadvertently have hindered an effective oversight effort by eliminating a docketing requirement for rate increases published as independent actions in bureau tariffs.

The practical ability of shippers to protest tariff increases helps discourage potential pricing abuses before the fact. Shippers rely heavily on the rate bureau docket bulletins as a relatively inexpensive source of information (compared to the cost of subscribing to all bureau tariffs) about these independent action increases. As a result, the elimination of a docketing requirement for rate increases has impaired the practical ability of shippers to protest parallel (even if not simultaneous) rate hikes and other tariff adjustments that are not truly independent, even though they are labeled as such. Ironically, this works at cross purposes with a primary goal of the Motor Carrier Act of 1980—the encouragement of independent pricing based on individual carrier initiative.

The elimination of a docketing requirement for independent action rate decreases should enhance competition because individual carriers will have every incentive to use the most effective means of advertising possible (be that the docket bulletin or some other mechanism). However, the incentive to publicize rate increases before the fact is not nearly as strong. For the present, the elimination of required docketing of independent action increases should be limited to those published under Section 10708(d)'s zone of rate flexibility. Since the statute does not permit those increases to be challenged as unreasonably high there is a limited need for a right of protest, and experience with filings under the zone will provide a sound empirical basis for evaluating the need for any additional steps.

It is ordered:

The proceeding is reopened and the petitions for reconsideration are granted to the extent discussed in this decision. In all other respects, the petitions are denied.

In accordance with our notice served February 27, 1981, new or amended agreements must be filed 15 days from the service date of this decision. Interested parties then have 45 days to file comments on the proposed agreements, and the Bureaus may reply within 20 days.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam. Commissioner Gilliam concurred in the result. Commissioner Clapp concurred in part and dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Clapp, concurring in part and dissenting in part:

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[FR Doc. 81-16651 Filed 6-4-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 308]

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 7–13, 1981. 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 7, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been classified "not significant", and not a major rule. 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 available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on June 2, 1981, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is 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 purposes 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.

Information collection requirements (reporting or record keeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

Section 910.608 is added as follows:

§ 910.608 Lemon Regulation 308.

The quantity of lemons grown in California and Arizona which may be handled during the period June 7, 1981, through June 13, 1981, is established at 330,000 cartons.

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

Dated: June 4, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-16906 Filed 6-4-81; 8:45 am]

BILLING CODE 3410-02-M

Proposed Rules

Federal Register
Vol. 46, No. 108
Friday, June 5, 1981

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.

FEDERAL HOME LOAN BANK BOARD

[No. 81-295]

12 CFR Part 526

Ownership of NOW Accounts

May 29, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Interpretive rules; request for comments.

SUMMARY: The Federal Home Loan Bank Board intends to adopt interpretive rules regarding the eligibility of individuals and organizations to hold NOW accounts at member institutions. The Board is soliciting public suggestions regarding the proper scope of existing regulatory eligibility criteria and will consider these comments when formulating the final interpretive rules.

DATE: Comments must be received by July 7, 1981.

ADDRESS: Comments should be sent to the Public Information Office, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Michael D. Schley, Office of General Counsel, Federal Home Loan Bank Board (202-377-6444), at the above address.

SUPPLEMENTARY INFORMATION: By the Depository Institutions Deregulation and Monetary Control Act of 1980, Congress authorized depository institutions nationwide to offer NOW (negotiable order of withdrawal) accounts beginning December 31, 1980. (Sec. 303, Pub. L. 96-221, 94 Stat. 132 (1980), 12 U.S.C. 1832.) This statutory authority restricts NOW accounts to:

> Deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit. (12 U.S.C. 1832(a)(2))

On September 30, 1980, the Board adopted regulations regarding NOW accounts, which contain eligibility criteria substantially identical to those quoted above. (Res. No. 80-613, 45 FR 66781, Oct. 8, 1980.) Section 526.1(1) of the Board's Federal Home Loan Bank System regulations provides:

> The [NOW] account must consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes and which is not operated for profit. (12 CFR 526.1(1))

The Board's Office of General Counsel has issued several opinion letters interpreting the NOW account eligibility criteria, addressing inquiries on a case-by-case basis. In the course of responding to inquiries, the need for guidelines to the interpretation of the eligibility criteria has become evident. Upon the recommendation of its staff, the Board intends to adopt an interpretative rule regarding the scope of the eligibility criteria at 12 CFR 256.1(1) in the near future. As part of the rulemaking process, the Board is soliciting public comment to assist in determining the appropriate scope of the implementing regulatory language. The following list summarizes the specific interpretive issues on which the Board solicits comments. The Board also solicits views on all other aspects of this question upon which interested persons would like to comment.

1. *"Beneficial interest."* The threshold issue regarding eligibility to hold a NOW account is which individuals or organizations hold "the entire beneficial interest" in the deposited funds. The Office of General Counsel has interpreted the term "beneficial interest" to include: (1) the interests of beneficiaries in fiduciary situations such as trusts and decedents' estates; (2) beneficial ownership interests arising under property law; and (3) interests in specific property arising out of a contract such as an escrow agreement. The Board requests comments regarding the proper scope of the term "beneficial interest" in light of the policies underlying the NOW account authority.

2. *"Individuals" vs. "organization."* When applying the NOW account eligibility criteria, a member institution must determine whether a group of individuals holding a "beneficial interest" in NOW account funds constitutes an "organization" for purposes of the eligibility criteria. An organization can hold a beneficial interest in NOW account funds only if it is operated primarily for certain qualifying purposes and not for profit.

The Board has interpreted the term organization to include "a corporation, government or governmental subdivision or agency, business trust, partnership or association, or any other legal or commercial entity." (Preamble, Res. No. 80-613, *supra; see* U.C.C. § 1-201(28).) The Board requests comments on the following specific issues:

a. Should government entities be considered "organizations"? Only if they constitute "organizations" could member institutions offer public units NOW accounts. The term "organization" has been interpreted in the past by the Board, the Federal Reserve Board, and the Federal Deposit Insurance Corporation to include government entities, thus permitting government entities that are operated for a qualifying purpose (such as public schools) to hold NOW accounts.

b. Should the funds of a sole proprietorship business be deemed owned by an "individual" or an "organization"? Sole proprietorships have not traditionally been considered "organizations" with an existence independent of their sole proprietors; however, sole proprietorships have been given entity status for some legal purposes. The Board has previously construed "organization" to exclude sole proprietorships on the basis of the traditional rule and also because it would be difficult for a member institution to determine whether funds in an individual's NOW account are funds of his or her sole proprietorship business.

c. Should a husband and wife who own and operate an unincorporated business be permitted to deposit business funds in a NOW account? This form of business is generally considered a "partnership" under state law, and thus would be an ineligible "organization" for purposes of owning a NOW account. Such an interpretation gives rise to special problems, however, because the marital property laws of some states may give both spouses an ownership interest in a business that would be deemed the sole

proprietorship of one spouse under the marital property laws of other states. The Board presently permits a husband and wife who own an unincorporated business to deposit the business funds in a NOW account because the Board believes the eligibility criteria should be applied in a manner that will yield consistent results on a nationwide basis without regard to peculiarities of state marital property law.

3. *Qualifying purposes for organizations.* An organization may hold a NOW account if it is not operated for profit and it is "operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes."[1] There is little guidance in the legislative history to aid in the interpretation of the term "other similar purposes."

At present, the Board looks to past Federal Reserve Board interpretations of this language (which appears in the definition of "savings deposit" in Regulation Q (12 CFR 217.1(e))). This policy has not yielded workable interpretive guidelines and in some instances has produced seemingly inconsistent results. For example, trade associations have been held eligible to hold NOW accounts, but hospitals have been deemed ineligible. It has become apparent that a more comprehensive policy regarding the interpretation of the qualifying purposes language must be formulated in order to facilitate interpretation of this language by the public and the regulated industry. The Board solicits comments regarding the following alternatives and requests suggestions regarding additional alternatives:

a. The term "other similar purposes" could be interpreted to include those purposes that nonprofit organizations usually serve. Thus, any organization with a nonprofit charter would qualify to hold a NOW account at a member institution.

b. Eligibility for income tax exemption under 26 U.S.C. 501(c)(3) and those other provisions of the Internal Revenue Code deemed to be consistent with the policies underlying the NOW account eligibility criteria could give rise to eligibility under 12 U.S.C. 1832(a)(2) and 12 CFR 526.1(1).[2]

4. *Government entities.* The eligibility of a government entity to hold a NOW account depends on whether it is operated primarily for a qualifying purpose. One option is to consider a governmental purpose to be a "similar purpose" described in 12 U.S.C. 1832(a)(2) and 12 CFR 526.1(1). Another alternative is to recognize as eligible only those government entities operated primarily for those purposes which qualify private sector non-profit organizations. A third possibility, as proposed by the Federal Reserve Board, is to permit governmental units to hold NOW accounts only if the deposited funds are for the exclusive use of schools, libraries, colleges, universities, or hospitals or other medical facilities.[3] The Board seeks comments on these and other viable alternatives.

The Board believes that Congress intended the eligibility criteria of 12 U.S.C. 1832(a)(2) to be applied uniformly to all depository institutions authorized to issue NOW accounts. Therefore, following receipt of comments from the public, the Board will communicate with the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the National Credit Union Administration [4] for the purpose of coordinating a uniform approach to interpreting the eligibility criteria.

(Sec. 303, Pub. L. 96-221, 94 Stat. 132 (1980), 12 U.S.C. 1832)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-16801 Filed 6-4-81; 8:45 am]

BILLING CODE 6720-01-M

[1] The language of 12 U.S.C. 1832(a)(2) does not include the word "fraternal." The statutory eligibility criteria were adopted substantially verbatim from the definition of "savings deposit" in Regulation Q (12 CFR 217.1(e)), which includes the word "fraternal." The Board believes the omission of the world "fraternal" from the statutory language was a legislative oversight, and thus has included the word "fraternal" in its regulations at 12 CFR 526.1(1).

[2] The Federal Reserve Board has proposed to recognize as eligible those non-profit organizations described in 26 U.S.C. 501(c)(3) through (13) and (19), and Section 528. (46 FR 22600, April 20, 1981.)

[3] 46 FR 22600, April 20, 1981.

[4] The National Credit Union Administration must enforce identical eligibility criteria with regard to share draft accounts at Federal credit unions pursuant to 12 U.S.C. 1785(f).

12 CFR Part 545

[No. 81-296]

Geographic Restrictions on Remote Service Unit Operations

May 29, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Bank Board proposes to amend its regulations by removing geographic restrictions on the establishment and use of remote service units ("RSUs") by Federally chartered savings and loan associations. This amendment would give Federal associations competitive parity with other financial institutions in the area of RSU-type operations.

DATE: Comments must be received by: July 7, 1981.

ADDRESS: Send comments to the Public Information Office, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: K. Diane Boyle, Office of Industry Development (202-377-6720), or Michael D. Schley, Office of General Counsel (202-377-6444), at the above address.

SUPPLEMENTARY INFORMATION: Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) authorizes the Federal Home Loan Bank Board to regulate RSU operations of Federal savings and loan associations and Federally-chartered mutual savings banks.[1]

The Board's regulations at 12 CFR 545.4-2(c) currently impose the following geographic restrictions limiting RSU operations to the state of a Federal association's home office or the primary service area of any of its out-of-state branch offices:

(c) *General.* A Federal association may establish or use RSUs and participate with others in RSU operations in the State of its home office, in the county in which any of its out-of-State branches are located, or, where an out-of-state branch is located in a Standard Metropolitan Statistical Area (SMSA), in that portion of the SMSA located in the same State as the out-of-state branch. * * *

These geographic restrictions on RSU operations hinder Federal associations' ability to compete with other financial institutions in providing RSU-type services to their established customers. For instance, national banks, which compete directly with Federal associations by offering savings deposits, home mortgage and consumer lending, and trust services, can use customer-bank communications terminals on an interstate basis, provided certain conditions are met. (Office of the Comptroller of the Currency, Letters of the Chief Counsel, No. 153, July 7, 1980.) Many state-chartered commercial banks and savings and loan associations and Federally and state-chartered credit unions are also now authorized to establish or share automated teller machines ("ATMs") and other RSU-type electronic funds transfer ("EFT") devices on an interstate basis. Several

[1] For purposes of the Board's RSU regulations and this discussion, the term "Federal association" includes Federally-chartered mutual savings banks.

hundred banks, associations, and credit unions now share one EFT network of ATMs and point-of-sale terminals operating on an interstate basis in Wisconsin and Michigan. In addition, numerous financial institutions participate in one ATM network operating in several Rocky Mountain and upper-midwestern states. Similar EFT systems are now operating on a multistate regional basis in California and Oregon; in Iowa and South Dakota; in Pennsylvania, New Jersey, and Delaware; in Kentucky and Ohio; and in Minnesota and Wisconsin.

Federal associations, in contrast, may offer RSU services only to customers in their home state and in the primary service area of any out-of-state branches. This limitation precludes full-scale participation in existing interstate EFT networks, and thus places Federal associations at a competitive disadvantage.

The present regulation imposes geographic restrictions on RSU operations that reflect the Board's general policy concerning normal *branch office operations* of Federal asociations (12 CFR 556.5(a)(3)(i)). However, RSUs have never been treated as "branch offices" by the Board or the courts and have not been subject to the application and aproval requirements relating to branch offices (12 CFR 545.14 *et seq.*). Since the services available to customers through RSUs are more limited than those available at branch offices, the policy against interstate operations that applies to branch offices should not be applied to RSUs as well. Customers cannot open savings accounts or establish loan accounts through RSU devices such as automated teller machines and point-of-sale terminals. Rather, RSUs provide a convenient service used primarily for cash disbursements, deposits, interaccount fund transfers, and loan payments. Deployment and use of RSUs does not give rise to the same competitive considerations that are inherent in branch office operations.

The Board believes that RSU operations of Federal associations should not be subject to geographic limitations similar to those imposed on the establishment of branch offices,[2] and proposes to eliminate the existing geographic restrictions from its regulations.

[2] This conclusion is supported by the final report of the National Commission on Electronic Fund Transfers (*EFT in the United States: Policy Recommendations and the Public Interest*, pp. 11, 12 (Oct. 28, 1977)) and the recommendations of the McFadden Study (Dept. of Treasury, *Geographic Restrictions on Commercial Banking in the United States: The Report of the President*, p. 19 (Jan. 1981)).

The Board solicits comments on this proposed rule. A 30-day comment period is appropriate because the proposed rule would relieve an existing regulatory restriction, and is desirable in order to relieve Federal associations' competitive disadvantage as quickly as possible.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board is providing the following initial regulatory flexibility analysis.

1. *Reasons, objectives, and legal basis underlying this proposed rule.* These factors are discussed elsewhere in the supplementary information.

2. *Small entities to which the proposed rule will apply.* The proposed rule will apply only to savings and loan associations and mutual savings banks that are Federally chartered.

3. *Impact of the proposed rule on small Federal associations.* The proposed rule is unlikely to have an adverse effect on small associations. Currently all Federal associations can deploy or share EFT terminals on a statewide basis, but a majority of them do not have or share detached terminals. The proposed expansion of authority is likely to have its greatest effect in interstate SMSAs and smaller interstate non-SMSA markets.

Since EFT terminals cannot be used to open a savings or loan account, their greatest role will be to allow Federal associations to service their existing customers. This is likely to take one of two forms. First, suburban residents who work and bank in out-of-state cities will be able to use RSUs in the suburbs during non-work hours. Second, suburban associations will gain access to out-of-state central city locations through EFT terminals.

Although associations engaging in EFT operations may be more attractive to potential depositors, the proposed expansion of EFT authority is unlikely to significantly increase any such competitive advantage. Participation in interstate EFT systems will allow small associations to provide selected services to their customers over a much larger area; thus, this proposed rule could substantially benefit small institutions.

4. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap, or conflict with the proposed rule.

5. *Alternatives to the proposed rule.* The proposed rule does not impose new restrictions or burdens on the regulated industry; thus, there are no tiering alternatives that would have less impact on small entities.

Accordingly, the Board proposes to amend Part 545, Subchapter C, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

Revise paragraph (c) of § 545.4–2, to read as follows:

§ 545.4–2 Remote service units (RSUs).

* * * * *

(c) *General.* A Federal association may establish or use RSUs and participate with others in RSU operations; however, no RSU may be used to enable accountholders to open a savings account or establish a loan account.

* * * * *

(12 U.S.C. 1464; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81–16802 Filed 6–4–81; 8:45 am]

BILLING CODE 6720–01–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Chain Saws and Their Components and Replacement Parts; Proceeding To Develop a Consumer Product Safety Standard

Correction

In FR Doc. 81–14137 appearing at page 26262, in the issue of Monday, May 11, 1981, please make the following correction:

On Page 26262, first column, third complete paragraph after "DATES:", eighth line, "June 3, 1981" should be changed to read "June 30, 1981."

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 436, 440, 444, 448, and 452

[Docket No. 81N–0066]

Antibiotics for Human Use; Revocation of Certain Monographs

Correction

In FR Doc. 81–13875, appearing in the issue of Friday, May 8, 1981, at page 25651 make the following changes:

1. On page 25652, in the first column the last paragraph should be designated "C.".

2. On page 25652, in "§ 436.204 [Amended]" the sixth line now reading "Phenethicillin V hydrabamine and" should be changed to read "Penicillin V hydrabamine and".

3. On page 25652, in "§ 444.44 [Removed]" change the word now reading "undercylenate" to read "undecylenate".

BILLING CODE 1505-01-M

U.S. ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1846-1]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Extension of public comment period.

SUMMARY: On May 4, 1981, the U.S. Environmental Protection Agency proposed to disapprove the State of Ohio's Sulfur Dioxide (SO_2) State Implementation Plan (SIP) for Lucas County (46 FR 24966). At the time of the proposed rulemaking, a 30 day public comment period was provided. However, in response to the Ohio Environmental Protection Agency's request, the public comment period is extended to July 20, 1981.

DATE: Comments must be received on or before (Monday) July 20, 1981. If possible please send an original and four copies.

ADDRESSES: Comments should be submitted to:
Gary Gulezian, Chief, Regulatory Analysis Section, USEPA, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:
Debra Marcantonio at (312) 886-6068.

Dated: May 28, 1981.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 81-16722 Filed 6-4-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 6074]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevation are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, National Flood Insurance Program (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at anytime enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Unincorporated Areas of Etowah County	Coosa River	Just upstream of State Highway 177	*514
		Big Wills Creek	Just upstream of U.S. Highway 59	*531
			Just upstream of U.S. Highways 431 and 278	*556
		Little Wills Creek	Just upstream of Madison Avenue	*529
		Dry Creek	Just upstream of Pleasant Valley Road	*514
		Airport Tributary	Approximately 7,000 feet upstream of State Highway 77.	*523
		Black Creek	Just upstream of Delmont Drive	*718
	Maps available for inspection at Etowah County Courthouse, 800 Forrest Avenue, Gadsden, Alabama 35901.			
	Send comments to Mr. Robert V. Hitt, Chairman or Ms. Ann Beard, Secretary, Etowah County Courthouse, 800 Forrest Avenue, Gadsden, Alabama 35901.			
Arkansas	Camden, City, Ouachita County	Ouachita River	Downstream Corporate Limits	*116
			Approximately 0.34 mile upstream of upstream Corporate Limits.	*117
		Two Bayou	Downstream Corporate Limits	*113
			Downstream St. Louis & Southwestern Railroad	*115

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Cash Road	*117
			Upstream Corporate Limits	*117
			Approximately 1,700' upstream of upstream Corporate Limits.	*118
		Chaffie Creek	Confluence with Two Bayou	*115
			Upstream Cash Road	*119
			Approximately 2,300' upstream of Cash Road	*129
			Downstream St. Louis & Southwestern Railroad	*135
		Wadleigh Branch	Confluence with Two Bayou	*116
			Upstream State Route 45 (Downstream crossing)	*119
			Upstream State Route 45 (Upstream crossing)	*126
			Approximately 1,300' downstream of Hussman Drive	*132
			Spillway of Berg Lake	*140
		Tributary 1	Confluence with Two Bayou	*115
			Upstream Boulder Street	*125
			Upstream Pierce Street	*133
			Downstream Tote Street	*145
		Tributary 2	Confluence with Chaffie Creek	*116
			Approximately 800' downstream of St. Louis & Southwestern Railroad.	*124
			Downstream St. Louis & Southwestern Railroad	*130
			Downstream Monticello Street	*140
			Downstream Fairview Road	*152
		Tributary 3	Confluence with Wadleigh Branch	*122
			Upstream Washington Street	*130
			Approximately 185' upstream Haynes Avenue	*135
		Tributary 4	Confluence with Tributary 3	*124
			Approximately 50' downstream Harding Avenue	*132
			Approximately 100' upstream Copeland Street	*138
			Downstream State Routes 4 and 24	*144
		Tributary 5	Confluence with Wadleigh Branch	*120
			Approximately 150' downstream Garland Avenue	*130
			Downstream Sycamore Avenue	*135
	Maps available for inspection at the City Council Chamber, City Hall, 206 Van Buren Street, Camden, Arkansas.			
	Send comments to Honorable Ronnie Lyon, Acting City Manager of Camden, P.O. Box 278, Camden, Arkansas 71701.			
Colorado	Gunnison (City), Gunnison County	Gunnison River	At intersection of 7th Street and Virginia Street	*7677
		Tomichi Creek	At intersection of abandoned railroad and Tomichi Creek.	*7676
	Maps available for inspection at Enginering Department, 201 West Virginia, Gunnison, Colorado.			
	Send comments to the Honorable Santo J. Sangosti, P.O. Box 239, Gunnison, Colorado 81230.			
Colorado	Monte Vista (City), Rio Grande County	Rio Grande River	At intersection of Gunbarrel Road (U.S. Highway 285) and Rio Grande River.	*7659
	Maps available for inspection at City Manager's Office, 720 1st Avenue, Monte Vista, Colorado.			
	Send comments to the Honorable Wade Wood, 720 1st Avenue, Monte Vista, Colorado 81144.			
Connecticut	Ellington, Town, Tolland County	Hockanum River	Downstream Corporate Limits	*217
			Upstream of Windermere Road	*222
			Upstream of Lower Butcher Road	*226
			Upstream Corporate Limits	*237
		Willimantic River	Downstream Corporate Limits	*435
			Upstream Corporate Limits	*452
	Maps available for inspection at Ellington Planning Office, Building Inspector and Selectman's Office, Ellington Town Hall, Ellington, Connecticut 06029.			
	Send all comments to the Honorable Mary Miller, Chairwoman of the Ellington Board of Selectmen, Ellington Town Hall, Ellington, Connecticut 06029.			
Idaho	Clark Fork (City), Bonner County	Lightning Creek	Intersection of Burlington Northern Railroad and channel.	*2086
			Intersection of State Highway 200 and channel	*2101
		Clark Fork	Intersection of Mosquito Creek and State Highway 200	*2077
		Mosquito Creek	Intersection of eastern corporate limits and channel	*2081
	Maps available for inspection at City Hall, 3rd and Main, Clark Fork, Idaho.			
	Send comments to the Honorable Robert C. Hays, P.O. Box 789, Clark Fork, Idaho. 83811.			
Illinois	(C) Elgin Cook and Kane Counties	Fox River	At downstream corporate limits	*706
			Just upstream of Elgin Dam	*713
			About 0.5 mile upstream of Interstate 90	*716
		Tyler Creek	At confluence with Fox River	*715
			Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*757
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*765
			About 500 feet upstream of Eagle Road	*793
			Just downstream of Randall Road	*815
		Tyler Creek Tributary	About 0.4 mile downstream of Highland Avenue	*796
			About 400 feet upstream of Highland Avenue	*804
			Just upstream of Randall Road	*822
		Poplar Creek	Just upstream of Raymond Street	*708
			About 800 feet downstream of Bluff City Boulevard	*712
			Just upstream of U.S. Route 20 Bypass 718	
			Just upstream of Villa Street	*725
			Just upstream of Campus Drive	*737
			About 0.4 mile upstream of Irving Park Road	*749

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Willow Creek	At mouth	*718
			About 800 feet upstream of Laurel Street	*726

Maps available for inspection at the Clerk's Office, Civic Office, Civic Center, 150 Dexter Court, Elgin, Illinois. Send comments to Honorable Richard L. Verbic, Mayor, City of Elgin, Civic Center, 150 Dexter Court, Elgin, Illinois 60120.

Illinois	(Unincorporated) Kane County	Jelkes Creek	Mouth at Fox River	*718
			Just upstream of State Route 31	*718
			About 4000 feet upstream of Boncosky Road	*741
		Sleepy Creek	Mouth at Fox River	*717
			Just downstream of Locust Street	*733
		McKee Road Tributary	Mouth at Mill Creek	*699
			Just downstream of Skyline Drive	*700
			Just upstream of Skyline Drive	*705
			About 2700 feet upstream of Fabyan Parkway	*709
			About 4700 feet upstream of Fabyan Parkway	*717
		Mill Creek	Mouth at Fox River	*652
			Just upstream of State Route 31	*660
			Just downstream of Mooseheart Road	*673
			Just upstream of Mooseheart Road	*684
			Just downstream of Randall Road	*689
			Just upstream of Wenmath Road	*701
			At Kaneville Road	*712
		Blackberry Creek	Just upstream of Baseline Road	*659
			Just upstream of Forrest Preserve Road (upstream crossing).	*690
			Just upstream of Scott Road	*706
			Just upstream of Hughes Road	*746
			Just downstream of Keslinger Road	*797
			Just upstream of Chicago and North Western railroad	*810
		Blackberry Creek Tributary A	Mouth at Blackberry Creek	*673
			Just downstream of East-West Tollway	*678
		Blackberry Creek Tributary B	Mouth at Blackberry Creek	*675
			Just upstream of State Route 56	*684
			About 1.2 miles upstream of Seavey Road	*710
		Blackberry Creek Tributary C	Mouth at Blackberry Creek	*706
			About 1.7 miles upstream of Seavey Road	*721
		Blackberry Creek Tributary D	Mouth at Blackberry Creek	*739
			Just downstream of Keslinger Road	*807
		Ferson Creek	Mouth at Fox River	*692
			Just downstream of Bolcum Road	*753
		Waubansee Creek	About 3,000 feet downstream of Elgin, Joliet and Eastern Railroad.	*665
			About 3,600 feet upstream of Farnsworth Avenue	*670
		Mahoney Creek	Just downstream of Burlington Northern Railroad	*673
			About 350 feet upstream of Pine Street	*694
		Hampshire Creek Tributary	Mouth at Hampshire Creek	*668
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*676
			About 0.26 mile upstream of Terwilliger Avenue	*685
		Indian Creek	About 1,100 feet downstream of Sheffer Road	*695
			Just upstream of Sheffer Road	*699
			About 1,000 feet upstream of Bilter Road	*725
		Norton Creek	Mouth at Fox River	*693
			Just downstream of State Route 25	*698
			Just downstream of Dunham Road	*739
			About 2,500 feet upstream of Dunham Road	*741
		Brewster Creek	Mouth at Fox River	*697
			About 600 feet upstream of Private Nursery Road	*711
		North Arm Brewster Creek	Mouth at Brewster Creek	*697
			About 510 feet upstream of mouth at Brewster Creek	*698
		Tyler Creek	About 200 feet downstream of Eagle Road	*791
			About 2,400 feet upstream of confluence of Tyler Creek Tributary.	*801
			Just upstream of Randall Road	*815
			About 100 feet downstream of Big Timber Road	*864
		Tyler Creek Tributary	Mouth at Tyler Creek	*796
			About 400 feet upstream of Highland Avenue	*804
			About 1,100 feet upstream of Randall Road	*827
		Poplar Creek	Mouth at Fox River	*706
			About 400 feet upstream of St. Charles Street	*710
		Fox River	About 3,000 feet downstream of Indian Trails Road	*634
			About 4,000 feet upstream of Indian Trails Road	*641
			About 3,400 downstream of confluence of Mill Creek	*651
			About 2,400 feet upstream of South Batavia Dam	*660
			At confluence of Ferson Creek	*692
			About 2,000 feet upstream of Illinois Central Gulf Railroad.	*696
			About 800 feet upstream of confluence of Poplar Creek.	*707
			Just downstream of Interstate 90	*715
			About 3,750 feet upstream of confluence of Jelkes Creek.	*718
			Upstream county boundary	*733

Maps available for inspection at the Kane County Government Center, Department of Planning and Zoning, 719 Batavia Avenue, Geneva, Illinois.

Send comments to Honorable Phillip Elfstrom, Chairman of the Kane County Board, Government Center, 719 Batavia Avenue, Geneva, Illinois 60134.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) Makanda, Jackson County	Drury Creek	About 1.0 mile downstream of County Road 29	*434
			About 0.48 mile upstream of Illinois Central Gulf Railroad.	443
Maps available for inspection at the Village Clerk's Home, Makanda, Illinois.				
Send comments to Honorable Edward D. McGuire, Mayor, Village of Makanda, Village Hall, Route #1, Makanda, Illinois 62958.				
Illinois	(C) Oregon	Tributary No. 1	About 150 feet upstream of confluence with Lake Mistake Drain.	*703
			About 1120 feet upstream of confluence with Lake Mistake Drain.	*709
		Lake Mistake Drain	Just upstream of Burlington Northern Railroad	*703
			Just upstream of confluence of Tributary No. 1	*703
Maps available for inspection at the Clerk's Office, City Hall, 115 North 3rd Street, Oregon, Illinois.				
Send comments to Honorable James L. Barnes, Mayor, City of Oregon, City Hall, 115 North 3rd Street, Oregon, Illinois 61061.				
Illinois	(V) Roscoe, Winnebago County	Rock River	About 750 feet downstream of Roscoe Road	*720
			About 200 feet upstream of confluence of North Kinnikinnick Creek.	*721
		South Kinnikinnick Creek	Confluence with Rock River	*721
			About 350 feet upstream of Main Street	*725
			About 0.64 mile upstream of Main Street	*736
		North Kinnikinnick Creek	Confluence with Rock River	*721
			About 200 feet upstream of Elevator Road	*726
			About 0.28 mile upstream of Elevator Road	*729
			About 0.71 mile upstream of Elevator Road	*738
		McDonald Creek	Just upstream of Swanson Road	*750
			About 2,050 feet upstream of Swanson Road	*756
Maps available for inspection at the Village Hall, 10595 Main Street, Roscoe, Illinois.				
Send comments to Honorable Frank Gimbrone, Village President, Village of Roscoe, 10595 Main Street, Roscoe, Illinois 61073.				
Illinois	(V) Westhaven, Cook County	Tinley Creek	About 200 feet downstream of 163rd Street	*699
			About 1,400 feet upstream of 88th Avenue	*701
			About 200 feet upstream of 167th Street	*703
			Just downstream of Hobart Avenue	*708
			Just upstream of Hobart Avenue	*710
			At the upstream corporate limits	*721
Maps available for inspection at the Village Hall, 16801 South 94th Street, Tinley Park, Illinois.				
Send comments to Honorable James P. O'Brien, Village President, Village of Westhaven, Westhaven Village Hall, 16801 South 94th Street, Tinley Park, Illinois 60477.				
Indiana	(Uninc.) Bartholomew County	Flatrock River	About 600 feet upstream of Conrail	*626
			About 700 feet upstream of U.S. Highway 31	*630
			Just upstream of 400 North Road	*637
			About 600 feet upstream of 550 North Road	*649
			Just downstream of 800 North Road	*660
			At north central county boundary	*677
		East Fork White River	At southeastern county boundary	*584
			About 0.2 mile upstream of 800 South Road	*592
			About 0.1 mile downstream of confluence of Clifty Creek.	*606
			At confluence of Flatrock River and Driftwood River	*623
		Driftwood River	About 0.2 mile upstream of Lowell Road	*635
			Just downstream of Tannehill Road	*647
			About 0.85 mile upstream of Hendricks Ford Road	*658
		Haw Creek	Just upstream of 175 East Road	*643
			About 2.0 miles upstream of 175 East Road	*656
			Just upstream of 600 East Road	*682
			About 0.8 mile upstream of 600 East Road	*690
			Just downstream of confluence of Little Haw Creek	*697
		Little Haw Creek	Mouth at Haw Creek	*697
			About 200 feet upstream of 775 East Road	*702
			About 200 feet downstream of 690 North Road	*719
			About 100 feet downstream of 900 East Road	*734
		Clifty Creek	At confluence of East Fork White River	*606
			Just upstream of Gladstone Avenue	*610
			About 0.25 mile upstream of State Highway 7	*620
			About 400 feet upstream from confluence of Sloan Branch.	*634
			About 0.1 mile downstream of 500 East Road	*642
		Denios Creek	Mouth at East Fork White River	*604
			About 0.2 mile upstream of Conrail	*612
			About 300 feet upstream of Interstate 65	*625
			Confluence of Denios Creek Tributary	*633
		Denios Creek Tributary	At confluence of Denios Creek	*633
			About 700 feet upstream of 150 South Road	*637
			Just downstream of Mile House Road	*645
		Opossum Creek	Mouth at East Fork White River	*610
			About 0.55 mile downstream of U.S. Alternate Highway 31.	*612
			Just downstream of 150 West Road	*615
			Just upstream of 200 South Road	*618
			Just upstream of Interstate 65	*629

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 100 feet downstream of 300 West Road	*636
			Just downstream of 110 South Road	*639
		East Fork White Creek	About 800 feet downstream of 600 South Road	*606
			About 400 feet upstream of 550 South Road	*615
			Just downstream of 500 West Road	*622
			About 0.7 mile upstream of State Highway 58	*637
		East Fork White Creek Tributary No. 1.	About 0.15 mile downstream of 600 South Road	*606
			Just upstream of 400 West Road	*612
			About 0.8 mile upstream of 400 West Road	*622
		East Fork White Creek Tributary No. 2.	Mouth at East Fork White Creek	*612
			About 120 feet downstream of 450 South Road	*627
			About 200 feet upstream of 400 South Road	*634
			About 200 feet downstream of 550 West Road	*646
		Wolf Creek	About 0.45 mile upstream of 325 West Road	*627
			About 1.2 miles upstream of 500 West Road	*645
		Lutheran Lake Tributary	Mouth at South Fork White Creek	*600
			About 0.16 mile upstream of Waymansville Road	*606
		Catherine Creek	Mouth at Driftwood River	*630
			About 0.9 mile upstream of 325 West Road	*631
			Just downstream of upstream crossing of 200 North Road.	*638
			About 0.1 mile downstream of Camp Atterbury Military Reservation eastern boundary.	*640
		Ensley Ditch	Mouth at Flatrock River	*664
			About 260 feet upstream of 950 North Road	*675
			About 0.5 mile upstream of 950 North Road	*684
		Big Slough	Mouth at Flatrock River	*637
			Just upstream of 450 North Road	*644
			About 211 feet upstream of 550 North Road	*649
			About 0.53 mile upstream of 650 North Road	*655
		Big Slough Tributary	Mouth at Big Slough	*652
			About 850 feet upstream of 650 North Road	*656
			About 200 feet upstream of 100 West Road	*659
			Just downstream of 50 West Road	*661
		South Fork White Creek	About 2.1 miles downstream of confluence of Lutheran Lake Tributary.	*596
			About 0.45 mile upstream of Lake Road	*603
		North Ogilville Tributary	Mouth at East Fork White Creek Tributary No. 2	*628
			Just downstream of State Highway 58	*633
			About 0.22 mile upstream of State Highway 58	*641
		Airport Tributary	Mouth at Denios Creek	*605
			Just upstream of 450 South Road (downstream crossing).	*610
			About 160 feet downstream of 100 West Road	*614
			Just upstream of 450 South Road (upstream crossing)	*618
			Just downstream of 175 West Road	*628

Maps available for inspection at the City Hall, 5th and Franklin, Columbus, Indiana.

Send comments to Honorable William Davis, Chairman of the County Planning Commission, Bartholomew County, County Courthouse, Room 33, 3rd and Franklin, Columbus, Indiana 47201

Indiana	(T) Cedar Lake, Lake County	Cedar Creek	Lake Dalecarlia inlet	*688
			Just upstream of West 144th Avenue	*890
			Outlet of Cedar Lake	*890

Maps available for inspection at the Planning Commission Office, 7908 W. 338th Place, Cedar Lake, Indiana.

Send comments to Honorable Lamont Wolf, Town Board President, Town of Cedar Lake, P.O. Box 460, 7808 W. 338th Place, Cedar Lake, Indiana 46303.

Indiana	(T) Dyer, Lake County	Hart Ditch	At Main Street	*621
			Just upstream of 213th Street	*626
			Just upstream of Edmond Drive	*629
			Just upstream of Louisville and Nashville Railroad	*632
			Just upstream of Hart Street	*636
			About 1,000 feet upstream of western corporate limits	*636
		Dyer Ditch	At mouth	*622
			Just upstream of 213th Street	*626
			About 0.39 mile downstream of U.S. Route 30	*629
			Just downstream of U.S. Route 30	*635
			About 0.04 mile downstream of Louisville and Nashville Railroad.	*636
			Just upstream of Louisville and Nashville Railroad	*642
			At Novak Road	*642

Maps available for inspection at the Town Hall, 226 East Schulte Street, Dyer, Indiana.

Send comments to Honorable Charles Warmelink, Town Board President, Town of Dyer, Town Hall, 226 East Schulte Street, Dyer, Indiana 46311.

Indiana	(T) Munster, Lake County	Little Calumet River	Downstream corporate limits (about 0.4 mile downstream of Hohman Avenue).	*598
			Upstream corporate limits (at confluence with Hart Ditch).	*599
		Hart Ditch	About 200 feet upstream of Ridge Road	*604
			About 350 feet downstream of Fran-Lin Parkway	*610
			About 475 feet upstream of Conrail	*619
			About 1,300 feet upstream of Main Street	*622
		Schoon Ditch	Just downstream of White Oak Avenue	*607
			Just upstream of Greenwood Avenue	*609
			About 1,100 feet upstream of Calumet Avenue	*614

Maps available for inspection at the City Hall, 805 Ridge Road, Munster, Indiana.

Send comments to Honorable Eric Anderson, Town Manager, Town of Munster, City Hall, 805 Ridge Road, Munster, Indiana 46321.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Iowa	(C) Ft. Madison, Lee County	Unnamed Creek	Approximately 900 fet downstream of U.S. Highway 61	*538
			Approximately 350 feet upstream of 48th Street	*544
			Approximately 3,000 feet upstream of 48th Street	*556
		Penitentiary Creek	Just downstream of Burlington Northern railroad	*526
			At upstream corporate limits	*554
		Dry Creek	About 1,100 feet downstream of Burlington Northern railroad.	*524
			About 400 feet upstream of A Avenue (at upstream corporate limits).	*572
		Fork Creek	Just downstream of Burlington Northern railroad	*525
			At upstream corporate limits	*549
		French Creek	About 100 feet downstream of Burlington Northern railroad.	*525
			Just downstream of H Avenue	*535
			Just upstream of H Avenue	*541
			Just downstream of D Avenue	*545
			Just upstream of D Avenue	*551
			At upstream corporate limits	*558
		Mississippi River	Approximately 7.3 miles downstream of Atchison, Topeka and Santa Fe Railway.	*723
			Approximately 1.4 miles above Atchison, Topeka and Santa Fe Railway.	*526
	Maps available for inspection at the Municipal Building, 811 Avenue E, Ft. Madison, Iowa.			
	Send comments to Honorable Robert F. O'Malley, Mayor, City of Ft. Madison, P.O. Box 349, Ft. Madison, Iowa 52627.			
Massachusetts	Ayer, Town, Middlesex County	Nashua River	Downstream Corporate Limits	*213
			Downstream Dam	*219
			Upstream Corporate Limits	*222
		Nonacoicus Brook	Confluence with Nashua River	*218
			Upstream second Boston and Maine Railroad Bridge	*228
			Confluence of Long Pond Brook	*228
		Bowers Brook	Confluence with Nonacoicus Brook	*228
			Upstream Corporate Limits	*228
		James Brook	Downstream Corporate Limits	*213
			Upstream Ayer Road	*223
			Approximately 1,950' upstream of Ayer Road	*233
			Upstream Corporate Limits	*240
		Long Pond Brook	Confluence with Nonacoicus Brook	*228
			Approximately 3,860' upstream Snake Hill Road	*229
		Bennetts Brook	Approximately 2,320' downstream Private Road	*210
			Upstream Private Road	*220
			Upstream Boston & Maine Railroad Bridge	*227
			Downstream Willow Road	*238
			Downstream Littleton Road	*245
			First upstream Corporate Limits	*250
			Second downstream Corporate Limits	*251
			Upstream second Private Road	*258
			Downstream Snake Hill Road	*263
			Second Upstream Corporate Limits	*266
	Maps available for inspection at the Planning Board, Ayer Town Hall, Main Street, Ayer, Massachusetts.			
	Send all comments to the Honorable Murry Clark, Chairman of the Ayer Board of Selectmen, Ayer Town Hall, Main Street, Ayer, Massachusetts 01432.			
Massachusetts	Boston, City, Suffolk County	Boston Harbor-Massachusetts Bay	North, northeast, and northwest shoreline of Logan International Airport.	*9.5
			Belle Isle Inlet from Suffolk Downs Race Track to Logan International Airport.	*9.5
			Deer Island—northwestern shore	*9.5
			Deer Island—southeastern, southern and eastern shore.	*10.0
			Extending from confluence with Mystic and Chelsea Rivers south and southeast to Reserved Channel.	*10.0
			Extending from Reserved Channel southeast and east to Outer Harbor Islands and Corporate Limits.	*10.0
			Conrail right-of-way from confluence with Chelsea River to Boston Inner Harbor.	*10.0
			Thompson Island—northeastern shore	*10.0
			Thompson Island—northwestern and southwestern shore.	*10.5
			Mystic River—west of Mystic River Bridge to Corporate Limits.	*10.5
			Chelsea River—east of Andrew P. McArdle Bridge to Corporate Limits.	*10.5
			Old Harbor—entire shoreline	*10.5
			Dorchester Bay and Savin Hill Cove—entire shoreline extending to the Neponset River.	*11.5
		Charles River	Downstream Corporate Limits	*91
			Upstream Corporate Limits	*91
		Charles River Basin	Upstream Corporate Limits	*4.5
			Upstream New Charles River Dam	*4.5
			Downstream New Charles River Dam	*10.0
		Mother Brook	Confluence with Neponset River	*40
			Upstream Corporate Limits	*51

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Muddy River	Confluence with Charles River Basin	*4
			Upstream Louis Pasteur Bridge	*10
			At Willow Pond	*11
		Neponset River	Confluence with Dorchester Bay	*11.5
			Downstream Lower Mills Dam	*11.5
			Upstream Lower Mills Dam	*16
			Upstream MBTA Bridge (1st upstream crossing)	*22
			Upstream Bluehill Parkway	*28
			Upstream Tileston & Hollingsworth Dam	*35
			Confluence of Mother Brook	*40
			Upstream Corporate Limits	*44
		Stony Brook	Upstream Enneking Parkway	*57
			Downstream Access Road	*61
			Upstream Access Road	*67
			Approximately 1,000' upstream Access Road	*95
			Approximately 2,300' upstream Access Road	*120
			At Turtle Pond	*133

Maps available for inspection at the Zoning Division, Boston Redevelopment Authority, Boston City Hall, Boston, Massachusetts.

Send all comments to the Honorable Kevin B. White, Mayor of Boston, Boston City Hall, Boston, Massachusetts 02114.

Massachusetts	Clarksburg, Town, Berkshire County	North Branch Hoosic River	Downstream Corporate Limits	*891
			Approximately 100' upstream of Private Drive; 710' upstream of downstream Corporate Limits.	*906
			Downstream of Dam	*932
			Upstream of Cross Road	*949
			Approximately 100' upstream of River Road (State Route 8).	*1,016
			Upstream of Private Drive off River Road	*1,030
			Downstream of Henderson Road	*1,062
			Upstream Corporate Limits	*1,075
		Hudson Brook	Downstream Corporate Limits	*1,005
			Approximately 1,450' upstream of downstream Corporate Limits.	*1,027
			Upstream of Daub Drive	*1,046
			Upstream of Cross Road	*1,052
			Downstream of Middle Road	*1,064
			Approximately 1,100' upstream of Middle Road	*1,097

Maps available for inspection at the Town Hall, Briggsville School, Route 8, Clarksburg, Massachusetts.

Send comments to the Honorable Forist McLean, Chairman of the Board of Selectmen, Town Hall, Briggsville School, Route 8, Clarksburg, Massachusetts.

Massachusetts	Southbridge, Town, Worcester County	Quinebaug River	Approximately 0.4 mile downstream of downstream Corporate Limits.	*386
			Confluence of Lebanon Brook	*394
			Upstream of Sanderdale Dam	*408
			Confluence of Cady Brook	*422
			Downstream of Harrington Company Dam	*470
			Upstream Corporate Limits	*512
		McKinstry Brook	Confluence with Quinebaug Rivr	*460
			Downstream of Pleasant Street	*486
			Approximately 0.5 mile upstream of Pleasant Street	*506
		Lebanon Brook	Confluence with Quinebaug River	*394
			Upstream of Ashland Street	*408
			Upstream of State Route 169	*502
			Approximately 1.0 mile upstream of State Route 169	*540
			Approximately 1.3 mile upstream of State Route 169	*551
		Cady Brook	Confluence with Quinebaug River	*422
			Upstream of Vinton Street	*465
			Upstream Corporate Limits	*492
		Cohasse Brook	Confluence with Quinebaug River	*418
			Upstream of Lebanon Hill Road	*475
			Upstream of Eastford Road (second crossing)	*552
			Approximately 1.0 mile upstream of Eastford Road (second crossing).	*579
			Approximately 1.2 mile upstream of Eastford Road (second crossing).	*636

Maps available for inspection at the Southbridge Town Hall, 41 Elm Street, Southbridge, Massachusetts.

Send all comments to the Honorable Peter Boyer, Chairman of the Southbridge Board of Selectmen, Southbridge Town Hall, 41 Elm Street, Southbridge, Massachusetts 01550.

Michigan	(V) Augusta, Kalamazoo County	Kalamazo River	About 1.0 mile downstream of Conrail	*793
			About 1.1 miles upstream of Fulton Street	*795
		Augusta Creek	At mouth	*794
			About 2,170 feet upstream of Washington Street	*805

Maps available for inspection at the Village Hall, 109 West Clinton Street, Augusta, Michigan.

Send comments to Honorable Thomas Conor, Village President, Village of Augusta, Village Hall, 109 West Clinton Street, Augusta, Michigan 49012.

Michigan	(V) Concord, Jackson County	North Branch Kalamazoo River	Just upstream of Spring Arbor Road	*977
			Just downstream of Main Street	*979
			Just upstream of Main Street	*988
			About 2,200 feet upstream of Conrail	*988

Maps available for inspection at the Village Hall, 110 Hanover Street, Concord, Michigan.

Send comments to Honorable Halsey Genks, Village President, Village of Concord, Village Hall, 110 Hanover Street, Concord, Michigan 49237.

Proposed Base (100-Year, Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(Twp.) Ross, Kalamazoo County	Kalamazoo River	About 1,800 feet downstream of Conrail	*794
			About 1.1 miles upstream of Fulton Street	*795
Maps available for inspection at the Township Hall, P.O. Box 475, Augusta, Michigan.				
Send comments to Honorable Donald Slighly, Supervisor, Township of Ross, P.O. Box 475, Augusta, Michigan 49012.				
Minnesota	(C) Aitkin, Aitkin County	Mississippi River	Flooding within corporate limits	*1,203
		Ripple River	Just upstream of Second Street	*1,203
			About 2,400 feet upstream of Minnesota Avenue South.	*1,204
Maps available for inspection at the City Hall, 109 1st Avenue, N.W., Aitkin, Minnesota				
Send comments to Honorable Carol Norris Mayor, City of Aitkin, City Hall, 109 1st Avenue, N.W., Aitkin, Minnesota 56431.				
Minnesota	(Uninc.) Aitkin County	Mississippi River	Downstream county boundary	*1,201
			About 6.4 miles upstream of confluence of Sissabagamah Creek.	*1,203
			About 4.1 miles downstream of U.S. Highway 169	*1,206
			At confluence of Willow River	*1,212
			About 850 feet downstream of Soo Line Railroad	*1,214
			About 5.0 miles upstream of Soo Line Railroad	*1,218
			Center of Section 6, Township 51 North, Range 23 West.	*1,234
			About 5.5 miles upstream of center of Section 6, Township 51 North, Range 23 West.	*1,236
		Ripple River	Mouth at Mississippi River	*1,203
			About 3,500 feet upstream of mouth	*1,203
		Sissabagamah Creek	At confluence with Mississippi River	*1,203
			Just downstream of U.S. Highway 169	*1,203
		Big Sandy Lake	Shoreline	*1,224
		Sandy River Lake	Shoreline	*1,224
		Flowage Lake	Shoreline	*1,224
		Aitkin Lake	Shoreline	*1,224
Maps available for inspection at the Aitkin County Courthouse, Aitkin, Minnesota.				
Send comments to Honorable Don Davies, County Board Chairman, Unincorporated Areas of Aitkin County, County Courthouse, Aitkin, Minnesota 56431.				
Minnesota	(C) Hokah Houston County	Root River	About 500 feet downstream of State Highway 16	*649
			About 1.0 mile upstream of State Highway 16	*654
		Thompson Creek	Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*650
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*653
			Just downstream of dam	*658
			Just upstream of dam	*670
			About 1.0 mile upstream of County Highway 18	*681
Maps available for inspection at the City Hall, 56 Main Street, Hokah, Minnesota.				
Send comments to Honorable Edward Lonkoski, Mayor, City of Hokah, City Hall, 56 Main Street, Hokah, Minnesota 55941.				
Missouri	(C) Carl Junction, Jasper County	Center Creek	About 700 feet downstream of Joplin Street	*855
			At confluence of Cooley Branch	*864
			About 2,000 feet upstream of State Highway 171	*872
			About 1.75 miles upstream of State Highway 171	*878
		Cooley Branch	Just upstream of County Highway Z	*864
			About 1,600 feet upstream of County Highway Z	*878
		Briar Brook	Just upstream of Briarbrook Drive	*858
			About 800 feet upstream of Briarbrook Drive	*865
Maps available for inspection at the City Hall, P.O. Box 447, Carl Junction, Missouri.				
Send comments to Honorable Frank Dean, Mayor, City of Carl Junction, City Hall, P.O. Box 447, Carl Junction, Missouri 64834.				
Missouri	(C) Webb City, Jasper County	Center Creek	At confluence of Sunset Creek, just upstream of County Road.	*884
			About 5,000 feet upstream of confluence of Sunset Creek.	*886
		Sunset Creek	Just downstream of County Road	*897
			Just downstream of Carl Junction Road	*917
			Just upstream of Carl Junction Road	*922
			Just upstream of Broadway Street	*944
			About 125 feet downstream of St. Louis-San Francisco Railway.	*959
			About 100 feet upstream of St. Louis-San Francisco Railway.	*967
			Just downstream of Madison Street	*968
		Southwest Creek	About 600 feet upstream from mouth	*945
			About 100 feet upstream of State Highway 171	*953
		Mine Branch	About 250 feet downstream of Missouri Pacific Railroad.	*940
			Just downstream of Daugherty Street	*952
			About 1,650 feet upstream of Daugherty Street	*956

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)

Maps available for inspection at the City Hall, P.O. Box 30, Webb City, Missouri.

Send comments to Honorable P. D. Crockett, Mayor, City of Webb City, City Hall, P.O. Box 30, Webb City, Missouri 64870.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: May 21, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-16536 Filed 6-4-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6072]

National Flood Insurance Program; Proposed Base Flood Elevation and Zone Designations for the City of Corning, New York

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed elevations and zone designations described below.

The proposed elevations and zone designations will be the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

ADDRESSES: Map and other information showing the detailed outlines of the floodprone areas and the proposed elevations and zone designations are available for review of the Mayor's Office, Corning, New York.

Send comments to: The Honorable Joseph J. Nasser, Mayor, City of Corning, City Hall, Corning, New York 14830.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed elevations and zone designations (100-year flood) for the City of Corning, New York in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C 4001–4128, and 44 CFR 67.4 (a) (presently appearing at its former Section, 24 CFR 1917.4 (a)).

The proposed elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed 100-year flood elevation and zone designations for selected locations are:

Source of flooding	Location	Elevation (feet) (national geodetic vertical datum)
Chemung River	Southernmost corporate limit.	920
Chemung River	Brisco Bridge	928
Chemung River	Westernmost corporate limit.	931
Post Creek	Confluence with Chemung River.	923

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: May 18, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-16537 Filed 6-4-81; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 23 and 94

[Gen. Docket No. 80-603; FCC 81-181]

Inquiry Into the Development of Regulatory Policy in Regard to Interim Direct Broadcast Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed policy statement and rulemaking.

SUMMARY: This Notice sets forth the proposed rules and policies for interim direct broadcast satellite (DBS) service. DBS is a new service by which television and other video signals may be transmitted from a satellite to individual residences. DBS has the potential to provide additional channels of video programming throughout the country. The Commission has made a preliminary determination that DBS would serve the public interest. Action is being taken at this time to provide for the eventual implementation of this new service.

DATES: Comments must be received on or before July 1, 1981.

Reply comments must be received on or before July 16, 1981.

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

FOR FURTHER INFORMATION CONTACT: Florence Setzer or Bruce Franca, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION: As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis to the expected impact of this proposed action on small entities. This initial regulatory flexibility analysis is set forth as Appendix E of this document. A copy of this Notice, which includes a regulatory flexibility analysis, has been sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

In the matter of inquiry into the development of regulatory policy in regard to Direct Broadcast Satellites for the period following the 1983 Regional Administrative Radio Conference, Gen. Docket No. 80–603.

Adopted: April 21, 1981.

Released: June 1, 1981.

By the Commission: Commissioners Lee, Chairman; and Jones concurring in part and issuing statements; Commissioner Quello concurring and issuing a statement; Commissioners Washburn and Fogarty issuing separate statements.

I. Introduction and Summary

1. This *Notice* sets forth proposed policies and conditions to govern the authorization of experimental and developmental direct broadcast satellite (DBS) services during the interim period prior to the 1983 Regional Administrative Radio Conference (RARC–83) and the subsequent adoption of permanent rules for DBS.[1] In the *Notice of Inquiry* in this Docket, we requested public comment concerning whether the Commission should authorize a DBS system prior to RARC–83. The Commission also requested comment concerning what procedures should be used to authorize such a system, what regulatory constraints should be placed on its operation, how much spectrum should be made available to an interim DBS system, and whether frequencies assigned to it should be exclusive or shared with terrestrial microwave systems.[2] We have received and considered the comments and reply comments in this Docket, as well as an application for a satellite-to-home subscription television service filed by the Satellite Television Corporation (STC).

2. The policies and the amendments to the Table of Frequency Allocations proposed in this proceeding are based upon our preliminary judgment that the authorization of domestic DBS systems in the 12 GHz band would serve the public interest. Direct broadcast satellites promise to offer valuable services by providing several additional channels of video programming throughout the country. In many areas, particularly rural ones, they would offer the only good-quality video reception and might offer the only pay video service.

3. We believe that authorization of a DBS system would not conflict with the Commission's long-standing commitment to local broadcasting. We believe that the Commission has the legal authority to establish a nonlocal video transmission system, and we have evidence that competition from an interim DBS system would do little or no harm to local broadcasters and would not reduce the services they provide to the public.

4. We recognize that DBS would operate on frequencies now allocated to terrestrial microwave users. Because we do not yet know the demand for DBS or its ultimate spectrum needs, we will attempt to accommodate interim DBS systems with as little disruption as possible to the terrestrial users now in the 12 GHz band. We propose to require that terrestrial licensees provide protection from harmful interference to U.S. DBS systems authorized by the Commission and operating in accordance with the plan approved by the 1983 RARC, and to foreign DBS systems operating in accordance with the plan approved by the 1983 RARC. But our interim rules would not, before the 1983 RARC, displace any microwave users now licensed in the band and would not prohibit new licensees from operating in the band, though new entrants would be required to provide interference protection to DBS systems. In addition, the Commission intends in the near future to initiate an inquiry into the needs of terrestrial microwave users and possible methods of accommodating their needs in other bands.

5. We cannot establish permanent regulatory policies for DBS until after RARC–83 because we do not yet know what frequencies or orbital slots will be allotted to the United States or what technical parameters will be imposed by international agreement. We believe, however, that authorization of experimental and developmental DBS systems under interim policies in the near future would serve the public interest because it would enable us to avoid protracted and unnecessary delays in inaugurating a service that may prove highly valuable. We also believe that knowledge gained from the operation of an experimental DBS system, including information about consumer demand for the service, the characteristics of the technology, and the effects of interference from other users in the band, will help us to make informed decisions in establishing permanent regulations and allocating spectrum between DBS and other services.

6. In order not to prejudge either our negotiating position at RARC–83 or our permanent domestic policies for DBS, we proposed policies that will allow maximum flexibility in the interim period. Thus we will impose only those requirements we believe necessary to prevent frequency interference, to comply with international agreements, and to ensure that any system authorized under interim rules will be able to come into compliance with the outcome of RARC–83 and any permanent rules or policies established by the Commission. For example, we propose no rules concerning prices or service offerings beyond those required by statute. The technical requirements we propose are those established by the 1977 World Administrative Radio Conference (WARC–77).

7. We will accept applications for interim DBS systems for filing at this time, though we do not expect that a final disposition of any application will be made until completion of the instant rulemaking.[3] All applications will be placed on public notice, and public comment will be invited, for a period of 45 days. We will not assign frequencies to DBS systems until after the 1983 RARC.

II. Background

8. The Commission began consideration of domestic policies for DBS with a *Notice of Inquiry* issued on October 29, 1980 requesting public comment on issues related to the development of regulatory policy for DBS systems in the United States.[4] The *Notice of Inquiry* requested comment on two staff reports dealing with DBS, one having to do with technical characteristcs of DBS systems and the

[1] In this Notice, we use the terms direct broadcast satellite (DBS) service and broadcasting-satellite service (BSS). We use DBS when discussing domestic policy matters and BSS with regard to frequency allocation matters, in particular with reference to the Table of Frequency Allocations. For the purposes of this document, the terms can generally be regarded as synonymous.

[2] *Notice of Inquiry*, Docket 80–603, 45 FR 72719 (November 3, 1980).

[3] See the accompanying *Public Notice*.

[4] Ibid.

other with appropriate regulatory policies for DBS.[5]

9. Frequency and orbital allotments, as well as other technical parameters, for the broadcasting-satellite band in the United States will be decided at RARC-83.[6] The Commission recognized that permanent regulatory policies for DBS could not be established until these allotments are known, since they will affect both the amount and the kinds of service possible in the United States under international agreement. The *Notice of Inquiry* poses two sets of questions, one dealing with permanent regulatory policies and the other with regulatory policies for the interim period prior to RARC-83.

10. The deadlines for comments and reply comments concerning interim policies were November 28, 1980 and December 15, 1980, respectively; deadlines for comments and reply comments concerning permanent regulatory policies were January 31, 1981 and March 31, 1981, respectively. The Commission subsequently issued an order extending the filing deadlines for comments on interim regulations to December 5, 1980 and December 22, 1980.[7] Petitions for further extensions of the deadlines were denied.[8]

11. On December 17, 1980 the Commission received an application from STC requesting authorization to begin construction of satellites for use in a satellite-to-home video broadcasting system.[9] We placed STC's application in the record in Docket 80-603, inviting public comment on the portions of the application directly relevant to possible interim DBS authorizations and extending the deadlines for comments and reply comments on interim policies to February 2, 1981 and February 17, 1981, respectively. At the same time the deadlines for comments on permanent regulatory policies were extended to March 31, 1981 for comments and May 29, 1981 for reply comments.[10]

12. In response to a petition from the National Association of Broadcasters, the Commission issued an *Order* clarifying the intent of its Order of December 22, 1980.[11] The Commission extended the deadlines for comments on permanent regulatory policies to April 30, 1981 for initial comments and June 30, 1981 for reply comments.[12]

13. Numerous comments and reply comments were filed by interested parties, primarily terrestrial microwave and broadcast interests. Appendix A contains a list of the commenters, arranged alphabetically within interest groups. Summaries of the comments and of STC's application are available on request.[13]

III. Procedural Issues and Policy on Interim Authorizations

14. In our October 29, 1980 *Notice of Inquiry*, we invited comments on the standards and procedures that should be applied in processing any applications received during the interim period. We stated that no determination had been reached with respect to whether applications for DBS experiments should be processed under Part 5 or Part 74 of the Commission's Rules, or on whether the Commission should adopt new rules specifically tailored to possible DBS experiments.

15. Many of those commenting addressed these threshold questions concerning appropriate procedures for processing DBS applications and the appropriate timing of the Commission's consideration of such applications. STC, the only commenter who, in fact, has filed an application for interim DBS service, has proposed that its application be processed immediately, in an *ad hoc* adjudicatory proceeding, and without reference to any of the Commission's existing rules relating to experimental radio services. Although STC apparently concedes that the Commission's existing experimental rules may apply to its proposal, it believes these rules were designed for experiments of a more routine nature and thus should not govern its application.

16. At the same time, STC also opposes the adoption of any new rules specifically designed for experimental DBS services. According to STC, the rulemaking course would be inadvisable in this instance because a rulemaking involving a major new service like DBS would require years to complete, and hence could delay the public's receipt of the benefits of DBS service for a decade. STC also urges that experimentation with DBS would be indispensible to productive rulemaking and therefore should be conducted prior to completing a rulemaking. As a legal matter, STC contends, the Commission has broad discretion to resolve any policy issues raised by its application in either adjudicatory or rulemaking proceedings. Furthermore, STC asserts, the Commission has used the *ad hoc* approach in analogous cases involving new experimental services.

17. In contrast, other commenters have asserted that neither Part 5 nor Part 74 of our rules is applicable to DBS experiments as proposed by STC. According to these parties, the Part 5 rules are designed primarily for the

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[5] Bruno Pattan, *Technical Aspects Related to Direct Broadcast Satellite Systems* (Federal Communications Commission, Office of Science and Technology, September 1980); and Florence O. Setzer, Bruce A. Franca, and Nina W. Cornell, *Policies for Regulation of Direct Broadcast Satellites* (Federal Communications Commission, Office of Plans and Policy, October 1980).

[6] The Commission has been actively engaged in planning for RARC-83, which will allot frequencies and orbital slots for the broadcasting-satellite service among Region 2 (Western Hemisphere) nations. A detailed orbit and frequency allotment plan for the broadcasting-satellite service in Regions 1 and 3 was adopted at WARC-77. Final allotments in Region 2 were left open until RARC-83, but interim provisions for Region 2 use of the broadcasing-satellite band pending RARC-83 were adopted. International Telecommunications Union, *Final Acts of World Administrative Radio Conference* (1977). The 1979 World Administrative Radio Conference (WARC-79) included an allocation in the band 12.3-12.7 GHz for the broadcasting-satellite service and provided that the 12.1-12.3 GHz band would be divided between the fixed-satellite service and the broadcasting-satellite service in a manner to be decided at RARC-83, with the upper sub-band including an allocation for the broadcasting-satellite service. It also included the feeder links for broadcasting satellites in the issues to be covered by RARC-83. Criteria for sharing between the broadcasting-satellite service and the terrestrial services in the same frequency band will also be established at RARC-83. International Telecommunications Union, *Final Acts of World Administrative Radio Conference* (1979).

To begin preparations for RARC-83, the Commission issued a *Notice of Inquiry*, Docket 80-398, 45 FR 51914 (August 8, 1980), requesting comment to assist in developing possible negotiating positions for the conference. In response to opinions expressed in the comments, the Commission also established an Advisory Committeee to assist in conference preparations. The order establishing the committee stated that its function was to deal with issues arising in Docket 80-398, having to do with international allotments, and not with domestic issues raised in the instant proceeding, Docket 80-603. *Memorandum Opinion and Order*, Docket 80-398, 45 FR 51914 (August 8, 1980).

[7] *Order Extending Time: Comments and Reply Comments*, 45 FR 78188 (November 25, 1980).

[8] *Order Denying Requests for Extension of Time in Which to File Comments and Reply Comments*, adopted December 5, 1980, released December 5, 1980.

[9] Satellite Television Corporation, *Application of Satellite Television Corporation for a Satellite-to-Home Subscription Television Service*, 5 vols., Docket 80-603, December 1980.

[10] *Order Extending Time: Comments and Reply Comments*, 45 FR 85125 (December 24, 1980).

[11] *Order*, adopted March 30, 1981, released April 3, 1981.

[12] *Order*, adopted March 30, 1981, released March 31, 1981.

[13] The National Black Media Coalition (NBMC) filed a petition for rulemaking (RM-3502) on October 5, 1979 dealing with rules and policies to further the advancement of black Americans in mass communications. Proposal 33 of this petition included twelve suggestions for regulatory policies to be applied to DBS and was referred to the Ofice of Plans and Policies' working group on DBS for their consideration. In addition, coments filed in response to Proposal 33 by the Satellite Program Network (SPN) were also forwarded to the working group. As we indicated in our Notice of Inquiry, we have placed NBMC's Proposal 33 and the comments of SPN into the record of this proceeding and will consider them in dealing with permanent DBS regulatory policies for DBS.

development of radio equipment, and thus are not suited to STC's proposal. The Part 74 rules are also deemed unsuitable since they were designed for customary terrestrial broadcast facilities. Several parties, however, have concluded that the Commission's Part 5 rules, governing developmental radio authorizations, should apply to STC's application.

18. Virtually all of the commenters, however, to the extent that they address this matter, oppose STC's suggestion that the Commission should process the STC application on a purely *ad hoc* basis, without reference to the Commission's existing experimental or developmental rules and prior to the Commission's adoption of new rules and policies for DBS services. Although no party appears to contest STC's assertion that the Commission is empowered to resolve the issues raised by STC's application in an adjudicatory setting, the commenters have vigorously urged that the use of adjudicatory procedures would be inappropriate in this instance. The commenters stress that STC's application raises major issues of communications policy, as well as significant questions of competing claims to the 12 GHz spectrum by broadcasting-satellite services and terrestrial fixed services now operating in this band. These major policy concerns, they contend, should be comprehensively considered in a rulemaking rather than within the framework of *ad hoc* adjudications of particular applications. Furthermore, these commenters claim that, once DBS services have been authorized, it will be impossible to resolve these major policy questions objectively in a subsequent rulemaking designed to fashion a permanent regulatory foundation for this service. Pointing to the massive financial investment that will be made both by STC and by the public, they urge that it would be difficult, if not impossible, for the Commission later to consider any regulatory options that might require major modifications in an already entrenched service. For example, these parties assert, the threshold policy question of whether DBS service is even in the public interest would effectively be resolved by such authorizations. For similar reasons, some parties contend that the Commission should not even attempt to devise interim rules for DBS experiments. In their view, interim authorization policies or rules would fatally prejudice the outcome of any rulemaking initiated to decide permanent regulatory policies for DBS. Thus, because it will be impossible to design permanent policies for DBS until after the 1983 RARC, these parties conclude that no authorizations should be made until permanent rules have been established after the RARC.

19. The Commission, of course, has broad discretion when crafting procedures to effectuate its statutory responsibilities. *See, e.g., FCC v. National Citizens Committee for Broadcasting*, 436 U.S. 775 (1978); *United States v. Storer Broadcasting Company*, 351 U.S. 192 (1956); *FCC v. Pottsville Broadcasting Company*, 309 U.S. 134 (1940). While generally rulemaking proceedings are used to develop broad substantive policy, the choice between proceeding by rule and by *ad hoc* litigation lies primarily with the agency. *NLRB v. Bell Aerospace*, 416 U.S. 267 (1974); *SEC v. Chenery Corp.*, 332 U.S. 194 (1947). The procedure selected, however, must be related to the issues of the case, and interested parties must have an opportunity to participate consistent with due process of law. *Bell Telephone Company of Pennsylvania v. FCC*, 503 F. 2d 1250 (3rd Cir.), *cert. denied*, 422 U.S. 1026 (1976). Absent a contrary statutory mandate, compelling circumstances, or constitutional constraints, an agency's procedural decisions will be left undisturbed by a reviewing court. *Vermont Yankee Nuclear Power Co. v. Natural Resource Defense Council*, 435 U.S. 519 (1978); *United States v. Florida East Coast R. Co.*, 410 U.S. 224 (1973).

20. In selecting our procedural methods here, we are mindful of our responsibility to "study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective uses of radio in the public interest." 47 U.S.C. 303(g). We recognize that administrative delay can impede technological progress, particularly where large financial and technical risks are involved. On balance, however, we believe that the public interest would be better served by resolving certain threshold policy questions associated with DBS in this rulemaking rather than in the context of particular applications as suggested by STC.

21. Our determination to proceed initially by rulemaking, rather than solely by *ad hoc* adjudication, has been influenced primarily by our realization that the authorization of any experimental DBS service that requires a substantial investment by consumers or a substantial change in the video services available to consumers, as is contemplated by STC's application, is likely to have lasting implications for the future use of radio spectrum in the 12 GHz band. The Commission, however, has not yet addressed the central policy question of how much spectrum in the 12 GHz band, if any, should be made available for broadcast satellite services.[14] In this case, because of increasing demands on the 12 GHz band by fixed terrestrial services, and due to the likelihood that any sharing of frequencies in this band between DBS and the terrestrial services in a given geographic area will be difficult, if not impossible, we believe that the use of rulemaking procedures to address these fundamental spectrum allocation issues is especially appropriate. The principal purpose of using rulemaking procedures in such instances is to assure that all existing and potential users of the radio spectrum are afforded a full and fair opportunity to make their views known to the Commission before any major policy decisions are reached.[15] Therefore, in accordance with our conclusion that rulemaking procedures are called for in this matter, we have proposed herein that the domestic Table of Frequency Allocations be provisionally amended, as set forth in Appendix D to permit the authorization of developmental and experimental DBS services in the 12.2 to 12.7 GHz band.

22. As discussed above, to the extent that our authorization of any DBS services, even on an experimental or developmental basis, may have the effect of permanently resolving fundamental policy issues connected with the service, and especially major spectrum allocation issues, we have decided to address those threshold policy questions in a preliminary but comprehensive manner in this rulemaking proceeding. Thus, our preliminary assessment that the authorization of DBS services in the 12 GHz band would serve the public interest, discussed in paragraphs 25–27 below, forms the basis for the

[14] Although an allocation to the broadcasting-satellite service was included in the 12.3–12.7 GHz band at WARC–79, this band is still reserved domestically for terrestrial fixed services.

[15] See also, § 2.102(b)(1) of the Commission's Rules, which contemplates that, apart from certain carefully defined situations not present here, rulemaking proceedings will be conducted to amend the Table of Frequency Allocations before authorizing any use of frequencies that is not in accordance with the Table. See also, 47 CFR §§ 5.253(e), 25.390(h). The Commission may, of course, grant inconsistent assignments on a case-by-case waiver basis. See *Report and Order* in Docket 16404, 7 RR 2d 1679 (1966). However, the Commission's willingness to make inconsistent frequency assignments in individual cases has often hinged upon a finding that the frequencies being requested were not likely to be used by the services for which they were allocated. See, *e.g., Tele-vue Systems, Inc.*, 66 FCC 2d 120, 121 (1977). The circumstances here are quite different.

provisional amendments to the Table of Frequency Allocations proposed in this proceeding.

23. At the same time, we reject the arguments of those commenters who urge that we defer any consideration of DBS applications until after we have completed a rulemaking that establishes, with finality, all regulatory policies for this new service. As explained more fully in paragraphs 58–61 below, we believe that there is a substantial public interest in proceeding immediately to authorize experimental and developmental DBS services. Furthermore, to the extent that granting such authorizations creates any risk that some regulatory options for the service may be foreclosed, we believe that the risk can be effectively minimized through the imposition of appropriate conditions on all interim authorizations. We believe any remaining risks are acceptable when balanced against the benefits of providing for a period of experimentation before adopting final policies, and the further benefits of achieving a substantially earlier inauguration of service.

24. Finally, respecting the issue of whether interim authorizations for DBS services should be processed under any of the existing rules for experimental services, we note that the procedural course we have fashioned is consistent with that which is contemplated in Part 5 of the Commission's Rules.[16] The Part 5 experimental rules are designed to cover all experimental radio station authorizations except those authorized under the experimental rules of the various services.[17] Therefore, we believe that the procedures described in that Part provide a reasonable guide in these circumstances. Rather than attempting to process DBS applications pursuant to all of the general provisions of Part 5, however, we find it appropriate to promulgate new policies and conditions designed expressly for experimental and developmental DBS services.[18] In essence, our policy, when considering such applications, will be to maintain a flexible and open approach that is patterned after the open entry policy we have used for the domestic satellite service. The specific contours of this policy are discussed in Section VI, *infra*.

IV. Preliminary Determination That the Establishment of DBS Systems Is in the Public Interest

25. As indicated above, we believe that the authorization of DBS systems, even on an experimental or development basis, may have lasting and permanent implications. STC's development proposal, for example, will require a massive financial investment by the satellite operator and will entail a substantial investment by individual consumers. In light of these factors, we believe it is advisable, prior to authorizing such systems, to make a preliminary assessment that the overall public interest would be served by the eventual establishment of these services on a regular or permanent basis. See also, 47 CFR 5.253(e), 74.103(d).

26. With respect to the ultimate public interest in authorizing DBS services, we believe that the benefits of establishing DBS systems are clear. As pointed out by STC and the National Telecommunications and Information Administration (NTIA), DBS systems will have a unique capability to provide television and other video services to all the people of the United States, including those in the rural and remote areas that are not now adequately served by the terrestrial broadcast system. For example STC notes that there are 1.2 million households in the United States without access to any television service and over 4 million households that receive only one or two channels.[19] Further, the provision of DBS service may provide people throughout the United States with several additional channels of programming and greater diversity of types and sources of programming. The additional demand for programming engendered by the service may also provided incentives for expansion of the program production industry. Moreover, by providing some or perhaps all of its service in a subscription mode, DBS may be able to provide programming for specialized audiences that might not be supported through conventional advertiser-financed programming systems. In addition, DBS has the potential to provide needed public services such as educational programming and the dissemination of medical information. Finally, DBS may provide the vehicle for introduction of new video services, such as high-definition television, to the American public.

27. We believe that DBS shows promise of greatly expanding and improving the video services available to the American public. Comments in this proceeding made clear, however, that provision of DBS services may conflict with the interests of terrestrial microwave operations now using the 12.2–12.7 GHz band, and with the interests of broadcasters, who feel that DBS may adversely affect the present local broadcasting system. We believe, as discussed in detail below, that the advantages accruing to the American public from additional video services would far outweigh the costs to existing microwave operators and broadcasters. Accordingly, we believe that it is appropriate at this time to make a preliminary determination that the provision of DBS service will serve the public interest, convenience, and necessity.

Spectrum Allocation and Sharing Issues (DBS and Fixed Services)

28. Many commenters argue that the authorization of DBS systems in the 12 GHz band could have an adverse impact on operational-fixed microwave systems now operating in this band. They state that these terrestrial systems serve vital functions both in industry and for local governments.[20] They also indicate that there are no adequate substitutes for the 12 GHz band because the lower

[16] Section 5.253(e) of Part 5 provides that frequencies will not be assigned for the development of a service for which no frequencies have been allocated "until the Commission has made a preliminary determination that the public interest, convenience, or necessity would be served by the establishment of the service." See *United Television, Inc.*, 14 RR 571 (1956). Thus, in paragraphs 24–26 below, we have made the preliminary public interest determination specified by the rule. See also, 47 CFR 74.103(d). In addition, § 5.253(e) provides that requests for developmental authorizations on non-allocated frequencies must be accompanied by a rulemaking petition requesting an amendment to the Table of Allocations, while § 5.253(d) contemplates that rulemaking petitions should be filed if the developmental service is related to an established service, but is to be operated in a manner that is contrary to the rules governing the established service. However, pursuant to § 5.253(f), the Commission may defer action on any rulemaking petitions required by these two sections and "authorize a grant of limited duration for the sole purpose of developing data which the Commission finds necessary to make the determinations with respect to such petitions." See *Raydist Navigation Corp.*, 8 RR 1118 (1953), *reconsideration denied*, 8 RR 1124 (1954). As is contemplated by these provisions, we have addressed in the instant rulemaking proceeding only those fundamental spectrum allocation and other major policy issues that we believe might effectively be preempted if we attempted to defer entirely our consideration of these issues until after one or more DBS experiments have been authorized. As discussed above, however, we also believe that it is neither necessary nor desirable to attempt to resolve all of the possible regulatory issues associated with DBS service before granting developmental authorizations.

[17] See *Notice of Proposed Rulemaking* in Docket 9751 (Revision of Part 5), 15 FR 5121 (1950).

[18] The Commission, of course, retains the discretion to devise specific policies and rules for DBS experiments, just as it has adopted special experimental rules for many other services.

[19] Satellite Television Corporation, *Application*, vol. 1, *Overview of Proposed System and Regulatory Framework*, p.14.

[20] For example, such comments were received from the Aerospace and Flight Test Radio Coordinating Council, the American Petroleum Institute, the Association of American Railroads, and the California Public-Safety Radio Association, Inc.

frequency bands available to this service, such as those at 2 and 6 GHz, are extremely congested and do not provide the bandwidths necessary to accommodate the high-density data and video transmissions that some users require.[21] Further, the higher bands (e.g., 18 and 23 GHz) are not adequate substitutes, according to these commenters, because equipment is not readily available for use in these bands, and the propagation characteristics of the bands make them less attractive. Some commenters also indicated concern about the effects on other services of the use of the 17 GHz band for DBS feeder links.

29. We believe that the concerns expressed by the commenters deserve serious attention. We do not believe, however, that our concerns for the present operational-fixed microwave users should preclude the introduction of DBS service. We believe the potential benefits of DBS justify some adjustments in other services.[22] Further, we believe that interim rules and policies may be established that permit DBS operation without, in the near term, dislocating existing terrestrial users in the 12 GHz band, and that the Commission can devise ways to minimize the impact of permanent DBS systems on terrestial users.

Use of the 12 GHz Band

30. We propose that interim DBS systems be authorized in the 12.2–12.7 GHz band. This is generally consistent with WARC–79 which provides for BSS operations in the 12.1–12.7 GHz band. The Commission's rules presently provide only for the use of the 12.2–12.7 GHz band by the fixed service.[23] Part 23 of the Commission's rules provides for the operation of international control stations in this band, and Part 94 provides for the operation of operational-fixed stations in the band.

31. According to the Commission's *Master Frequency File* (MFF), no facilities have been licensed to operate in the 12.2–12.7 GHz band pursuant to Rule Part 23. However, over 1400 radio links have been authorized pursuant to Rule Part 94.[24] According to FCC Class of Service Codes, the occupants of the 12 GHz band are distributed among classes of service as follows:

Radio service	Percent of total
Industrial (Less Business)	14.9
Business	43.3
Land Transportation	7.5
Aviation	0.5
Public Safety/Local Government	26.5
Undesignated Services (OF)	7.3

As can be seen, the 12 GHz band is occupied by a wide variety of users. Furthermore, as indicated by their comments in this proceeding, most users have chosen to use this band because of crowding at the lower frequencies, or because they require channel bandwidths greater than available at lower frequencies. It also seems clear that use of the 12 GHz band occurs mainly around major urban areas.[25]

Use of the 17 GHz Band

32. We propose to permit operation of feeder links for interim DBS systems, which are allocated as part of the fixed-satellite service, in the 17.3–17.8 GHz band pending the outcome of the 1983 RARC. This choice is consistent with existing international provisions. A new footnote (3794 H) to the allocations table adopted at WARC–79 states, "[t]he use of the band 17.3–18.1 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service." Further, WARC–79 Resolution CH calls for planning the Region 2 BSS feeder links in a bandwidth equal to that provided for the downlinks. It has generally been the position of the United States that the lower portion of the 17.3–18.1 GHz band should be used for BSS uplinks.

33. The band 17.3–17.7 GHz is shared with the Government radiolocation service. Arrangements have been made, however, to restrict the power of radiolocation systems to ensure compatibility with BSS feeder links.

34. A few experimental licenses have been granted in the 17.3–17.7 and 17.7–17.8 GHz bands. Otherwise, according to the Commission's *Master Frequency File*, no facilities have been licensed to operate in the band segment 17.3–17.7 GHz, and a single six-hop system has been licensed in the band segment 17.7–17.8 GHz. Thus, in the near future we do not expect sharing between the services to pose a significant problem in these bands. We may eventually, however, require some type of coordination procedure similar to the one used between the fixed-satellite service and the fixed service at 6 GHz.

Proposed Allocations for Interim DBS and Terrestrial Operations

35. In order to provide for the authorization of interim DBS systems, we have proposed to amend the Table of Frequency Allocations (§ 2.106 of our rules) as described above to permit interim DBS operations in the 12.2–12.7 GHz band (downlinks) and the 17.3–17.8 GHz band (uplinks).[26] We also propose changes in the service rules (§§ 23.20 and 94.65).

36. To assure that interference from fixed service operators will not prevent reception of DBS signals, we propose that when frequencies are assigned to DBS systems in accordance with RARC–83, and DBS satellites are in operation, terrestrial licensees in the 12 GHz band will be required to make whatever adjustments in technical parameters or assigned frequencies are necessary to prevent harmful interference to operating DBS systems.[27] Thus the terrestrial users will be subject to reassignment within the 12 GHz band or other appropriate bands if they cause interference to a DBS system and cannot adjust their technical parameters to eliminate the interference. While we

[21] The 12 GHz band provides for the use of 10 and 20 MHz channels, while the lower bands are limited to 5 and 10 MHz channels.

[22] The compatibility of the various radio services to which spectrum has been allocated at 12 and 17 GHz has been the subject of much analysis and discussion. These studies and discussions indicate that problems of compatibility exist in both the 12 and 17 GHz bands. At 12 GHz, the fixed service transmitters can cause interference to the broadcasting-satellite service ground receivers, while at 17 GHz, the fixed-satellite service uplink transmitters used by DBS operators can cause interference to fixed service receivers. Generally, the broadcasting-satellite service and the fixed service at 12 GHz cannot coexist within the same geographic area when operating on the same or adjacent frequencies, but they can coexist when operating on widely separated frequencies.

[23] As can be seen in Appendix C, the spectrum lying between 12.2 and 12.7 GHz in the United States is currently allocated exclusively for non-Government use. There are allocations to the fixed service between 12.2 and 12.5 GHz and to the fixed service and fixed-satellite service between 12.5 and 12.7 GHz.

[24] For the purposes of this analysis, a radio link is defined as a one-way transmission on a single discrete frequency between a transmitter and receiver. Thus, a two-way, point-to-point communications circuit requires two radio links, one for each direction of transmission. The Commission's Microwave Application Processing System (MAPS) data base indicates that, as of January 1981, 1426 radio links have been licensed to operate in the 12.2–12.7 GHz band. The MAPS system is used to process all license applications seeking authority to operate in accordance with the provisions of Rule Part 94, and is the input source to the MFF for licenses issued under Rule Part 94. Because the number of licensees in the 12 GHz band is increasing and there are lags in processing data on new and expired licenses, the MAPS data may underestimate the actual number of radio links.

[25] Usage in seventeen Standard Metropolitan Statistical Areas (SMSA's) has been analyzed. Several of these (Boston, Cleveland, Dallas, Los Angeles) have been designated as congested areas by the Commission. FCC Public Notice, "Private Microwave Congested Areas," August 27, 1979.

[26] See Appendix D.

[27] Studies indicate that the terrestrial microwave operations are likely to cause interference to DBS home receivers, while DBS transmissions will probably cause little or not interference to the terrestrial microwave users. See for instance Hiroshi Akima, "Sharing of the Band 12.2–12.7 GHz Between the Broadcasting-Satellite and Fixed Services," (Boulder, Colorado: Institute for Telecommunication Sciences, January 1980).

propose to allow additional terrestrial operations in the 12 GHz band, applications will be carefully reviewed to ensure that the proposed operations cannot be accomplished elsewhere in the spectrum and that they will not cause harmful interference to DBS systems operating in accordance with our domestic rules or to DBS systems of other countries operating in accordance with the international plan. Thus new entrants will be subject to the same conditions as existing licensees, and will also be subject to reassignment in the 12 GHz band or other appropriate bands if adjustments in technical parameters do not eliminate interference.

37. In making this proposal, we realize that until RARC–83 is completed we will not know which frequencies will be allotted internationally to the United States for DBS services. As a result we will not know which terrestrial users will be required to move to accommodate DBS systems, and which will not need to make any changes. Many terrestrial operators may be unaffected by the operation of domestic DBS systems and may continue to operate indefinitely in the 12 GHz band. Nevertheless, we have concluded that it will serve the interests both of terrestrial fixed service licensees and of DBS applicants if we begin now to plan for all reasonable contingencies pending the outcome of the RARC. Taking this measure now will allow us to consider DBS applications during this interim period with some assurance that sufficient spectrum will be available in this band to permit DBS operations within a short time after the RARC is completed. We will also assure that existing terrestrial licensees will be afforded a sufficient period of time to prepare for a possible transition to other bands if such a move proves necessary.

38. We recognize that considerable costs would be associated with removal of 12 GHz operations to the higher bands. Such moves would require changes in antennas and other auxiliary equipment, as well as the provision of new transceivers.[28] The Commission welcomes comment on who should bear the cost of the relocation of the existing terrestrial users. Under the rules proposed here the terrestrial users would bear the entire cost. Given the lead time required to construct a satellite, however, these rules would allow terrestrial users a minimum of 3½ years' notice before they would be required to change frequencies. In this period of time normal depreciation of existing equipment would lessen the impact of equipment replacement.

39. An alternative that would further lessen the cost to terrestrial users would involve setting a period of time during which existing terrestrial operators would be permitted to remain in the band even if a DBS system were in operation. If a sufficiently long time period were allowed, these terrestrial users would be able to acquire equipment to operate on new frequencies in the normal course of equipment replacement. Under such an arrangement, reception of DBS signals during this period would be impossible in many areas because of interference from terrestrial users, and the financial impact on the DBS operator might be severe. The DBS operator, however, might have alternatives available that would lessen the impact. For instance, receiving equipment might be developed that could provide acceptable service despite interference from terrestrial users. The trade-off between equipment cost and interference rejection is clearly relevant to the potential viability of this alternative. DBS operators would also have the option of reaching agreements with terrestrial users to lessen or eliminate interference, possibly paying all or part of the costs of relocating them on other frequencies. We would expect these alternatives to apply only to existing terrestrial licensees. We would expect that any terrestrial licensees who submitted applications after the date of adoption of this *Notice* would be required to pay the full cost of relocation, since they would have entered the band with full knowledge that they would not be permitted to cause harmful interference to DBS operations. We invite comment on the desirability and practicability of these alternatives and their application both to existing terrestrial licensees and to those applying for licenses in the future.

40. To provide for the continued growth of the terrestrial fixed services, we intend, in the near future, to initiate a proceeding to establish rules for the use of higher, undeveloped fixed service bands and to re-examine the rules governing use of the fixed service in the lower bands.[29] Among the issues that will be addressed in the proceeding are (1) need for minimum path length criteria for the use of each of the available bands, (2) bandwidth requirements and appropriate channeling plans for all bands, (3) feasibility of continued use of the 12 GHz band, and (4) coordination and loading practices needed to ensure efficient use of the spectrum. Our first efforts will concentrate on developing appropriate rules and standards for the fixed service bands between 17 and 40 GHz.[30] They will establish a use plan for these bands that takes into account (1) the pending proceedings and petitions, (2) the actions of the 1979 WARC with respect to spectrum allotments and technical standards, (3) the fact that the spectrum must be shared among services, and (4) the fact that both Government and non-Government stations will require access to the spectrum. At some later date, we will reexamine the rules and standards for 2 and 6 GHz operations.

41. We believe that the course of action described above is a prudent one. These proposals are consistent with past international and domestic actions. We note that WARC–79 included an international allocation to the broadcasting-satellite service in the 12.1–12.7 GHz band.[31] In addition, WARC–79 placed restrictions on the terrestrial services at 12 GHz by stating that "* * * existing and future terrestrial radio communication services shall not cause harmful interference to

[28] According to one equipment manufacturer, the replacement cost of a typical redundant terminal facility (which consists of two transceivers, two antennas, one antenna tower, transmission lines, and other ancillary equipment) is about $75,000. Site acquisition cost may add a substantial amount to this figure. Assuming 1500 operating two-way radio links, each including redundant equipment to provide "hot" standby operation, the present total investment in equipment is $225,000,000. Obviously there is a considerable investment in fixed service operations at 12 GHz, which must be taken into account in our decisions regarding the usage of the 12 GHz spectrum.

Transceivers are generally fixed tuned, so that a change of operating frequency, even within the 12 GHz band, may require replacement of part of the transceiver equipment, though not of the entire installation. Preliminary financial data indicate that the cost of such a change would range between $2,000 and $10,000 per transceiver, depending on the extent of the move within the 12 GHz band. Relocation of a radio terminal facility to the 18 GHz band could cost as much as $68,000.

[29] In Docket 79–337, we recently adopted relaxed technical standards to promote the development of low-cost, low-power microwave equipment in the 22.0–23.6 GHz band. In adopting these new standards, we indicated that our objective was "to stimulate the development of systems in the 22.0–23.6 GHz band, which is sparingly used, and to accommodate some of the existing and future operations which are now authorized in the 12.2–12.7 GHz band."

[30] Generally, systems operating in the 12 GHz band can be divided into four categories: (1) One-way, very short-haul video surveillance systems; (2) short-haul, multi-hop systems connecting two buildings located close together; (3) single- or multi-hop spur systems providing connection to a long-haul, backbone system; and (4) long-haul, backbone systems connecting two or more widely separated locations or cities. A preliminary analysis of the path lengths of the 1426 radio links contained in the MAPS data base reveals that the median path length is about 7 km, and the mean path length is about 14.5 km. It would appear that 18 GHz and even 23 GHz spectrum could support the operation of many of the existing 12 GHz systems, although at higher costs to users.

[31] See Appendix B.

the space services operating in accordance with the broadcasting-satellite Plan to be prepared * * * and shall not impose restrictions on the elaboration of such a Plan * * *" [32] The Commission has also previously taken action to indicate to terrestrial microwave licensees operating in the 12 GHz band that some future adjustment might be necessary in their operations to accommodate the implementation of the broadcasting-satellite service.[33]

42. We further note that the 12 GHz band is just beginning to be developed in much of the United States. We believe that action at this time will allow us to meet the needs of both DBS and operational-fixed microwave operations with the least disruption to either of them.

DBS and Local Broadcasting

43. Some commenters claim that authorization of DBS system would conflict with a Commission responsibility to maintain local broadcasting services.[34] Some assert that the Communications Act requires broadcasting operations to serve local communities rather than broad geographic areas; others simply state that DBS would cause undesirable economic harm to local broadcasters.

Legal Authority To Authorize Nonlocal Service

44. Several parties contend that authorization of DBS systems, whether on a permanent or an interim basis, would be fundamentally at odds with the structure of local broadcasting enbodied in the Communications Act. According to these parties, under the Act, broadcast frequencies must be allocated to provide service for particular cities and communities. ABC asserts, for example, that the structure of broadcast service in the Unites States is based on the existence and operation of local broadcast stations attuned to and serving local community needs. ABC also refers to a recent Network Inquiry Staff Report, which recognized "localism" to be the fundamental underpinning of Commission television regulation.[35] Another commenter, the Maryland-District of Columbia-Delaware Broadcasters Association, asserts that a failure to comply with localism concepts would violate Section 307 of the Act, 47 U.S.C. 307(b), which requires that the Commission distribute licenses, frequencies, hours of operation, and power among the several states and communities to provide a fair, efficient, and equitable distribution of radio service. Therefore, these parties assert, because DBS systems may serve broad land masses without focusing on the needs of particular local communities, the Commission may not authorize DBS systems without first obtaining Congressional approval.

45. In response, DBS proponents, principally STC, assert that the Communications Act grants the Commission wide discretion in authorizing various communications services and in no way forecloses a nonlocal broadcast service. STC points out that Section 307(b) of the Act does not compel the local assignment of broadcasting frequencies. Rather, that Section mandates only a fair, efficient, and equitable distribution of service and does not require a local distribution of facilities. Thus, according to STC, the selection of the means for the provision of broadcast services, whether local or nonlocal, is a matter that lies within the Commission's discretion.

46. We believe it is clear that the Communications Act provides the Commission sufficient descretion to authorize nonlocal broadcast services. Section 1 of the Act, 47 U.S.C. 1, charges the Commission with regulating interstate communication by wire and radio so as to make available so far as possible, to all the people of the United States, a rapid, efficient, nationwide, wire and radio communications service. To implement this charge, Congress granted the Commission authority to classify stations, prescribe the nature of the service to be rendered by each station class, fix station locations, establish areas or zones to be served by any station, and make such rules and regulations as may be necessary to carry out the provisions of the Act. See 47 U.S.C. 303 (a), (b), (d), (h), and (r). These broad powers have been repeatedly construed as an intent by the Congress to endow the Commission with wide discretion in deciding how best to utilize all of the nation's airwaves to attain the statute's goals. See *FCC* v. *Pottsville Broadcasting Co.*, 309 U.S. 134 (1940), *National Broadcasting Co.* v. *United States*, 319 U.S. 190 (1943). Nothing in this broad mandate directs the Commission to license broadcast stations to particular individual cities or communities, nor do the words "local" or "localism" appear in the statute.

47. To be sure, as ABC notes, localism has been a fundamental underpinning of Commission television regulation. But this underpinning was established by Commission choice, not by statutory command. As ABC points out in its Further Comments, the Commission's Network Inquiry Staff concluded that the Commission had "*decided* to meet its obligations under section 307(b) of the Communications Act by insuring that viewers would be provided service via a system of locally-assigned channels." [36] Section 307(b), though, does not foreclose other, or additional, means of fairly, efficiently, and equitably distributing radio service among the several states and communities should the Commission find them in the public interest.[37] The Commission has in fact authorized clear channel AM radio stations that serve large geographic areas.

48. Furthermore, one of the Commission's primary functions under the Act is to "[s]tudy new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest * * *" 47 U.S.C. 303(g). Therefore to construe the Act as prohibiting Commission consideration and authorization of new communications services like DBS, merely because the satellite technology involved holds a unique potential for

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[32] International FN 3787D. WARC-79 also adopted International FN 3787E, which placed restrictions on any interim broadcasting-satellite operations by stating that "* * * the Region 2 space services, existing or planned before the 1983 Regional Administrative Radio Conference for Region 2, shall not impose restrictions on the elaboration of the Plan for the broadcasting-satellite service in Region 2 and shall be operated under the conditions set forth by that Conference."

[33] Several months prior to WARC-77, the Commission began adding a note to all operational-fixed microwave licenses issued in the band 12.2–12.7 GHz. This note reads as follows:

The band 12.2–12.7 GHz may become available for broadcast satellites as a result of the 1979 World Administrative Radio Conference. If this occurs, existing licensees in the band may have to make changes in their systems as it may be required to insure compatibility with broadcast satellite operations. This license is to be accepted by the licensee with this understanding.

[34] These include the ABC, CBS, NBC Television Network Affiliates Association, the American Broadcasting Companies Inc., the Association of Maximum Service Telecasters, the Joint Filing of Broadcasters, and the National Association of Public Television Stations.

[35] FCC Network Inquiry Special Staff, *New Television Networks: Entry, Jurisdiction, Ownership and Regulation, Final Report* (October 1980).

[36] Ibid, p. I-28.

[37] In fact, during Congressional debate on Section 9 of the Radio Act of 1927, predecessor of Section 307(b) of the 1934 Act, it was explained that:

We have recognized * * * that it is not the right of a community to demand a station, not a right of a particular State to demand a station, but it was the right of the entire people to service that should determine the distribution of those stations; and it is written here in express language that it shall be the duty of this commission * * * to make such a distribution of stations, licenses and power as well give all the communities and States fair and equitable service, and that is the sound basis on which legislation of this character should be founded. We have done that. 68 Cong. Rec. 2580 (1927) (Statement of Congressman White).

serving large land areas, would be contrary to the statute's clear directive.

Impact on Local Broadcasters

49. As usually stated, the economic argument against permitting DBS or other competitors to enter a market in competition with local television broadcasters is that competition from DBS would reduce the audiences of advertiser-supported over-the-air television stations, which would reduce the stations' profits and their ability to provide public-service programming or locally-originated programming. Local news and information and other local programs would then become less available, and the quality of programming would decline for those unwilling or unable to subscribe to DBS or other pay programming.

50. The Commission will consider economic harm to broadcasters in authorizing a new service only if there is a convincing showing that a significant loss in income to the broadcasters would occur, that the amount of public service programming would decline as a result, and that the loss would not be offset by programming offered by the applicant. The Commission is not directly concerned with the profitability of specific broadcasters, but only with the ultimate effect on service to consumers.[38]

51. We have evidence from several sources suggesting the probable effects on local broadcasters of competition with other sources of video programming. First, several studies have dealt with the effects of cable television on the audiences of over-the-air broadcasters. Many of these were used by the Commission in the distant signal carriage and syndicated exclusivity proceedings.[39] A report by Kalba Bowen of Broadcasters discusses the effect of DBS on local broadcasters.[40] Finally, a study by Arthur D. Little, Inc. for Comsat General Corporation explicitly estimates the effects of DBS on the audiences of local broadcasters.[41]

52. The ultimate penetration of cable television was estimated using the results of several econometric studies in the *Report* in Docket 21284, "Inquiry into the Economic Relationship Between Television Broadcasting and Cable Television." The report concluded that cable penetration might, at most, reach 48 percent of all households.[42] The presence of cable television was estimated to reduce local station audiences by less than 10 percent, and the incremental audience diversion caused by eliminating the signal carriage rules was predicted to be less than 10 percent in all but the most extreme cases.[43] A study of allegations that particular stations had suffered or would suffer adverse effects from deletion of the distant signal rules showed that even where audience diversion occurred a decline in real revenues was uncommon and appeared unrelated to the presence of cable.[44] The *Report* found that cable television had a negligible effect on local programming or public service programming of local broadcasters. It concluded that audience diversion of the magnitude found did not pose a threat to conventional television or the ability of television broadcasters to serve their communities.[45]

53. Since the *Report* in Docket 21284 dealt only with retransmission of over-the-air signals and not with pay cable, the estimates fail to take account of the ability of more attractive programming to cause greater penetration and audience diversion. They also use data from a period before most cities were wired for cable, so that the communities studied may not be representative of the nation as a whole. Unlike DBS, cable may increase the audiences of some stations, particularly UHF stations, by improving their reception quality. Differences in price and numbers of channels between DBS and cable would also affect penetration and audience diversion. For these reasons, the results of the studies reported above cannot be applied directly to DBS. We should emphasize, however, that the levels of penetration and audience diversion found in the studies of cable appeared to have negligible effects on the services provided by local stations.

54. The report by Kalba Bowen Associates explicitly addressed the effect of DBS on local broadcasters. While no quantitative estimates were made, it concluded that DBS "would at most accelerate the introduction of pay TV, especially in areas where cable or STV is not yet available," and that the effects of a pay DBS system on local advertiser-supported broadcasters would be minor.[46] The major adverse effects, it concluded, would be those on MDS and STV, since these provide single-channel pay services that would appear less attractive to viewers than multi-channel DBS or cable systems.[47]

55. The study by Arthur D. Little, Inc. estimates the diversion of audiences from local broadcasters to DBS. Based on current demand for pay video services with various characteristics, econometric estimates were made of the demand for DBS depending on the availability of competing services, the relative prices of DBS and other services, the number of DBS channels, the attractiveness of pay services to consumers, and the amount of differentiation in services between DBS and its competitors.

56. Given viewers' preferences in 1979, a three-channel DBS system priced at $20 a month in competition with pay cable was estimated to attract from 1 to 8 percent of television households, depending on how different the programming and other characteristics of DBS were perceived to be from those of other pay services. With no pay video competiton, penetration would range between 12 and 16 percent. At $24 per month, DBS penetration was estimated at between 0 and 6 percent in competition with pay cable and between 9 and 12 percent with no competition. We should note that STC plans to charge between $14 and $18 per month for programming and an additional $6 to $10 per month for leased equipment. A. D. Little estimates total subscribers to a three-channel system introduced in 1983 at between 2 and 7 million households. If introduced in 1990 DBS would have slightly smaller audiences due to increased competition from other pay video services.[48]

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[38] The Commission has considered this issue at length in the VHF drop-in proceeding. See *Notice of Proposed Rulemaking* in Docket No. 80-490, 45 FR 72902 (November 3, 1980), and *Report and Order* in Docket No. 20418, 45 FR 7359 at para. 52 (November 4, 1980). See also *WLVA, Inc. (WLVA-TV), Lynchburg, Va.* v. *FCC*, 459 F. 2d 1286, 1297 (D.C. Cir. 1972).

[39] Among these are National Cable Television Association, Comments in Docket 21284, March 15, 1978; Motion Picture Association of America, Reply Comments in Docket 21284, June 20, 1978; National Association of Broadcasters, Comments, "The Impact of Cable TV on Local Station Audience," prepared by Wharton Econometric Forecasting Associates, Docket 21284, March 15, 1978; and R. E. Park, "Audience Diversion Due to Cable Television: A Statistical Analysis of New Data," the Rand Corporation, prepared for the Federal Communications Commission, January 1979, attached as Appendix A to the Report in Docket 21284. These studies will not be considered in detail here because they are discussed at length in the *Report* in Docket 21284 and the *Report and Order* in Dockets 20988 (Syndicated Exclusivity) and 21284 (Distant Signal Carriage), adopted July 22, 1980, released September 11, 1980.

[40] Berge Ayvasian, Melville Blake, and David Cantor, "Direct Broadcast Satellites: Preliminary Assessment of Prospects and Policy Issues," Kalba Bowen Associates, September 22, 1980.

[41] Satellite Television Corporation, *Application*, vol. 5: *Pay Television Services via Direct Broadcast Satellite: Demand and Impact in the 1980's*, by Arthur D. Little, Inc., May 1980.

[42] *Report* in Docket 21284, para. 96.

[43] Ibid., paras. 116-117.

[44] Ibid., para. 133.

[45] Ibid., para. 73.

[46] Ayvasian, Blake, and Cantor, p. 23.

[47] Ibid., p. 24.

[48] Satellite Television Corporation, *Application* vol. 5, pp. 4-27—4-33.

57. Estimates of the change in broadcasters' audience share as a result of DBS were made using the estimates of penetration discribed above with data from A. C. Nielsen surveys of viewing by pay cable households and data from telephone surveys conducted by A. D. Little. Using the extreme assumption of a penetration rate of 16 percent, maximum audience diversion was estimated to be 3 percent.[49]

58. The estimates from the A. D. Little study must be used with caution, in part because of the possibility of large statistical errors. In addition, the impact of a DBS service may be higher than predicted because, as the study points out, the estimates are based on data from cable systems having a single pay channel, which are probably less attractive than a multi-channel system would be. On the other hand, the estimate of audience diversion assumes a penetration rate that DBS would achieve only with no competition from other services. In competition with pay cable, where both offered three pay channels for $24 per month, DBS subscribers were estimted at not more than 5 percent of television households. Thus diversion of audiences from television broadcasters may be greatly overstated.

59. Despite the possibility of large errors in these estimates, the order of magnitude of the predicted effects of DBS on local broadcasters' audiences is such that actual effects of a system such as STC's will almost certainly be far smaller than the effects predicted for cable, which the Commission has judged to have a negigible effect on local broadcasters. Thus we feel confident that the effect of such a DBS system on local television profits, and on the availability of programming to viewers, will also be negiligible. We believe that the probability of a substantial decline in the services provided by local broadcasters, as a result of introduction of an interim DBS system, is far too small to justify delaying introduction of DBS service. The multiple channels of programming and high-quality reception that DBS could provide, and its ability to serve isolated rural areas that not receive little or not television service, would far outweigh any loss in existing service. If several DBS systems were in operation, their combined effect on local broadcasters would undoubtedly be greater than that of a single system. But we have no way to predict how many DBS applications we may receive or the magnitude of their combined effect. We do not believe that we should base our policies on speculations concerning events that may never occur.

[49] Ibid., p. 5-11.

V. Public Interest in Authorizing Interim DBS Service

60. An important aspect of our statutory mandate to "encourage the larger and more effective use of radio" is to ensure that the benefits of new communications services are made available to the American people in the most timely manner possible. Therefore, having made a preliminary judgment that the establishment of DBS systems would serve the public interest, we intend to proceed expeditiously to consider and process applications to provide this service. As pointed out by STC, because of the exceptionally long lead times required for satellite construction, our refusal to consider DBS applications either during the interim period before the RARC or prior to the establishment of permanent policies for this service would probably mean that no DBS systems would be operational until the end of this decade. If we begin the authorization process now, however, actual service could start within four years or less. It seems clear, therefore, that by granting interim authorizations, we will permit a substantially earlier implementation of the service, thereby achieving the important statutory objective of facilitating and encouraging the introduction of new communications services.

61. Authorization of experimental DBS systems before the formulation of permanent regulations will also provide valuable experience that will enable us to make more informed judgments concerning desirable permanent regulations and standards for DBS. For instance, if a system goes into operation before permanent regulations are established, the number of subscribers to the experimental system will provide evidence concerning the demand for video services provided by DBS and the amount of spectrum needed to provide them. Evidence of the demand for DBS services will help the Commission to allocate spectrum between DBS and terrestrial microwave services in response to their relative needs. Observation of the operation of the video programming market in the presence of DBS will also allow a more accurate judgment of the amount of competition present and the need for specific provisions to maintain competitive markets. In addition, observation of the technical performance of the system may give us information about technical characteristics that will be useful inspectrum planning and will provide system operators information needed to improve the technology of later systems.

62. In considering whether to proceed with interim authorizations, we have fully considered the arguments of those commenters who believe that no DBS applications should be considered until permanent policies have been established for DBS after the RARC. Many commenters express fear that interim authorizations would comprise the United States' negotiating position at the RARC, or would commit the Commission to long-term policies or technical standards before we have obtained sufficient information to make sound judgments. As will be explained in detail below, however, we have concluded that the concerns expressed by these commenters are not of sufficient weight to override the substantial public benefits that will be achieved by bringing this important new service to the American people within a relatively short period of time and allowing a period of experimentation before adopting final policies.

63. In considering the effects of interim DBS authorizations on permanent policies, we should also note that a lead time of several years is required to construct a satellite. Thus, even if we authorize construction now, no satellite can be launched until after the outcome of RARC-83 is known. Consequently, any modifications necessary to conform with RARC-83 or with permanent regulatory policies can be made before launch of the satellite. In addition, the expected lifetime of a satellite is only seven to ten years. Policies adopted for a first generation of satellites can be modified for later generations without greatly affecting the interests of the owner of the initial system. Thus our ability to change policies without inflicting losses is much greater for DBS than it might be in the case of other services where equipment has a longer expected life.[50]

Effects on our Negotiating Position at RARC-83

64. Some commenters have asserted that authorization of a DBS system prior to RARC-83 will restrict the United States' negotiating flexibility at the RARC.[51] For that reason, these parties

[50] Of course, some changes in technical parameters would make transmissions from later satellites incompatible with receiving equipment owned by the public. If imposed by the Commission, such changes might impose severe costs either on the operator of the later satellite or on the public.

[51] Among these are the ABC, CBS, NBC Television Network Affiliates Association, the American Broadcasting Companies, Inc., the Association of Maximum Service Telecasters, and Cox Broadcasting Corporation.

argue that no interim authorizations should be granted. We find these arguments unpersuasive.

65. We believe that our approval of one or more DBS applications would be consistent with the United States' basic negotiating posture at the RARC. Both WARC–77 and WARC–79 anticipated that Region 2 countries might wish to implement interim DBS systems. The Resolutions and provisions of WARC–77 and WARC–79 governing the 1983 RARC provide that Region 2 will, in fact, establish a plan for the broadcasting-satellite service and that this plan will be based upon individual reception.[52] It also seems clear that at RARC–83 the United States will support the establishment of some of DBS system in Region 2.

66. Furthermore, we believe that the amount of the spectrum and number of orbital positions alloted to the United States for DBS at the 1983 RARC is likely to exceed that which is needed to accommodate any domestic DBS authorizations granted before the Conference. Our approval of interim applications is, therefore, unlikely to have a controlling effect on the total amount of spectrum and orbit space that is requested by the United States.

67. We also have reason to expect that the characteristics of the Region 2 plan for DBS services will be similar to, or at least no more restrictive than, the plan already adopted at WARC–77 for Regions 1 and 3. Consequently, if we authorize only systems that possess the capability to meet these expected RARC requirements, we can be confident that our negotiating flexibility will not be compromised.[53]

68. For example, the plan for Regions 1 and 3 was based on orbital locations resulting in a minimum elevation angle for receiving antennas of 20 degrees. The plan also took into account the influence of orbital position on the eclipse period. Consistent with these parameters, satellites serving the eastern U.S. almost certainly would not be required to locate any further west than 115° W longitude, which would result in a receiver elevation angle of about 20 degrees in Maine. In addition, due to eclipse considerations, satellites would probably not be required to locate more than 15 degrees east of this location. Therefore, if we authorize only interim proposals that possess the ability to relocate satellites as much as 15 degrees, we will be able to negotiate freely with respect to the issue of satellite orbital positions.

69. The WARC–77 plan also designated the specific frequency channels to be used by each nation in Regions 1 and 3. When considering interim applications, the Commission may withhold the assignment of specific frequencies to applicants until after the 1983 Conference. The approval of interim applications, without assigning particular frequencies, almost certainly will have no effect on our position at RARC concerning frequency allotments.

70. The satellite antenna pattern also specified at WARC–77. The WARC–77 plan was based upon elliptical antenna patterns that covered the entire designated service area, and usually a considerable amount of territory outside it, within a 3dB contour. It is not clear whether Region 2 will use elliptical antenna patterns or shaped beams for planning purposes. It is possible, however, to fashion DBS proposals that are flexible enough to meet either of these contingencies. For example, a shaped beam pattern would normally be compatible with (i.e., would cause less interference than) an elliptical pattern providing service to the same area.

71. We also recognize that the United States has not decided upon the appropriate size for DBS service areas. Nevertheless, so long as applicants proposed service areas no larger than those ultimately decided upon by the U.S., their proposals would be compatible with any final U.S. position. Furthermore, the United States almost certainly would not press for service areas significantly smaller than a time zone. Thus, if authorizations were limited to proposals that contemplate service areas not significantly larger than a time zone, our RARC preparation would be unaffected.

72. The WARC–77 plan also designated signal polarization for Regions 1 and 3 and recommended that circular polarization be used in Region 2.[54] STC, for example, has indicated its intention to use circular polarization, alternating adjacent U.S. service areas between right hand circular polarization and left-hand circular polarization. Admittedly, the grant of authorizations to construct DBS systems that use circular polarization during this interim period might influence the United States to press for circular polarization at RARC–83. A large body of expertise favors the use of circular polarization, however, and a U.S. decision at this time to opt for circular polarization does not appear unwarranted.[55] Certainly, no significant cost or orbit/spectrum efficiency issues are involved. The Commission can find no technical reason, however, for selecting the polarization sense (i.e., whether to use right hand or left hand circular polarization in particular service area) at this time, and will therefore only require that the polarization sense of any authorized system be compatible with the RARC–83 results.

73. Another characteristic designated in the WARC–77 plan was effective isotropic radiated power (e.i.r.p.) of the satellite. The value suggested for Region 2 by WARC–77 was 61 dBW, corresponding to a received power flux density of -105 dB(W/m^2)at the edge of coverage. Even if the final RARC plan deviated from this value, however, no significant problem would arise. The Commission could simply require that all authorized interim systems make any necessary modifications to conform to the Region 2 plan.[56]

74. WARC–77 also adopted a 27 MHz necessary bandwidth in the plan for Regions 1 and 3 and recommended an 18 MHz necessary bandwidth for Region 2 individual reception systems. It is not likely that this country, or any other Region 2 country, would propose planning based upon less than 18 MHz signal bandwidth. Therefore, so long as applications propose bandwidths no greater than 18 MHz, our flexibility to negotiate on the issue of appropriate signal bandwidth will be unaffected. With regard to systems that might employ wider (more than 18 MHz) bandwidth emissions (for example to provide high-definition television

[52] See WARC–79 *Final Acts*, Appendix 30, Article 12; WARC–79 *Final Acts*, Resolution 701 (CH); and WARC–77 *Final Acts*, Article 12. While planning will be based on individual reception, administrations may implement either community or individual reception systems. We believe that this is a reasonable approach since planning based on individual reception would not preclude the use of community reception where desired, while the converse may not be true.

[53] The *Final Acts* of WARC–77 also provide that administrations may implement systems that employ technical characteristics different from those specified in the plan so long as such action does not result in interference in excess of that provided for in the plan.

[54] At one time the U.S. expressed concern over circular polarization use by the broadcasting-satellite service because of use of linear polarization by the fixed-satellite service. Since WARC–79 separated these services in the allocations table, this concern no longer exists.

[55] Circular polarization is generally preferred because the rotational orientation of the ground receiver antenna is not critical, and therefore mounting costs may be reduced. It is also easier to maintain orthogonality between two satellites serving adjacent areas using circular polarization than using linear polarization. We consider this alignment problem to be important because of the potentially large number of home DBS receivers.

[56] It has been suggested, for example, that improvements in receiver noise temperatures since WARC–77 have made possible a reduction in satellite e.i.r.p. Interim licensees could make accommodtions for any reduction in e.i.r.p. by one of several methods, including permitting a slightly lower grade of service, using more sensitive receivers, and using slightly larger receive antennas.

service), the U.S. is presently attempting to develop a planning approach for the 1983 RARC that would permit flexibility in emission bandwidths. We presently have under study the possibility of block assignments, which would permit us to provide for systems employing wider bandwidths.[57] In the meantime, the issue of high-definition television service or other wide-band services via DBS will be considered on a case-by-case basis.[58]

75. From the foregoing, it seems clear that any interim DBS system that is capable of meeting the parameters outlined above will not significantly affect our ability to negotiate freely at the 1983 RARC. Furthermore, we believe that we can minimize any inhibiting effect that interim authorizations might have on our negotiating posture by taking two measures. First, we propose to grant interim authorizations subject to a condition that licensees will be required to conform to any final RARC-83 requirements. If applicants are aware that they must bear the costs of eventual compliance with the Conference results we believe that system operators will have a strong incentive to build into their proposals sufficient flexibility to accommodate any reasonable outcome of the RARC. Second, in order not to influence the U.S. position with regard to frequency allotments, we propose to withhold specific assignments of frequencies and orbital locations until after the Conference.

76. Finally, we note the arguments of some commenters that, apart from its effects on the United States' flexibility to develop specific proposals for the RARC, the authorization of interim DBS systems would weaken the United States' negotiating position for other reasons.[59] They claim, for example, that other Region 2 administrations would be more inclined to counter concrete United States proposals with definite positions of their own, or that other nations would be able to extract concessions from the United States by attacking technical parameters that might be needed by an authorized system. Some claim, in addition, that interim authorizations would increase the credibility of *a priori* planners, who argue that specific orbital allotments should be reserved for less developed nations. On the other hand, STC argues that the existence of concrete U.S. requirements actually will strengthen the United States' negotiating posture at the conference.

77. With regard to these claims, we find it plausible that other Region 2 administrations would be more willing to accommodate immediate, demonstrable U.S. needs than vague conjectures as to possible U.S. requirements. We also believe that the existence of definite DBS proposals could assist in formulating realistic, detailed U.S. plans. In any case, we believe that attempts to predict other countries' responses to interim authorizations are at best extremely speculative. Therefore, we have concluded that these arguments for delaying any DBS authorizations until after the RARC do not justify postponing the introduction of a service that appears desirable on other grounds.

Effects on Permanent Regulatory Policies

78. Many commenters expressed concern that approving a DBS application in the near future would commit the Commission to long-term regulatory policies before we have sufficient information and before sufficient consideration had been given to all possible regulatory options.[60] We are well aware that some basic regulatory decisions cannot reasonably be made until the outcome of the 1983 RARC is known. For instance, until we know how many channels are available to the United States for DBS, we will not know whether it is desirable to impose restrictions on the control of multiple channels by DBS operators. We believe, however, that the policies proposed herein provide the Commission with sufficient flexibility to permit almost any regulatory policies to be imposed at a later date.

79. The proposed interim policies would require, for instance, that all interim authorizations be subject to the condition that the Commission may modify any of the terms of the authorization at any time upon reasonable notice. Operators of experimental systems would also be required to come into compliance with permanent regulations that are implemented later.

80. Many commenters have argued that the size of the investment in a DBS system would commit the Commission to the terms of any system that was authorized. We might indeed be hesitant to cancel entirely the authorization of an operating system, but in view of our preliminary findings concerning the likely public interest benefits of DBS we would almost certainly have no occasion to do so.

81. To ensure that we maintain our future flexibility, we have attempted to propose as few rules as possible for experimental systems. For instance, we propose not to classify experimental DBS systems as broadcasters, common carriers, or private radio services. We believe that requiring a change from one regulatory structure to another (for instance, from the experimental structure we propose to a conventional broadcast or common carrier regulatory structure), would not have a major impact on the profitability of the operation. Consequently, we would not hesitate to make such changes if we believed them to be a desirable means of maintaining competition or enhancing program diversity.

Effects on Technical Standards

82. Several commenters have expressed concern that authorization of a DBS system under interim rules would commit the Commission to the technical standards of that system, and that those standards might not be the most appropriate permanent standards.[61] Of these commenters, some fear that the Commission would adopt the technical parameters of the first system as mandatory standards for later systems, thus blocking technological change and limiting the variety of service offerings. Others assert that, even if the Commission sets no technical standards, the first DBS system will inevitably set *de facto* standards for the industry. They contend that a second system operator will probably provide signals compatible with receiving equipment already owned by the public, even though another system design might be technically superior.

83. We agree with those commenters who assert that it would be unwise at this time for the Commission to impose technical standards on DBS systems. Imposing rigid standards would establish permanent operational parameters based on current technology that would be very difficult to change and would almost certainly reduce the incentive for further development of DBS technology. On the other hand, if the Commission sets no compatibility standards at this time, system operators will be free to offer new services in response to advances in technology or changes in consumer tastes. The

[57] By block assignment, we mean assignment of a broad segment of contiguous spectrum in a particular orbital position.

[58] See paragraph 83 *infra*.

[59] These commenters include the ABC, CBS, NBC Television Network Affiliates Association, the Association of Maximum Service Telecasters, and the National Broadcasting Corporation.

[60] Among these commenters are the ABC, CBS, NBC Television Network Affiliates Association, the American Broadcasting Companies, Inc., Cox Broadcasting Corporation, Hubbard Broadcasting, Inc., and the National Association of Broadcasters.

[61] These commenters include CBS, Inc., the Joint Filing of Broadcasters, the National Association of Broadcasters, RCA American Communications, Inc., Hubbard Broadcasting, Inc.

benefits of allowing experimentation and innovation may be particularly great at the introduction of a new technology, when technological change occurs most rapidly. Thus, we believe that by allowing experimentation with a variety of technical characteristics, the Commission will, in fact, provide entrepreneurs the best possible opportunity to provide the services most valued by consumers.

84. We also believe that members of the industry are likely to have more resources and better information than the Commission with which to address technical details of system design, and to have very strong incentives to make correct technical judgments regarding DBS system performance parameters. Thus we have no reason to believe if an initial DBS system sets *de facto* technical standards for the service that those standards would necessarily be less appropriate than standards the Commission might set at this time. We also believe, however, that the authorization of interim systems is unlikely to prevent later systems from offering services that the public prefers. If consumers find the characteristics of a second, incompatible system very desirable they will be willing to pay for the additional equipment required, and the probability is high that demand for the second system will be great enough that the two systems will profitably coexist or that the second system will supplant the first.[62]

85. The Commission also wishes to encourage experimentation with high-definition television (HDTV) systems, and with other technologies that might be used with direct broadcast satellites as well.[63] We particularly encourage experimentation with techniques that may result in transmission of HDTV signals in an RF bandwidth comparable to that currently used by NTSC signals. Convertability between the HDTV and NTSC systems might also usefully be explored in interim DBS systems. While the Commission has made no policy decisions regarding HDTV systems, we will entertain applications for both HDTV and community reception systems, as well as applications for other innovative DBS services, on a case-by-case basis.

[62] For a further discussion of the issue of compatibility standards, see Setzer, Franca, and Cornell, pp. 63–69.

[63] Considerable interest has been shown in HDTV technology. Both CBS and STC discussed HDTV systems in their comments. Studies of HDTV systems have been conducted in Japan, and Society of Motion Picture and Television Engineers (SMPTE) study group issued a report on HDTV in 1980. *SMPTE Journal*, February and March 1980.

86. While the industry may be in a better position than the Commission to judge the most appropriate technical standards for system performance, in the absence of explicit prices for the use of frequencies and orbital positions market forces will not lead to standards for orbit and spectrum utilization that properly take into account the scarcity of orbit and spectrum space. Consequently, administrative technical standards remain necessary for controlling orbit and spectrum utilization. The Commission's responsibility for administering the orbit and frequency resource will require us to examine technical issues carefully as they arise during the interim period. To assure an orderly transition from interim DBS technical parameters to permanent parameters, the Commission encourages DBS designers and operators to consider the optimization of orbit and spectrum utilization as an important planning issue. The recommendations adopted at WARC–77 were based on technology that has since been superseded, and may yield less-than-optimum orbit and spectrum utilization. Therefore we encourage operators of interim DBS systems to explore the use of recent technological advances, such as improved antennas and ground receiver equipment that would allow a lower satellite e.i.r.p. than specified in WARC–77, in order to achieve better orbit and spectrum utilization.

Conclusion

87. We conclude that the Commission can authorize interim DBS systems without causing our negotiating position to deteriorate at RARC–83 and without committing ourselves prematurely to any technical standards or regulatory policies. The Commission must examine individual applications with care, however, to assure that the characteristics of any system authorized are consistent with likely outcomes of RARC–83, and that they are flexible enough to accommodate any permanent rules or technical standards.

VI. Proposed Policies and Conditions for Interim DBS Systems

88. When considering DBS applications in the interim period, we believe that our basic policy should be to maintain an open and flexible approach that will allow the business judgments of individual applicants to shape the character of the service offered. By proceeding in this manner, we intend to encourage the submission of a wide variety of proposals and thereby achieve the full benefits of experimentation with this new service. As NTIA and STC further point out, by adopting a flexible approach the Commission would be extending to the broadcast satellite field the same unstructured regulatory framework that proved successful in promoting the development of the domestic satellite service. Although the types of communications services provided by the DOMSATS and by DBS differ in some respects, we agree with these commenters that the DOMSAT open entry policy may profitably be applied in order to gather the information necessary to develop permanent DBS regulations. In sum, therefore, during this developmental period we do not intend to require that DBS applicants structure their proposals according to any particular regulatory model. Applicants may submit proposals that include some or all elements of broadcast, common carrier, or private radio services, or none of them.

Regulatory Policies

89. In our view, one of the chief benefits of allowing a period of experimentation with DBS services will be that it will help us determine the extent to which the imposition of any regulatory constraints on the service is either necessary or desirable. We believe therefore, that at this early and developmental stage, the purposes of an experimental system can best be served by allowing as much flexibility as possible, since we can gain the most information about the potential market for the service by allowing the operator to experiment with service offerings and financing methods to find those that consumers prefer and that are most profitable. Prohibiting some methods of operation from the beginning in an experimental system will prevent us from ever gaining information about their effects. Accordingly, we intend to impose on DBS services only those regulatory requirements that are expressly mandated by the Communications Act.[64] We propose no

[64] The appropriate statutory provisions will depend on the specific characteristics of the service each applicant proposes, including the proposed method of financing, whether the service would be offered to the general public, and the degree of control the applicant would exercise over program content. If the proposal falls within any of the conventional regulatory classifications for radio services, i.e., broadcast, common carrier, or private radio, we will impose the statutory requirements of that service.

For example, in cases where applicants intend to provide services to private residences, either in homes or apartments, and, in addition, will retain the authority to control the content of the satellite transmissions, the express provisions of the Communications Act that govern broadcasting services, i.e., Title III, Part I of the Act, will apply. Applicants who propose such services may be able

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additional restrictions on program content, service offerings, or methods of financing.

90. Direct broadcast satellite services may be entering a highly competitive market in which only minimal regulation will be needed. The OPP Staff Report on DBS regulatory policy concludes that in a competitive market with many sources of programming, like the predicted post-1985 video programming market, neither broadcast nor common carrier regulation will be appropriate. The Staff Report claims that in such a market diversity of programming is likely to be available without Commission intervention, and individual operators will be constrained by competition to provide programming the public wants at prices reflecting production costs. Requiring specific services or market behavior will increase the costs of the operator and limit the services available to the public with little corresponding benefit.[65] An important piece of information to be gained is whether, in fact, a DBS system will operate in a manner the Commission considers desirable without extensive regulation.

91. We do not intend to limit DBS experiments to those of a purely technical nature, as some commenters have urged. In our view, the largely untried nature of this new service will make market and operational trials to determine consumer reaction especially important.

92. The Public Service Satellite Consortium has advocated in its comments that the Commission require DBS operators to reserve time or frequencies for educational or public-service applications. The Society for Private and Commercial Earth Stations recommends that the Commission establish a right of access at market rates for all entertainment programming, essentially requiring the DBS operator to function as a common carrier. Proposals to reserve time for specific uses or to impose access requirements would both require the system operator to relinquish control of programming, and we believe that both would be undesirable. With substantial restrictions on programming the service provided may appear much less desirable to the public. The expected demand for the service, and the expected return on investments in the system, may be so small that entrepreneurs will be unwilling to invest, and the service may never be initiated. This problem will be particularly severe for an initial system. Since little is known about the demand for the service, we feel it is desirable to allow the system operator to try to provide what he believes to be the best possible service. Of course, our permanent regulations could always require time to be reserved for specific uses if it were considered desirable.

93. In setting forth these guidelines, we realize that it is impossible to foresee all of the regulatory issues that may arise when considering specific proposals. In individual cases, it may be necessary to impose regulatory constraints that are more restrictive than those suggested above, though our general posture will be to avoid such restrictions where possible. All experimental authorizations, however, will be subject to any further rules or policies that may be promulgated in subsequent rulemaking proceedings to devise permanent policies for this service.

Technical Standards

94. Applicants will be required to conform to certain minimal technical requirements. These consist of the technical guidelines specified in the WARC–77 Final Acts. Furthermore, all experimental authorizations will be subject to modification, as the Commission deems necessary, in order to comport with determinations made at RARC–83. Deviations from the guidelines of the WARC–77 or from the outcome of the 1983 RARC may be permitted with Commission approval provided they do not cause interference to operational or planned systems of other administrations in excess of that specified in the Final Acts of the 1977 WARC.

95. We do not believe that it is in the public interest to set further standards at this time. Direct broadcast satellite technology is still experimental and will probably remain so for the immediate future. We believe that setting standards at this time may prevent or slow the introduction of new and innovative technologies or services and the ultimate benefits these new technologies and services may bring. We feel that the public interest will be best served by a regulatory policy that is flexible enough to allow for different system approaches in the interim period. We feel that this type of approach has proven beneficial in the domestic satellite service and should prove the same with DBS. Nevertheless, we recognize that this approach requires DBS providers to assume the risk that the Commission may mandate standard technical parameters in the future, just as providers of domestic satellite services assume the risk that future rulemaking proceedings may alter their operations (e.g., the orbital spacing of satellites).

Licensing and Procedural Requirements

96. Applications for authorization to construct DBS systems will be accepted from the date of adoption of this notice. By this Notice, we are proposing the following licensing and procedural requirements for interim DBS systems:

(a) Each application for an interim DBS system shall include a showing describing the type of service that will be provided, the technology that will be employed, and all other pertinent information. The application may be presented in narrative format.

(b) Applications may include requests for particular frequencies and orbital positions. However, specific frequencies and orbital positions shall not be assigned to interim DBS operators until completion of the 1983 RARC. Furthermore, while the cut-off date of the application will be considered in establishing the priority of such requests, (see (d) below) the Commission shall generally consider all frequencies and orbital positions to be of equal value, and conflicting requests for frequencies and orbital positions will not necessarily give rise to comparative hearing rights as long as unassigned frequencies and orbital slots remain.[66]

(c) Each application for an interim DBS system shall be placed on public notice for 45 days, during which time interested parties may file comments related to the application.

(d) A 45 day cut-off period shall also be established for the filing of applications to be considered in conjunction with the original application. Additional applications filed before the cut-off date shall be considered to have equal priority with

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to demonstrate that, because of particular features of their proposals, the services they provide should not be deemed to be broadcasting services as defined in the Act, the merits of such arguments will, of course, be considered. In addition, in the phase of this proceeding that deals with permanent policies for DBS we will consider the possibility that subscription direct-to-home programming services should be classified as "hybrid" services rather than as true broadcasting services. The staff has raised the further possibility that, because of the hybrid features of subscription services, the Commission may have the discretion to exempt them from statutory provisions that were intended to apply to conventional broadcasting services. See also, *Chartwell Communications Group* v. *Westbrook*, 637 F. 2d 459 (6th Cir. 1980). Until that legal issue has been addressed and resolved in the phase of this proceeding dealing with permanent policies, however, subscription DBS services will be subject to these express statutory provisions. Because of the long lead time required for satellite construction, some of the legal and policy issues relating to DBS services may be resolved by the Commission before any experimental DBS service becomes operational.

[65] Setzer, Pranca, and Cornell, pp. 70–80.

[66] Our policy in this regard is similar to that adopted for the domestic satellites. See *Western Union Telegraph Company*, 46 FCC 2d 162, 165 (1974).

the original application and shall be considered together in the assignment of frequencies and orbital positions. If applications have included requests for particular frequencies or orbital positions, the cut-off date shall be considered in establishing the priority of such requests.

(e) Each application for an interim DBS system, after the public comment period and staff review, shall be acted upon by the Commission to determine if authorization of the system is in the public interest.

(f) It is the intention of the Commission that in most circumstances the regulatory policies in force at the time of authorization to construct a satellite shall remain in force for that satellite throughout its operating lifetime. Satellites authorized at a later date, however, shall be subject to any further policies and rules established prior to their authorization.

(g) Authorization of an interim DBS system shall be issued for a period of three years.[67]

Conclusion

97. The proposed amendments to the Table of Frequency Allocations and the service rules are presented in Appendix D. We believe the policies proposed herein will allow provision of interim DBS services to the American public in an efficient and expeditious manner without undue harm to competing interests. We believe that they will allow us the flexibility to establish whatever long-term rules and policies appear desirable.

98. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy of the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1232.

99. Authority for this proposed rulemaking is contained in Sections 1, 4 (i) and (j), 303 (g) and (r), and 403 of the Communications Act of 1934, as amended (47 U.S.C. 1). Pursuant to applicable procedures set forth in §§ 1.415 and 1.46 of the Commission's rules, interested parties may file comments on or before July 1, 1981 and reply comments on or before July 16, 1981. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

100. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility anslysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth in Appendix E. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Notice, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 50 U.S.C. et. seq.)

101. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting documents. If participants want each Commissioner to receive a personal copy of their comments, an original plus eleven copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554, Attention: Docket No. 80-603. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554. For further information on this proceeding, contact Florence Setzer or Bruce Franca, (202)/653-5940.

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

Federal Communications Commission.

William Tricarico,

Secretary.

Appendix A

The following parties, listed according to interest group, submitted comments or replies in this proceeding.

Terrestrial Interests

1. Aerospace and Flight Test Radio Coordinating Council (AFTRCC).
2. Association of American Railroads (AAR).
3. California Public-Safety Radio Association, Inc. (CPRA).
4. Central Committee on Telecommunications of the American Petroleum Institute (API).
5. County of Los Angeles (LA County).
6. Harris Corporation through Farinon Electrical Operations (Farinon).
7. Manufacturers Radio Frequency Advisory Committee (MRFAC).
8. Pacific Gas and Electric Company (PGE).
9. Rockwell International Corporation (Rockwell).
10. Special Industrial Radio Service Association Inc. (SIRSA).
11. Utilities Telecommunication Council (UTC).

Broadcast Interests

1. ABC, CBS, NBC Television Network Affiliates Association (Network Affiliates).
2. ABC Television Affiliates Association (ABC Affiliates).
3. American Broadcasting Companies, Inc. (ABC).
4. The Association of Maximum Service Telecasters (MST).
5. CBS Inc. (CBS).
6. Corporation for Public Broadcasting (CPB).
7. Cox Broadcasting Corporation (CBC).
8. Home Box Office, Inc. (HBO).
9. Hubbard Broadcasting, Inc. (Hubbard).
10. Joint Filing of Broadcasters (Broadcasters).

[67] For the present time, we envision that action on any interim DBS application shall be limited to granting authority to construct proposed satellites. Authority to launch satellites will be given at a later date. The three-year authorization period will commence at initiation of service.

11. Maryland-District of Columbia-Delaware Broadcasters Association, Inc. (MDCD).
12. National Association of Broadcasters (NAB).
13. National Association of Public Television Stations (NAPTS).
14. National Broadcasting Company, Inc. (NBC).
15. Satellite Television Systems, Inc. (Satellite Television).

Other Comments

1. Mr. Charles H. Andrews, Sr. (Andrews).
2. Consumer Electronics Group of the Electronics Industries Association (EIA).
3. National Telecommunications and Information Administration (NTIA).
4. Oak Communications Inc. (Oak).
5. Public Service Satellite Consortium (PSSC).
6. RCA American Communications, Inc. (RCA).
7. Satellite Television Corporation (STC).
8. Society for Private and Commercial Earth Stations (SPACE).
9. Western Communications Research Institutes, Inc. (WCRI).
10. Western Union Telegraph Company (Western Union).

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Note.—Appendix B will not appear in the CFR.

APPENDIX B

Post-1979 WARC
International Allocations Plan
and
Possible United States Allocations Plan
for the band segments 11.7 - 12.75 and 17.3 - 18.1 GHz

INTERNATIONAL TABLE			UNITED STATES TABLE		
			GOVERNMENT	NON-GOVERNMENT	
Region 1 Allocation GHz	Region 2 Allocation GHz	Region 3 Allocation GHz	Allocation GHz	Allocation GHz	FCC RULE PART(s)
11.7 - 12.5 FIXED BROADCASTING BROADCASTING-SATELLITE Mobile except aeronautical mobile	11.7 - 12.1 FIXED 3787G FIXED-SATELLITE (space-to-Earth) Mobile except aeronautical mobile 3785H 3787/405BC 3787A	11.7 -12.2 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	11.7 - 12.1	11.7 - 12.1 FIXED-SATELLITE (space-to-Earth) Mobile except aeronautical mobile 3785H 3787/405BC 3787A	Domestic Public Fixed (21)
	12.1 - 12.3 FIXED 3787G FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautial mobile BROADCASTING BROADCASTING-SATELLITE	3785/405BA 3785H	12.1 - 12.3	12.1 - 12.2 FIXED-SATELLITE (space-to-Earth) BROADCASTING-SATELLITE Mobile except aeronautical mobile 3785H 3787/405BC 3787B 3787D 3787E	Domestic Public Fixed (21)
		12.2 - 12.5 FIXED MOBILE except areonautical mobile BROADCASTING		12.2 - 12.3 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING-SATELLITE	International Fixed Public (control) (23) Private Operational-Fixed Microwave (94) [Broadcast Satellite (?)]

INTERNATIONAL TABLE			UNITED STATES TABLE		
			GOVERNMENT	NON-GOVERNMENT	
Region 1 Allocation GHz	Region 2 Allocation GHz	Region 3 Allocation GHz	Allocation GHz	Allocation GHz	FCC RULE PART(s)
	3785H 3787/405BC 3787B 3787C 3787D 3787E			3785H 3787/405BC 3787B 3787D 3787E	
	12.3 - 12.7	3785/405BA 3785B	12.3 - 12.7	12.3 -12.7	
3785/495BA 3785H	FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	3785H		FIXED BROADCASTING-SATELLITE	International Fixed Public (control) (23) Private Operational-Fixed Microwave (94) [Broadcast Satellite (?)]
12.5 - 12.75 FIXED-SATELLITE (space-to-Earth) (Earth-to-space)	3785H 3787/405BC 3787D 3787E 3787F	12.5 - 12.75 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile BROADCASTING-SATELLITE 3785A		3785H 3787/405BC 3787D 3787E 3787F	
	12.7 - 12.75		12.7 - 12.75	12.7 - 12.75	
3785H 3788/405BD 3788A 3789/405BE	FIXED FIXED-SATELLITE (earth-to-space) MOBILE except aeronautical mobile 3785H	3785H		FIXED FIXED-SATELLITE (Earth-to-space) 3785H NG53 NG118	Auxiliary Broadcasting (74) Cable Television Relay (78) Domestic Public Fixed (21)

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INTERNATIONAL TABLE			UNITED STATES TABLE		
			GOVERNMENT	NON-GOVERNMENT	
Region 1 Allocation GHz	Region 2 Allocation GHz	Region 3 Allocation GHz	Allocation GHz	Allocation GHz	FCC RULE PART(s)
17.3 - 17.7			17.3 - 17.7	17.3 - 17.7	
	FIXED-SATELLITE (Earth-to-space) 3794H Radiolocation		Radiolocation	FIXED-SATELLITE (earth-to-space) 3794H	[Broadcast Satellite (?)]
	3794G		USTY28 G59	USTY28	
17.7 - 18.1			17.7 - 18.1	17.7 - 18.1	
	FIXED FIXED-SATELLITE (space-to-Earth) (Earth-to-space) 3794H MOBILE			FIXED FIXED-SATELLITE (space-to-earth) (earth-to-space) 3794H MOBILE	Domestic Public Fixed (21) [Broadcast Satellite (?)]

* * * * * *

INTERNATIONAL FOOTNOTES

3785H In the use of the band 11.70 - 12.75 GHz in Regions 1, 2 and 3, see Resolutions CH, CI, CJ, CK and CL.

3787/405BC The use of the band 11.7 - 12.7 GHz in Region 2 by the fixed-satellite and broadcasting-satellite services is limited to national and sub-regional systems and is subject to previous agreement between the administrations concerned and those having services, operating planned to operate in accordance with the Table, which may be affected (see Articles N11, N13, N13A, and Resolution No. BO).

3787B The 1983 Regional Administrative Radio Conference for Region 2 will divide the band 12.1 - 12.3 GHz into two sub-bands. It will allocate the lower sub-band to the fixed-satellite service and the upper sub-band to the broadcasting-satellite, broadcasting, mobile except aeronautical mobile, and fixed services, all services being on a primary basis.

3787D In Region 2, in the band 12.1 - 12.7 GHz, existing and future terrestrial radiocommunication services shall not cause harmful interference to the space services operating in accordance with the broadcasting-satellite Plan to be prepared at the 1983 Regional Administrative Radio Conference for Region 2, and shall not impose restrictions on the elaboration of such a Plan. The lower limit of this band shall be modified in accordance with the decisions of that Conference for Region 2 (see No. 3787B).

3787E In the band 12.1 - 12.7GHz, the Region 2 space services, existing or planned before the 1983 Regional Administrative Radio Conference for Region 2, shall not impose restrictions on the elaboration of the Plan for the broadcasting-satellite service in Region 2 and shall be operated under the conditions set forth by that Conference.

3787F In Region 2, in the band 12.3 - 12.7 GHz, assignments to stations of the broadcasting-

satellite service made available in the Plan to be established by the 1983 Regional Administrative Radio Conference for Region 2 may also be used for transmissions in the fixed-satellite service (space-to-earth), provided that such transmissions do not cause more interference or require more protection from interference than the broadcasting-satellite service transmissions operating in accordance with that Plan. With respect to the space services, this band shall be used principally for the broadcasting-satellite service. The lower limit of this band shall be modified in accordance with the decisions of that Conference for Region 2 (see No. 3787B).

3794H The use of the band 17.3 - 18.1 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service.

UNITED STATES FOOTNOTES

US110 In the frequency bands 3100-3300 MHz, 3500-3700 MHz, 5250-5350 MHz, 8500-9000 MHz, 9200-9300 MHz, 9500-10000 MHz, 13.4-14.0 GHz, 15.7-17.3 GHz, 24.05-24.25 GHz and 33.4-36.0 GHz, the non-Government radiolocation service shall be secondary to the Government radiolocation service and to airborne doppler radars at 8800 GHz, and shall provide protection to airport surface detection equipment (ASDE) operating between 15.7-16.2 GHz.

USYY28 Stations in the radiolocation service in the band 17.3-17.7 GHz, shall be restricted to operating powers of less than 51 dBw EIRP after feeder link stations for the broadcasting-satellite service are authorized and brought into use.

GOVERNMENT FOOTNOTES

G59 In the bands 902-928 MHz, 3100-3300 MHz, 3500-3700 MHz, 5250-5350 MHz, 8500-9000 MHz, 9200-9300 MHz, 13.4-14.0 GHz, 15.7-17.7 GHz and 24.05-24.25 GHz, all Government non-military radiolocation shall be secondary to military radiolocation, except in the sub-band 15.7-16.2 GHz airport suface detection equipment (ASDE) is permitted on a co-equal basis subject to coordination with the military departments.

Note.—Appendix C will not appear in the CFR.

APPENDIX C

Pre-1979 WARC
International Allocations Plan
and
Current United States Allocations Plan
for the band segments 11.7 - 12.75 and 15.7 - 19.7 GHz

INTERNATIONAL TABLE			UNITED STATES TABLE		
			GOVERNMENT	NON-GOVERNMENT	
Region 1 Allocation GHz	Region 2 Allocation GHz	Region 3 Allocation GHz	Allocation GHz	Allocation GHz	FCC RULE PART(s)
11.7 - 12.5	11.7 - 12.2	11.7 - 12.2	11.7 - 12.2	11.7 - 12.2	
FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE		FIXED-SATELLITE (space-to-Earth) BROADCASTING-SATELLITE Mobile	Domestic Public Fixed (21)
	405BB 405BC	405BA		NG105	
	12.2 - 12.5		12.2 - 12.5	12.2 -12.5	
		FIXED MOBILE except aeronautical mobile BROADCASTING		FIXED	International Fixed Public (control) (23) Private Operational-Fixed Microwave (94)
405BA				NG8 NG52	

INTERNATIONAL TABLE			UNITED STATES TABLE		
			GOVERNMENT	NON-GOVERNMENT	
Region 1 Allocation GHz	Region 2 Allocation GHz	Region 3 Allocation GHz	Allocation GHz	Allocation GHz	FCC RULE PART(s)
12.5 - 12.75	12.5 - 12.75	12.5 - 12.75	12.5 - 12.75	12.5 - 12.7	
FIXED-SATELLITE (space-to-Earth) (Earth-to-space)	FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile	FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile		FIXED FIXED-SATELLITE (Earth-to-space)	International Fixed Public (control) (23) Private Operational-Fixed Microwave (94)
				NG8 NG52	
				12.7 - 12.75	
				FIXED FIXED-SATELLITE (Earth-to-space) MOBILE	Auxiliary Broadcasting (74) Cable Television Relay (78) Domestic Public Fixed (21)
4058D 4058E				NG53 NG52	
*	*		*	*	*
15.7 - 17.7			15.7 - 17.7	15.7 - 17.7	
RADIOLOCATION			RADIOLOCATION	Radiolocation	Private Land Mobile (90)
407 408			US110 G59	US110	

INTERNATIONAL TABLE			UNITED STATES TABLE		
			GOVERNMENT	NON-GOVERNMENT	
Region 1 Allocation GHz	Region 2 Allocation GHz	Region 3 Allocation GHz	Allocation GHz	Allocation GHz	FCC RULE PART(s)
17.7 - 19.7 FIXED FIXED-SATELLITE (space-to-earth) MOBILE			17.7 - 19.7	17.70 - 18.36 FIXED FIXED-SATELLITE (space-to-earth)	Domestic Public Fixed (21)
				18.36 -19.04 FIXED FIXED-SATELLITE (space-to-earth) NG106	Domestic Public Fixed (21) Private Operational-Fixed Microwave (94)
				19.04 - 19.70 FIXED FIXED-SATELLITE (space-to-earth)	Domestic Public Fixed (21)

* * * * *

UNITED STATES FOOTNOTES

US100 In the frequency bands 3100-3300 MHz, 3500-3700 MHz, 5250-5350 MHz, 8500-9000 MHz, 9200-9300 MHz, 9500-10000 MHz, 13.4-14.0 GHz, 15.7-17.7 GHz, 24.05-24.25 GHz and 33.4-36.0 GHz, the non-Government readiolocation service shall be secondary to the Government radiolocation service and to airborne Doppler radars at 880 MHz, and shall provide protection to airport surface detection equipment (ASDE) operating between 15.7-16.2 GHz.

GOVERNMENT FOOTNOTES

G59 In the bands 902-928 MHz, 3100-3300 MHz, 3500-3700 MHz, 5250-5350 MHz, 8500-9000 mHz, 9200-9300 MHz, 13.4-14.0 GHz, 15.7-17.7 GHz and 24.05-25.25 GHz, all Government non-military readiolocation shall be secondary to military radiolocation, except in the sub-band 15.7-16.2 GHz airport surface detection equipment (ASDE) is permitted on a co-equal basis subject to coordination with the military departments.

NON-GOVERNMENT FOOTNOTES

NG8 Frequencies in this band will be selected for

assignment in such a manner that, on an engineering basis, the lowest frequency in the band is assigned which will not cause harmful interference to stations in the area already assigned frequencies in accordance with the Table of Frequency Allocations.

NG52 Stations used for transmission of program material to cable television (CATV) systems, which are authorized to operate in the band 12.2-12.7 GHz on November 22, 1965, may continue to be authorized to so operate until August 1, 1980, under the conditions specified in that license.

NG53 In band 12.7-12.95 GHz, television pickup stations and CARS pickup stations shall be assigned channels on a co-equal basis and shall operate on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

NG105 Pending adoption of specific rules concerning sharing of the band 11.7-12.2 GHz between the broadcasting-satellite and fixed-satellite services, systems in the service may be authorized on a case-by-case basis subject to the condition that adjustments in certain system design or technical parameters (including but not limited to orbital location, channel use, etc) may become necessary during the system lifetime in order to accomodate ue of the band by systems of the same or other service.

BILLING CODE 6712-01-C

Appendix D

Parts 2, 23 and 94 of chapter I of title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

A. In § 2.106, in the table, at Column (6), for the blocks including the frequency bands 12.2–12.7 GHz and 17.3–17.8 GHz, add the following new footnote:

§ 2.106 Table of frequency allocations.

USxxx—Pending adoption of further specific rules concerning usage of the band 12.2–12.7 GHz by the fixed, fixed-satellite, and broadcasting-satellite services and of the band 17.3–17.8 GHz by the fixed, fixed-satellite, mobile, and radiolocation services, systems in these services may be authorized subject to the condition that adjustments in certain system design or technical parameters (including but not limited to channel use, orbital location, etc.) may become necessary during the system lifetime in order to accommodate use of the bands by systems of the same or other services. The necessity for such adjustments, and their extent, will be dependent upon the Final Acts of the 1983 Regional Administrative Radio Conference and subsequent Commission decisions.

PART 23—INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES

B. In § 23.20, paragraph (a) is revised to read as follows:

§ 23.20 Assignment of frequencies.

(a) Only those frequencies which are in accordance with § 2.106 of this chapter may be authorized for use by stations in the Fixed Public and Fixed Public Press Services. Selection of specific frequencies within such bands shall be made by the applicants therefor. After an application has been filed with the Commission for a particular frequency, its availability for assignment as requested will be determined by a study of the probabilities of interference to and from existing services assigned on the same or adjacent frequencies and, if necessary, by coordination with other agencies utilizing frequencies in these ranges. The applicant will be notified of the results of such study and coordination. All new assignments of frequencies may be made subject to certain conditions as may be required to minimize the possibility of harmful interference to existing services. Upon the assignment of frequencies by the Commission to broadcasting-satellite stations authorized in accordance with the Region 2 Plan for the Broadcasting-Satellite Service, licensees in the fixed service in the band 12.2–12.7 GHz shall make such adjustments in technical parameters and/or assigned frequency as are necessary to prevent harmful interference to operating U.S. broadcasting-satellite stations. Harmful interference shall not be caused to stations of other countries operating in accordance with the Region 2 plan for the broadcasting-satellite service.

* * * * *

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

C. In § 94.65, paragraph (h) is revised to read as follows:

§ 94.65 Frequencies.

* * * * *

(h) *12,200–12,700 MHz:* Upon the assignment of frequencies by the Commission to broadcasting-satellite stations authorized in accordance with the Region 2 Plan for the Broadcasting-Satellite Service, licensees in the fixed service in the band 12.2–12.7 GHz shall make such adjustments in technical parameters and/or assigned frequency as are necessary to prevent harmful interference to operating U.S. broadcasting-satellite stations. Harmful interference shall not be caused to stations of other countries operating in accordance with the Region 2 plan for the broadcasting-satellite service.

* * * * *

Appendix E—Initial Regulatory Flexibility Analysis

Why Is Action Contemplated

Action is being taken to permit the introduction of direct broadcast satellite (DBS) service in the United States. The Commission in this *Notice* has made a preliminary determination that the provision of this new service is in the public interest. The Commission has indicated that DBS service has the potential of providing additional television and other video services to all the people of the United States, including those in the remote and rural areas of the country that are not presently being adequately served by the terrestrial "over-the-air" broadcast system. Further, DBS service will provide the American people with additional diversity in video programming and will provide additional incentives to the program production industry, thereby enhancing competition in al video markets. Moreover, by providing some or all of its service in a subscription mode a DBS system will be able to provide services for certain groups whose needs might not be met through conventional advertiser-supported mass programming.

Objectives and Legal Basis for Proposed Rule

Our objective in proposing these policies and rules is to provide a regulatory environment that will permit the development of direct broadcast satellite service. Our legal basis for this action can be found in Sections 1, 4 (i) and (j), 303 (g) and (r), and 403 of the Communications Act of 1934, as amended.

Small Entities Affected

At this time, we cannot estimate the number or types of Commission licensees that are small entities and would be affected by this action. We believe that DBS service will provide additional competition for local television, cable, STV, and MDS operations. Studies conducted thus far however, have concluded that any DBS system that might go into operation in the foreseeable future would have a negligible impact on the audiences of local television operations. Any effect that would occur would result from the addition of new competitors rather than from increasing the costs of local stations or otherwise affecting their ability ro provide service.

The provision of DBS service may also affect existing terrestrial microwave users of the 12 GHz band. Since DBS and terrestrial microwave operations apparently cannot use the same frequencies in the same geographic area without causing unacceptable interference to DBS receivers, some terrestrial operators may have to move to other frequency bands for DBS to be able to operate in some areas. Changing frequencies will require replacement of some or all transmitting and receiving equipment. We presently cannot determine, however, whether or not the terrestrial users are "small entities" for the purposes of the Regulatory Flexibility Act. Furthermore, the number of users and the extent to which they may be affected cannot be determined at this time.*

Reporting, Record-Keeping, and Compliance Requirements

According to our proposed rules and policies, DBS applicants will have to provide a filing describing the type of service that will be provided, the technology that will be employed, and any other pertinent information. We believe that this provision is in keeping with the requirements of the service. In view of the large investments involved in placing a satellite in operation, DBS applicants will almost certainly not be "small entities" as described in the Regulatory Flexibility Act. No reporting requirements are imposed on anyone except DBS applicants.

Relevant Federal Rules Which May Conflict, Duplicate or Overlap the Proposed Rule

To our knowledge, there are other Federal rules that conflict with, duplicate or overlap the proposed policies and rules contained in this *Notice*.

Specific Alternatives That Could Accomplish the Same Objectives

The Regulatory Flexibility Act requires that each initial analysis describe "any significant alternatives to the proposed rule which may accomplish the stated objectives of the applicable stautes and which minimize any

*The number of terrestrial users affected will depend on the outcome of the 1983 Regional Administrative Radio Conference and the number of DBS systems implemented in the United States.

significant economic impact of the proposed rule on small entities." We believe the only significant alternative available to our proposed policies and rules is one that would probably not permit the introduction of DBS service. If terrestrial microwave users were allowed to remain indefinitely in the 12 GHz band, even though they caused interference to DBS receivers, the loss of audience to DBS operations would probably be sufficiently great to prevent their becoming economically viable. We do not believe that such a decision is in the public interest or in keeping with the stated objectives of the Communications Act. We note that our policies and rules have recognized and taken into account the potential impact of DBS on other entities and services and has attempted to minimize such impacts. For example, our rules would affect only thjose terrestrial microwave users that caused harmful interference to operating DBS systems. Further, affected terrestrial operations will be provided with a transition period in which to move to alternative frequencies or cease operation, and may receive compensation for the costs of relocation.

Comments

The FCC is seeking public comment on the initial regulatory flexibility analysis. The FCC is particularly seeking comment from small entities (*i.e.*, small businesses, small organizations, and small jurisdictions under the Regulatory Flexibility Act) as to how the regulations will affect them and how the regulations may be tiered or otherwise modified to impose less stringent requirements on small entities which will still adequately protect the public interest and promote safety of life and property. Those small entities which offer comments on how the regulations could be modified to take into account the differing needs of small entities should specifically discuss:

(1) The size of their business and how the proposed regulations would result in a significant economic burden upon them as compared to larger organizations in the same business;

(2) How the proposed regulations could be modified to take into account their differing needs or capabilities;

(3) The benefits that would accure, or the detriments that would be avoided, if the proposed regulations were modified as suggested by the commenter; and

(4) How the proposed regulations, as modified, would more closely equalize that impact of FCC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individuals or groups.

Statement of Chairman Robert E. Lee, Docket 80-603, Direct Broadcast Satellite

Following the Commission meeting discussing this rulemaking, I publicly expressed my enthusiasm for what I believe is the birth of the new era of space video. My enthusiasm, however, hasn't blinded me to the serious public policy questions the Commission must face in the future. The fundamental question is what regulatory scheme should be imposed on this new service. Is it a broadcast service, a common carrier service in the traditional mold, or something different? The record before us today is not adequate to answer these questions, and we don't have to address them now in order to authorize the first steps in the development of a new service for the public.

Today the Commission makes the preliminary findings that the public interest may support the development of DBS and, by proposing to allot spectrum space for DBS, made acceptance of applications possible. Over the next few years, the Commission will grapple with the applicability of broadcast policies such as media concentration limits and financial interest restrictions and common carrier policies such as nondiscriminatory access to transponders to this embryonic service. The public, the industry, and the Congress surely will comment at length about the most appropriate regulatory structure. At the end of this process I expect to see an exciting new service for the public take its place in the competitive marketplace along with the services we now enjoy.

I am sensitive to the concerns of existing services, both broadcast and cable, about their role once DBS systems begin operation. I think that all services can be accommodated. Looking ahead, I can envision DBS supplementing the outstanding local broadcasting system now in place. The Commission can't deny new service simply to protect existing ones, and it hasn't done so in the past. I believe that the existing program distribution providers will adapt to the new challenge of DBS and will continue to provide the valuable local voice which the public wants.

April 23, 1981.

Statement of Commissioner Anne P. Jones Concurring in Part

In re: Inquiry into the development of regulatory policy in regard to Direct Broadcast Satellites for the period following the 1983 Regional Administrative Radio Conference—General Docket No. 80-603.

The fate of the Direct Broadcast Satellite (DBS) concept should be determined to the fullest extent possible by the marketplace, and not by government decisionmakers. Unfortunately, there is a conflict between the proposed use of the spectrum by DBS and its current use by existing services. Because of this conflict, a higher burden is placed upon the Commission in making a public interest finding in favor of DBS. Since we are just beginning to understand the nature of this conflict, I am afraid that the Commission's preliminary determination that DBS is in the public interest may be premature.

In an attempt to establish the rules for interim DBS systems rapidly, the Commission instituted a bifurcated proceeding. Many important questions were deferred to the Inquiry on Permanent Regulatory Policies. Comments in this proceeding are not due until April 30, 1981, with reply comments due on June 30, 1981. As a result, the record available at this time may not be adequate to support the public interest finding necessary to proceed with the processing of interim DBS system applications.

Terrestrial microwave systems currently occupy the 12.2–12.7 GHz band which would be utilized by DBS. These microwave systems are used by railroads, electrical utilities, manufacturers, local governments and others. Such systems can cause severe interference to DBS home receivers. There are many possible solutions to this interference problem, including the segmentation of the 12.2–12.7 GHz band, added shielding to the terrestrial microwave antennaes and moving the terrestrial microwave systems to another band. Most of these solutions will require changes to the terrestrial microsave systems, so the issue of who will pay for these changes must also be addressed.

Because an applicant for an interim DBS system would possess the technical means, the financial resources and the commercial motivation to undertake studies of the interference problem and its possible solutions, I consider it unfortunate that the Commission did not require such a showing as a part of an interim application. Although the Commission does not intend to assign specific frequencies to DBS systems at this time, many aspects of this interference problem could still be studied.

Nevertheless, I am hopeful that the data required for the Commission to make an informed decision will be made available either in the Inquiry on Permanent Regulatory Policies or in the applications for interim DBS systems, so that we can act on this matter in an expeditious fashion.

Concurring Statement of FCC Commissioner James H. Quello

In re: Direct Broadcast Satellite Services.

I concur with the Commission action today accepting Comsat's innovative interim DBS application on a developmental basis and also issuing a comprehensive rulemaking on DBS that provides all parties an opportunity to present their views. The Commission action today encourages prompt development of direct-to-home satellite TV and provides an interesting and significant opportunity to study and evaluate a satellite-transmitted pay service.

However, we must preserve future options in regulation, development and structuring to assure a continuing universal *local* broadcast service to communities throughout the nation. I believe local service to the public was intended and is implied by the Communications Act. We must be careful not to restructure the entire broadcast system to favor pay services over a free service to the public.

I doubt that overall public interest will be served by any radical change that threatens or reduces the ability of broadcasters to support a wide range of local news, entertainment and public and emergency services fostering the well-being and progress of our communities. The same concerns apply to national and international news, emergency services and public affairs programming provided by existing network service free of any direct cost to viewers or listeners.

We must carefully develop a record to establish to what extent DBS will eventually be regulated as a common carrier, a broadcast service or a private radio service.

April 21, 1981.

Separate Statement of Commissioner Abbott Washburn

In re: Docket 80-863 (Direct Broadcast Satellite).

Public Interest Finding. Today the Commission, by unanimous vote, has made a preliminary finding that provision of DBS service is in the public interest.[1] This despite the fact that there will be some (as yet undetermined) measure of disruption to the fixed terrestrial service. DBS, we found, has important potential to serve the larger public and, in particular, to provide television to rural areas and other currently underserved populations—in line with the broad mandate of the Commission to regulate in a manner ". . . so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service. . . ." [2]

Local TV Service. The evidence considered thus far in the studies done by Kalba Bowen Associates [3] and Arthur D. Little [4] which assessed the effects of DBS on audiences of local broadcasters shows that local broadcast services would be threatened only to a slight or negligible degree by the type of satellite service we are dealing with here. This determination is, of course, only preliminary. As we proceed, care must be exercised to insure that this new service does not diminish local programmers' ability to meet communities' needs for news, educational, political and entertainment programming. There will be ample time to gather more facts and assess comments as the Commission moves to permanent rules, at some distance in the future. (DBS systems are not likely to become operational before 1985.)

Decision Helpful to RARC-1983. Our action today—by accepting for comment one application for DBS service and welcoming others—will strengthen the U.S. position at the Regional Administrative Radio Conference to be held in 1983. It puts the U.S. in a posture to demonstrate our country's affirmative interest in the practical application of this innovative new technology.

Spur to the Economy. The Commission has made clear that it does not want the government to stand in the way of this new and potentially beneficial service. Setting the stage for commercial application of DBS technology holds the promise of "creating new jobs and providing equipment manufacturers with both new domestic and international markets", as the Secretary of Commerce, speaking for the Administration, stressed in a letter to Chairman Lee last week. [5]

Statement of Commissioner Joseph R. Fogarty

In re: Notice of Proposed Policy Statement and Rulemaking in Gen. Docket No. 80-603—Direct Broadcast Satellites (DBS).

I am extremely pleased that the Commission has made substantial and expeditious progress toward deciding the interim policies, rules, and spectrum allocation to govern the authorization of direct broadcast satellite (DBS) systems prior to the adoption of permanent rules following the 1983 Regional Administrative Radio Conference (RARC-83). Moreover, the public interest would be ill-served by any undue delay in allowing Satellite Television Corporation (STC)—and any other similarly interested entrepreneurs—to develop and test this exciting DBS technology and service. STC is making a substantial investment and taking an equally substantial risk in seeking to prove the worth and value of DBS to the American consumer. While today the Commission makes the critical "preliminary determination" that "the provision of DBS service will serve the public interest, convenience, and necessity," it is important to remember that it is the private sector, and firms such as STC, which must make this hopeful finding a reality. The Commission therefore has an obligation to ensure that its regulatory process does not impede or obstruct the ultimate proof of DBS, that is, proof in the marketplace. With this action, I believe we are well on the way to meeting that obligation to the American public. As a result, the citizens of this country may benefit from this marvelous proposed service years before they would if we were to delay action today.

[FR Doc. 81-16768 Filed 6-4-81; 8:45 am]
BILLING CODE 6712-01-M

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[1] ". . . we believe that it is appropriate at this time to make a preliminary determination that the provision of DBS service will serve the public interest, convenience and necessity". (Notice of Proposed Policy Statement and Rulemaking, adopted this date, page 11, paragraph 27.)

[2] 47 U.S.C. 1.

[3] "Direct Broadcast Satellites: Preliminary Assessment of Prospects and Policy Issues", Kalba Bowen Associates, September 22, 1980.

[4] "Pay Television Services Via Direct Broadcast Satellite: Demand and Impact in the 1980's", Arthur D. Little, Inc., May 1980.

[5] Letter to FCC Chairman Robert E. Lee from Secretary of Commerce Malcom Baldrige, dated April 7, 1981.

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47 CFR Part 31

[CC Docket No. 79-105; FCC 81-246]

Deregulation of Customer Premises Inside Wiring

AGENCY: Federal Communications Commission.

ACTION: Advance notice of proposed rulemaking; further notice of inquiry.

SUMMARY: In the *First Report and Order* in the matter of *Amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, of the Commission's Rules and Regulations with respect to accounting for stations connections, optional payment plan revenues and related capital costs, customer provided equipment and the sale of terminal equipment (CC Docket No. 79-105), which was adopted on March 11, 1981, the Commission adopted a policy providing for the expensing of the inside wiring portion of station connections, rather than the continued capitalization of these amounts. This transition from capitalization to expensing was to be phased in over a four-year period.*

While the expensing of the inside wiring portion of station connections would accomplish part of the Commission's desire to have ratepayers pay for the costs they impose on telephone companies, the Commission indicated a belief that the full accomplishment of this objective was only possible through the deregulation of inside wiring. Accordingly, in the Further Notice the Commission seeks comment on the deregulation of inside wiring not only for telephone carriers but for all carriers subject to the Commission's jurisdiction. The Commission seeks comment on the efficacy of the proposed deregulation and the accounting changes required to effectuate such a policy.

DATES: Comments must be filed on or before July 31, 1981, and reply comments on or before August 31, 1981.

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

FOR FURTHER INFORMATION CONTACT: Douglas Slotten, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-9342.

SUPPLEMENTARY INFORMATION: The initial Notice of Proposed Rulemaking was published at 44 FR 48988 (1979). The First Report and Order was adopted on November 6, 1980, 46 FR 19481 (released March 31, 1981).

Adopted: May 18, 1981.

Released: May 26, 1981.

By the Commission.

1. The *Further Notice of Inquiry* instituted herein is undertaken to insure that each customer fully assume the burden of the inside wiring portion of station connections expenditures which that customer has caused to be incurred. In our initial *Notice of Proposed Rulemaking* in this Docket, we proposed to expense costs which had been, and were being, capitalized in account 232, "Station connections," to place the burden of inside wiring expenditures directly upon the cost-causative customer, 44 FR 48988. However, the change in the accounting treatment from a capitalization to an expensing policy which we contemplated in our original Notice may simply adjust the intertemporal inequities among ratepayers. By expensing inside wiring additions to account 605, this Commission can only require that future ratepayers, as a class, will not pay for

station connections expenditures which occurred in earlier time periods. It cannot, as a practical matter, insure that ratepayers who occasion inside wiring expenditures in a particular time period separately and completely pay for those expenditure outlays. Thus, the remedial actions suggested in the initial Notice would not fully address our concerns with respect to the cost causative customer.

2. It does not appear possible to achieve fully our objective of charging the cost of inside wiring [1] to the cost causative customer in a regulated environment. Under regulation, all that the Commission could do would be to order revisions in the tariff charges of the telephone companies so that subscribers would pay for the material and labor costs associated with the interstate portion of any new inside wiring provided them. One difficulty with such a scheme is that we do not have available on a subscriber-by-subscriber basis the costs for inside wiring assigned interstate pursuant to the FCC NARUC Separations Manual. Any attempt by this Commission to impose cost-based charges for the interstate portion of inside wiring would very likely require the expenditure of substantial additional regulatory resources and might prove burdensome to carriers and subscribers as well. For example, within the present regulatory context, subscribers might be confused by this Commission's imposition of a separate installation charge for inside wiring. Moreover, the bulk of the investment in inside wiring is assigned intrastate by the FCC NARUC Separations Manual. The revenue requirement associated with this investment is therefore recovered through charges imposed in intrastate tariffs over which we have no control. The relationship between the charges levied pursuant to intrastate tariffs and the intrastate costs of the underlying facilities and services (including inside wiring) is a matter entirely within the purview of the individual state commissions. Consequently, even if this Commission were to take the additional steps necessary to prescribe new cost-based charges for inside wiring, it would still be unable to insure that the overall costs for such wiring were being paid for by the cost causative customer. In short, there does not appear to be any reasonable alternative means of effecting payment by those customers who give rise to the station connection expenditures other than detariffing of inside wiring.

3. We therefore seek comment on the following alternative to the present regulatory scheme: "inside wiring" would not be provided pursuant to tariff, either on a "bundled" or on an "unbundled" basis. Regulated firms would offer wiring services, to the extent they chose to do so, on a nonregulated basis. Unregulated firms could also provide inside wiring, if this policy were adopted. By permitting unregulated firms to provide inside wiring to consumers, we believe that competition among these firms will result in prices for inside wiring that approximate production costs.

4. The regulatory issues associated with cost allocation of inside wiring analogize easily to comparable issues relating to terminal equipment which we resolved in the *Second Computer Inquiry* (Final Decision), 77 FCC 2d 384 (1980), Reconsideration, 84 FCC 2d 50 (1980). In the case of terminal equipment, we acted in light of a decade of experience in which numerous firms had marketed many and varied devices which met user needs. Although we do not now possess a similarly expansive record for deregulation of inside wiring, we anticipate that deregulation of inside wiring will result in development of a large number of firms, many of which may be local electrical contractors, which will have incentives to develop cost effective procedures for the installation of inside wiring which meet the specific needs of individual users. We expect that carriers will react to this competition by diversification in terms of price and equipment offerings.

5. We seek, however, further clarification as to the possible nature of this marketplace. In order to assist us in obtaining necessary information we ask commenting parties to address the following specific questions:

(1) Is there any evidence suggesting that the entry of new firms into this market may not be easy and rapid enough to prevent the persistent exercise of monopoly power by the incumbent form or firms? Is there any evidence of significant entry barriers into this market? In particular, do building codes present any problems which inhibit fair competion or distort the pricing of the competitive provision of inside wiring? Are there other features of this market that might limit the extent of entry?

(2) What kinds of existing firms are likely potential competitors with the telephone companies in this market? For example, can electrical contractors be regarded as likely potential entrants in the supply of inside wiring?

(3) Will consumers possess sufficient information—either through their own efforts, consumer groups or industry sources—to adequately evaluate the offerings of different vendors?

6. The Commission is also interested in receiving comment on the amount of any additional costs or any cost savings that will result from the deregulation of inside wiring. Commenting parties should consider the following areas of potential impact: the distributional shift of inside wiring costs among various classes of users, e.g., business, residential, government, rural, and urban; the impact on the provision of unregulated terminal equipment; the cost savings from reduced regulatory burdens; the impact on recordkeeping and accounting requirements; and the impact on local, intrastate, and interstate rates and services. Interested persons should also comment on any other impacts they consider to be relevant to the Commission's decision-making process. In measuring any impact, the Commission is interested in the direct and the indirect cost considerations. This includes the comparison of such costs under a regulated structure with those of an unregulated environment. This comparison should be made for the Commission's proposal, as well as for any proposal suggested by a commenting party. Alternatives, if any, that will reduce the cost of deregulation should be proposed and evaluated.

7. It is our intent that carriers compete in the inside wiring market without restriction. However, carriers should not be able to cross-subsidize competitive inside wiring with monopoly local exchange revenues. In order to guard against possible cross-subsidization it may be appropriate to require that when inside wiring is made available by the Bell Companies, it is offered through an unregulated and separated subsidiary. Such a requirement would be consistent with our rationale in *Computer Inquiry II* (*see* particularly paras. 208–214 of the Final Decision, 77 FCC 2d 384). Specifically, we found in that proceeding, that for the Bell System the advantages of separate subsidiaries in preventing cross-subsidization were greater than the alleged speculative losses in vertical integration and incentives to innovate. Accordingly, we seek comment on whether Bell System Companies offering inside wiring should

[1] The term "inside wiring" refers generally to that portion of telephone plant, including both labor and material, accounting for in Account 232, "Station Connections," which is installed on the station apparatus side of the protector block. The precise definition of inside wiring is at issue in CC Docket 81–216, FCC 81–130 (released April 10, 1981). The scope of any deregulation and the accounting changes in Account 232 discussed herein will comport with the decision in that Docket.

be required to do so on a detariffed basis either through the separate subsidiary established in our *Second Computer Inquiry* or through another separate subsidiary meeting the separations standards adopted in the *Second Computer Inquiry*.

8. The Commission also seeks comment on what procedures will be necessary to permit a smooth transition from the offering of inside wiring on a regulated basis to the offering of inside wiring on a detariffed basis. Comments should address the transition procedures required for carriers subject to separate subsidiary requirements as well as for carriers offering inside wiring directly to subscribers. Finally, we ask parties to comment on whether the deregulation of inside wiring associated with large PBXs should be accomplished simultaneously with the deregulation of the associated PBXs, and what problems result if it is, or if it is not, so timed.

9. Further, with respect to carriers in general, we request comments on any changes in the Uniform System of Accounts which may be necessary or helpful in guarding against the cross subsidization of de-regulated inside wiring with regulated, monopoly-based revenues. In addition, we request comments on any revisions in the Uniform System of Accounts which are required to effectuate the subclassification of account 232 "Station connections–inside wiring" and "Station connections–other." In particular, we would like the parties to comment on what modifications, if any, should be made to insure that resources (trucks, equipment, personnel, etc.) which are used in the joint provision of tariffed and detariffed activities are accurately and separately split between those activities. If new accounts or sections are suggested, the proper definition and content, and required changes to sections of the Commission's Rules and Regulations should be set forth. In our original Notice of Proposed Rulemaking, 44 FR 48988, we proposed expensing only those station connections costs included in account 232 "Station connections" for carriers subject to Part 31 of our Rules and Regulations. However, we see no reason why the same considerations relevant to the deregulation of inside wiring for carriers subject to Part 31 would not be applicable as well to carriers subject to Parts 33, 34 and 35 of our Rules and Regulations. Therefore, we seek comment on the adoption of a uniform policy of deregulation of inside wiring, to be applied to all carriers subject to those parts of our Rules and Regulations, and we request comments on the specific changes to our accounting rules which will be necessary to accomplish such a result. It has also come to our attention that there are costs associated with inside wiring presently recorded in account 234, "Large Private Branch Exchanges." Therefore, to insure that our deregulatin policy is applied to all inside wiring, we invite comments on the necessary definitions to identify the cost of the inside wiring portion of account 234. These comments should be supported by a description of the activities involved with inside wiring as well as cost elements associated with each activity. Also, recommended changes to the account language for account 234 should be included.

10. On April 10, 1981, the Commission issued a *Notice of Proposed Rulemaking and Notice of Inquiry CC Docket No. 81-216, supra*, to prescribe electrical specifications and engineering requirements for inside wiring under Part 68 of the Commission's Rules. As part of that proceeding, we will attempt to further define—whether by example or otherwise—the "demarcation point" for inside wiring. It is our intention to complete the technical standards (Part 68) rulemaking within the same general timeframe as the inquiry initiated herein. As stated in the *First Report and Order* in this Docket, we believe that there presently exists among telephone engineers and within the industry as a whole substantial agreement as to the location of the demarcation point for typical inside wiring arrangements. For this reason, we do not believe that further specificity in defining the term "demarcation point" will have a significant impact upon this proceeding or the central question of whether deregulation is appropriate or in the public interest. Thus, even if the Part 68 proceeding is decided after deregulation, any changes or adjustments necessary will almost certainly be minimal. However, if any party believes differently, it should make known this difference and the reasons therefore in its comments.

11. Accordingly, it is ordered, pursuant to sections 1, 4(i), 4(j), and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 220, that this Further Notice of Inquiry is hereby instituted.

12. It is further ordered, pursuant to § 1.430 of the Commission's Rules and Regulations, 47 CFR § 1.430, that an original and five(5) copies of all statements or briefs shall be furnished to the Commission. Responses filed in this proceeding will be available for public inspection during regular business hours in the Commission's Docket Reference Room.

13. It is further ordered, pursuant to § 1.430 of the Commission's Rules, 47 CFR 1.430, That interested persons may file comments on or before July 31, 1981, and reply comments on or before August 31, 1981. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

14. It is further ordered that the Secretary of the Federal Communications Commission shall cause this *Further Notice of Inquiry* to be published in the **Federal Register** and in the Federal Communications Commission Reports.

15. It is further ordered that, pursuant to Section 220(i) of the Communications Act of 1934, as amended, 47 U.S.C. 220(i), the Secretary shall cause to be served on each state commission a copy of the *Further Notice of Inquiry*.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-16699 Filed 6-4-81; 8:45 am]

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47 CFR Part 31

[CC Docket No. 79-105; RM-3017]

Uniform System of Accounts for Class A and Class B Telephone Companies; Accounting for Station Connections, Optional Payment Plan Revenues and Related Capital Cost, Customer Provided Equipment and Sale of Terminal Equipment; Order Extending Time for Filing Oppositions to Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration; Extension of time for filing oppositions.

SUMMARY: AT&T requested and was granted permission for an extension of time in filing opposition to a Petition for Reconsideration of a proceeding on uniform system of accounts for Class A and Class B telephone companies filed by the People of the State of California and the Public Utilities Commission of California. Also, AT&T requested and was granted permission to file more than 25 pages in the opposition noted above but no more than 35 pages.

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

FOR FURTHER INFORMATION CONTACT: Michael Wilson, Common Carrier Bureau, (202) 632-3863.

SUPPLEMENTARY INFORMATION:

Order

Adopted: May 27, 1981.
Released: May 29, 1981.

By the Chief, Accounting and Audits Division.

In the Matter of Amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, of the Commission's Rules and Regulations with respect to accounting for station connections, optional payment plan revenues and related capital costs, customer provided equipment and sale of terminal equipment; (CC Docket No. 79-105 RM-3017).

1. The American Telephone and Telegraph Company (AT&T) has filed a request for an extension of time for filing its opposiiton to the Petition for Reconsideration filed by the People of the State of California and the Public Utilities Commission of California (46 FR 26693; 5-14-81).[1] It requests extension up to and including the date when oppositions to the Petition for Clarification filed by the National Association of Regulatory Utility Commissioners (NARUC) are due. AT&T also requested that it be permitted to file an opposition to the California and NARUC Petitions in excess of 25 pages [2] but no more than 35 pages.

2. In support of its request AT&T asserts that an extension of time is warranted because California and NARUC raise similar fundamental and complex issues regarding the scope and effect of the Commission's order. California questions the extent to which the order affects California (i.e., intrastate) ratemaking policies. NARUC raises that same question and further questions the power of the Commission to extend the Uniform System of Accounts (USOA) to accounting for intrastate operations. Therefore, AT&T believes that the most efficient way to respond to these petitions is to file a single responsive pleading.

3. AT&T notes that its preliminary work indicates that 25 pages will be insufficient to analyze and discuss fully the complex and fundamental issues raised by California and NARUC regarding the basic jurisdictional authority of the Commission. Further, it notes this is the first time in this proceeding such issues have been raised. AT&T also points out that if it filed separate oppositions, under the rules each pleading could be 25 pages.

4. We will grant the request of AT&T in view of the similarity of the petititons filed by California and NARUC. We agree that it would be more efficient to respond to both petiitons with one pleading. Further, we feel that a pleading of 35 pages is warranted under the circumstances present here.

5. Accordingly it is ordered, pursuant to authority delegated in Section 0.291 and 0.91 of the Commission's Rules and Regulations, 47 CFR §§ 0.291 and 0.91 (1979), that the requests of American Telephone and Telegraph Company for an extension of time and for permission to file an opposition to the California and NARUC petitions in excess of 25 pages are granted.

6. It is further ordered, That interested parties shall file oppositions to these petitions on or before June 11, 1981. Replies shall be filed on or before June 22, 1981.

Federal Communications Commission.

Gerald P. Vaughan,

Acting Chief, Accounting & Audits Division.

[FR Doc. 81-16718 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

[1] This petiton was published in the Notices section of the **Federal Register.**

[2] See Commission Rules, Section 1.429(f).

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47 CFR Part 73

[BC Docket No. 80-667; RM-3354]

FM Broadcast Station in St. Johnsbury, Vt.; Changes Made in Table of Assignments; Request Dismissed

AGENCY: Federal Communications Commission.

ACTION: Dismissal of proposed rule (Report and Order).

SUMMARY: This document dismisses a request to assign FM Channel 288A to St. Johnsbury, Vermont, for lack of continuing interest.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (St. Johnsbury, Vermont); Report and order (Proceeding Terminated).

Adopted: May 1, 1981.
Released: May 7, 1981.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 45 FR 73980, published November 7, 1980, proposing the assignment of Channel 288A to St. Johnsbury, Vermont. The only comments received were from Northeast Kingdom Broadcasting (Northeast), successor in interest to Twin State Broadcasters, Inc., the original petitioner.

2. Northeast, licensee of AM Station WSTJ, St. Johnsbury, indicates that it is not interested in operating an FM station in St. Johnsbury, since the Commission recently approved an FM channel assignment to Lyndon, Vermont. Northeast does not believe that a third broadcast station in this area is viable.

3. The Commission generally refuses to assign FM channels where no party has stated it is willing to apply to operate a station on the proposed channel. In view of the withdrawal of Northeast's commitment to apply for a St. Johnsbury FM station and the absence of another interest in the channel, we shall not assign Channel 288A to St. Johnsbury.

4. It is ordered, That the petition filed by Twin State Broadcasters, Inc. to assign Channel 288A to St. Johnsbury, Vermont, is dismissed.

5. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

6. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-16717 Filed 6-4-81; 8:45 am]

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47 CFR Part 73

[BC Docket No. 81-347; RM-3765]

FM Broadcast Station Glenwood, Minnesota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 257A to Glenwood, Minnesota, in response to a petition filed by Dove Broadcasting, Inc. The assignment would provide Glenwood with a first local aural service.

DATES: Comments must be filed on or before July 20, 1981, and reply comments on or before August 10, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1981.

Released: June 1, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Glenwood, Minnesota); BC Docket No. 81-347, RM-3765; notice of proposed rulemaking.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rulemaking [1] was filed by Dove Broadcasting, Inc. ("petitioner"), proposing the assignment of FM Channel 257A to Glenwood, Minnesota, as that community's first FM allocation.

(b) Channel 257A could be assigned to Glenwood in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data:*

(a) *Location:* Glenwood, the seat of Pope County, is located approximately 192 kilometers (120 miles) northwest of St. Paul, Minnesota.

(b) *Population:* Glenwood—2,584; Pope County—11,107.[2]

(c) *Local Aural Broadcast Service:* None.

3. *Economic Considerations:* Petitioner states that Glenwood has its own stores, industries, banks, a savings and loan association, churches, schools, clubs and civic organizations, and that it has a low unemployment rate of 4.2 percent. Further, it states it is located near the agricultural region of Starbuck, and Glacial State Park, which is the site of numerous recreational activities. In justification of its proposal, petitioner states that it has no local service, is served by one weekly newspaper, and by cable television. The nearest community with broadcast service is Alexandria, approximately 27 kilometers (17 miles) distant.

4. Canadian concurrence in this proposal must be obtained since Glenwood is located within 400 kilometers (250 miles) of the Canadian border.

5. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Glenwood, Minnesota		257A

6. 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.

7. Interested parties may file comments on or before July 20, 1981, and reply comments on or before August 10, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. 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 officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a 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 Section 1.420(d) of the Commission's 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.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's 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 proceedings 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. 81-16738 filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on October 17, 1980, Report No. 1253.

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

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47 CFR Part 73

[BC Docket No. 81-346; RM-3766]

FM Broadcast Station in Rayville, Louisiana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 221A to Rayville, Louisiana, as its first FM channel assignment, in response to a petition filed by North Louisiana Broadcast Enterprise.

DATES: Comments must be filed on or before July 20, 1981, and reply comments on or before August 10, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1981.

Released: June 1, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Rayville, Louisiana); BC Docket No. 81-346, RM-3766; notice of proposed rule making.

1. *Petitioner, Proposal, Comments:* (a) A petition for rule making [1] was filed by North Louisiana Broadcast Enterprise ("petitioner"), proposing the assignment of FM Channel 221A to Rayville, Louisiana, as that community's first FM channel.

(b) The channel can be assigned to Rayville with a site restriction in order to conform with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data:* (a) *Location:* Rayville, the seat of Richland County, is located approximately 320 kilometers (200 miles) northwest of New Orleans, Louisiana.

(b) *Population:* Rayville—3,962; Richland County—21,774.[2]

(c) *Local Aural Broadcast Service:* Rayville is served by daytime-only AM Station KRIH.

3. *Economic Considerations:* Petitioner indicates that the economic base is derived from the fact that Rayville is the main trade area for Richland County, which is primarily an agricultural region, and has an abundant supply of such natural resources as crude oil and gas. Petitioner has submitted demographic and economic data with respect to Rayville to support the need for a first FM assignment.

4. *Technical Data:* The transmitter site must be located approximately 4.0 kilometers (2.5 miles) northeast of Rayville, to avoid short-spacing to existing Station KVCL-FM, Winnfield, Louisiana. Petitioner indicates in its Engineering Statement that the transmitter would be located approximately 7 kilometers (4.4 miles) east of Rayville, to conform with the mileage separation requirements of § 73.207 of the Commission's Rules.

5. In light of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Rayville, Louisiana		221A

6. 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.

7. Interested parties may file comments on or before July 20, 1981, and reply comments on or before August 10, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. 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 assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 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* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a 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 Section 1.420(d) of the Commission's 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.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be

[1] Public Notice of the petition was given on October 17, 1980, Report No. 1253.

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

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 Section 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-16739 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1127

[Ex Parte No. 293 (Sub-8)]

Standards for Determining Commuter Rail Service; Continuation Subsidies

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Rail Services Planning Office (RSPO) is reopening Ex Parte No. 293 (Sub-No.8), Standards for Determining Commuter Rail Service Continuation Subsidies (Standards) to comply with a recent Court of Appeals ruling invalidating the irrebuttable presumption that the owner of a rail property is the dominant user. RSPO requests that interested parties submit comments on ways to amend the Standards to incorporate the Appeals Court decision.

DATE: Comments may be filed on or before July 3, 1981.

ADDRESS: An original and six copies of any comments should be mailed to: Interstate Commerce Commission, Section of Rail Services Planning, Room 5355, Washington, D.C. 20423, Attn: RSPO Commuter Standards.

FOR FURTHER INFORMATION CONTACT: Stephen M. Grimm (202) 275-0838.

SUPPLEMENTARY INFORMATION: On August 15, 1978 RSPO issued Interpretation No. 9 to the Standards (43 FR 37693, August 24, 1978). In the Interpretation RSPO held that the owner of a rail property was presumed to be the dominant user. The Standards were subsequently amended to incorporate this presumption (45 FR 43 January 2, 1980, and 45 FR 20106 March 27, 1980).

The Southeastern Pennsylvania Transportation Authority (SEPTA) took exception to the RSPO Interpretation and filed a complaint with the United States Court of Appeals for the Third Circuit. On March 12, 1981 the Court ruled that RSPO erred in holding to the "irrebuttable presumption that the owner of a rail property is the dominant user." The Court found that RSPO's assumption "may not reflect the relative use of the line by the type of service provided". As a consequence of the Court ruling, RSPO is reopening the Standards and is requesting comments on (1) grounds for rebutting the presumption that the owner is the dominant user and (2) the impact that the rebuttal of the presumption would have on the assignment of costs.

Grounds for Rebuttal

We recognize the difficulty of establishing grounds for rebutting the presumption that the owner of a rail property is the dominant user. consequently we request that interested parties submit proposed criteria for this purpose. Any proposals should include a detailed description of the criteria accompanied by a discussion of its feasibility, simplicity, advantages and disadvantages.

We note that several simple statistical measures have been previously utilized to measure the usage of properties. These include gross ton-miles, train-miles, train-hours, car-miles, and number of trains. RSPO requests comments on the validity and appropriateness of these measures as criteria. We also request comments on the merit of employing the Speed Factored Gross Tons Formula as a criterion.

Assignment of Base Cost

RSPO used the presumption that the owner is the dominant user to allocate or assign certain costs, including the base or fixed costs of a property. If the owner is found not to be the dominant user then these costs must be reassigned. RSPO invites comments on how and to whom these costs should be assigned. Parties should specifically address whether these costs should be (1) wholly assigned to the dominant user or (2) allocated between the users of the property.

Copies of the Appeals Court decision are available from RSPO.

This is not a major Federal action significantly affecting the quality of the human environment, or the conservation of energy resources. This proposed rulemaking does not appear to have a negative impact on small business.

(49 U.S.C. 10362)

Issued: May 29, 1981.

Alexander Lyall Morton,

Director, Rail Services Planning Office.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-16725 Filed 6-4-81; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 46, No. 108
Friday, June 5, 1981

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

Forest Service

National Forest System Advisory Committee; Meeting

The National Forest System Advisory Committee will meet in Washington, D.C., June 17–18, 1981. The meeting will be held in the South Agriculture Building, 12th and Independence Avenue, SW., Room 1331, beginning at 8:00 a.m.

This Committee, comprised of 12 members from a broad spectrum of geographic and interest areas, advises the Secretary of Agriculture and the Forest Service on the planning and management of the National Forests. The purpose of the meeting is to review the Committee's previous recommendations developed in January 1981 and to address three additional subjects: energy minerals and leasing in wildernesses, investments to meet future demands on National Forests and old growth and timber supplies for the future.

John B. Crowell, Jr., Assistant Secretary for Natural Resources and the Environment, and Kay Ceniceros, Advisory Committee chairperson, will cochair this meeting.

The meeting will be open to the public. Persons who wish to attend should notify Floyd J. Marita, Executive Secretary, USDA-Forest Service, P.O. Box 2417, Room 3021–S, Washington, D.C. 20013, telephone (202) 447–6341. Written statements may be filed with the Committee before or after the meeting.

Douglas R. Leisz,
Associate Chief.
May 29, 1981.
[FR Doc. 81–6702 Filed 6–4–81; 8:45 am]
BILLING CODE 3410–11–M

Oh-Be-Joyful Wilderness Study Area Proposal; Hearing Announcement

Notice is hereby given that two public hearings will be held on a proposal for the future management of the Oh-Be-Joyful Wilderness Study Area comprised of approximately 5,500 acres within the Gunnison National Forest in the County of Gunnison in the State of Colorado. The first hearing will begin at 7:30 p.m. on July 7, 1981, in the school auditorium in Crested Butte. The second hearing will begin at 7:30 p.m. on July 8, 1981, in the John C. Mitchell Hall, Denver Botanic Gardens.

A draft study report/environmental impact statement containing a map and information about the proposal may be obtained from the Forest Supervisor, Grand Mesa, Uncompahgre, and Gunnison National Forests, 1063 Main Street, Delta, Colorado 81416.

Individuals and organizations may express their views by appearing at either of these hearings or may submit written comments for inclusion in the official record to the Forest Supervisor at the above address. To be included in the official record, written comments must be received by August 10, 1981.

Dated: June 1, 1981.

Douglas R. Leisz,
Associate Chief, Forest Service.
[FR Doc. 81–16703 Filed 6–4–81; 8:45 am]
BILLING CODE 3410–11–M

Soil Conservation Service

Lamar County Recreation Park RC&D Measure, Alabama; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest V. Todd, State Conservationist, Soil Conservation Service, 138 South Gay Street, Auburn, Alabama 36830, telephone number (205) 821–8070.

NOTICE: 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 Lamar County Recreation Park RC&D Measure, Lamar County, Alabama.

The environmental assessment of this federally-assisted action indicates that the proposed measures will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Ernest V. Todd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of basic recreational facilities on an existing lake. The planned works of improvement include picnic sites, group shelters, a pedestrian trail, parking lot, access road, play areas, primitive camping, tennis court, sanitary facility, water supply and nature study area.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Ernest V. Todd. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until July 6, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Dated: May 22, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.
[FR Doc. 81–16785 Filed 6–4–81; 8:45 am]
BILLING CODE 3410–16–M

Leelanau County Roads RC&D Measure, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone number (517) 337–6702.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Leelanau County Roads RC&D Measure, Leelanau County, Michigan.

The environmental assesment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this porject.

The measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include critical area planting, armored channels and rock riprap, and grade stabilization structures (corrugated metal pipe). Total construction cost is estimated to be $40,000; $17,550 RC&D funds, and $22,850 local funds.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are avialable to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until July 6, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Dated: May 26, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[FR Doc. 81–16786 Filed 6–4–81; 8:45 am]
BILLING CODE 3410–16–M

Raymond Creek Irrigation Company Gravity Sprinkler System Farm Irrigation RC&D Measure, Wyoming; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Frank S. Dickson, State Conservationist, Soil Conservation Service, Room 3113, Federal Building, 100 East B Street, P.O. Box 2440, Casper, Wyoming 82602, telephone 307–265–5550, ext. 5201.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Raymond Creek Irrigation Company Gravity Sprinkler System Farm Irrigation RC&D Measure, Lincoln County, Wyoming.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Frank S. Dickson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for farm irrigation. The planned works of improvement include installation of a diversion structure, and the installation of main and lateral pipelines and other related sprinkler system appurtenances for the gravity sprinkling of about 960 acres of crop and hay land.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Frank S. Dickson. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available fo fill single copy requests at the above address.

Implementation of the proposal will not be initiated until July 6, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 1, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[FR Doc. 81–16787 Filed 6–4–81; 8:45 am]
BILLING CODE 3410–16–M

Upper Sugar River Watershed, Wisconsin; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Cliffton A. Maguire, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711, telephone 608–264–5351.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Sugar River Watershed, Dane County, Wisconsin.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Cliffton A Maguire, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection, primarily to improve the quality of the stream corridor by reducing organic waste, bacterial contamination, sediment deposition, and nutrient levels. The planned works of improvement include installaton of 52 agricultural waste management systems, applying best management practices on 13,230 acres of cropland, applying stream-bank protection consisting primarily of livestock exclusion to 6 miles of perennial stream, and treating critical sediment sources near all perennial streams in the project area.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be

reviewed by contacting Mr. Cliffton A. Maguire. The FNSI has been sent to various Federal, State, and local agencies, and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until July 6, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 28, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-16788 Filed 6-4-81; 8:45 am]

BILLING CODE 3410-16-M

Wolf Creek Watershed, Montana; Finding of No Significant Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Van K Haderlie, State Conservationist, Soil Conservation Service, Room 410, Federal Building, 32 East Babcock, P.O. Box 970, Bozeman, Montana 59715, telephone 406-587-5271, ext. 4322.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Wolf Creek Watershed, Fergus County, Montana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Van K Haderlie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The environmental evaluation considered flood plain and wetlands, and the selected plan was developed consistent with Presidential Executive Orders 11988 and 11990.

The project concerns a plan for the installation of an interdependent diking system and associated appurtenances consisting of four dikes, two floodways, one waterway, one row of pilings, three culverts, and elevating one segment of the county road.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Van K Haderlie. The FNSI has been prepared and sent to various Federal, State, and local agencies, and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of this proposal will not be initiated until 30 days after the date of this publication in the **Federal Register** (July 6, 1981).

Dated: May 28, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Hass,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-16789 Filed 6-4-81; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 81-6-3; Docket 39648]

Western Air Lines, Inc.; Texas-Alberta Coach Fare Increases Proposed; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of May 1981.

Western Air Lines, Inc. (Western), has filed tariffs for effectiveness June 1, 1981, which propose, *inter alia*, 20 percent increases in its coach fare between Dallas and Houston, on the one hand, and Calgary and Edmonton, on the other. In justification of its proposal, Western states that its initial fares for these markets reflected cost adjustments through December 31, 1980;[1] The Board has subsequently promulgated a 5.7 percent cost-related increase in the U.S. domestic Standard Industry Fare level (SIFL),[2] which the Board is using as a regulatory benchmark with respect to U.S.-Canada fares; and Western is also entitled to 15 percent in upward fare flexibility. The carrier maintains that the proposed 20 percent increase is therefore within the bounds of SIFL plus flexibility.

We have decided to suspend Western's proposed coach fare increases.

In granting Western authority to provide nonstop service in these markets, we attached a condition to Western's certificate to ensure that the carrier abide by the fares it had proposed in the route proceeding. Condition (6) of Western's certificate states, "The holder shall file initial tariffs at levels no higher than those * * * in Docket 36419, adjusted to reflect increases in industry average costs accruing after the date the fare proposals * * * were calculated."

Western's initial tariffs represented a 33 percent increase over the carrier's route case proposal. Although this adjustment was slightly above the calculated change in industry average costs (as measured by the SIFL) plus 5 percent, the SIFL in force during April appeared to understate current cost trends.[3] In recognition of this understatement, and in view of the fact that a new SIFL adjustment would be promulgated on May 1,[4] just five days after the carrier began service, we decided to allow Western's initial fares to take effect. The new SIFL costs have, in fact, shown Western's initial fares to be reasonable (see the Appendix).

Western's proposed 20 percent increase, however, would result in levels which exceed its route case proposal, adjusted by the most recent SIFL plus 5 percent flexibility,[5] by about 15 percent. Absent any showing of special circumstances, we cannot allow them to be implemented.

By suspending and investigating this tariff filing, the Board is not foreclosing fare increases if justified. It is the Board's policy to permit fare increases above the statutory maximum, including the established zones of fare flexibility, where they are justified by evidence of cost increases or by market circumstances which could not have been foreseen when the original fare proposals were prepared in the route case. Here, Western's fare increase was filed before it began service in this market, and was not accompanied by any evidence to support it. If Western subsequently produces evidence that a

[1] Western's initial tariffs became effective April 9, 1981, and the carrier instituted service in these markets on April 26, 1981, pursuant to a Board certificate issued by Order 80-7-188, June 4, 1980. In that order, we reviewed the *Texas-Alberta-Alaska case*, Docket 36419. According to Western, its initial fare levels reflected those the carrier had proposed as at September 30, 1979, in the proceeding, adjusted for subsequent cost increases.

[2] Order 81-2-107, February 24, 1981. This increase took effect March 1, 1981.

[3] Order 81-2-107.

[4] Order 81-4-175, April 29, 1981.

[5] We can find no basis for Western's claim that it is entitled to 15 percent upward flexibility.

fare increase is warranted, the Board is prepared to reconsider its action and to allow a new tariff filing on short notice. Absent such a showing, we see no basis for such a radical departure from the fare proposal that was such an important factor in the selection of Western to serve this limited entry route.

Accordingly, under the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), 403, 801, and 1002(j) thereof:

1. We shall institute an investigation to determine whether the proposed increased coach (Y) fares between Dallas/Houston, Texas, on the one hand, and Calgary/Edmonton, Alberta, Canada, on the other hand, on 160th and 161st Revised Page 178, 133rd Revised Page 179, and 68th Revised Page 180–A to C.A.B. No. 258, issued by Airline Tariff Publishing Company, Agent, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful; and if we find them to be unlawful, to act appropriately to prevent the use of such fares;

2. Pending hearing and decision by the Board, we suspend and defer the use of the fares on the tariff pages specified in paragraph 1 above from June 1, 1981, to and including May 31, 1982, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [6] and, unless disapproved by the President, it shall become effective on June 1, 1981; and

4. We shall file copies of this order in the aforesaid tariff and serve them upon Western Air Lines, Inc.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor, [7]

Secretary.

[6] This order was submitted to the President on May 21, 1981.

[7] All Members concurred.

Appendix.—*Western's Texas-Alberta Coach Fares (One Way)*

	Per route proceeding [1]	Adjusted to 5-1-81 [2]	Initial filing [3]	Proposed [4]	Increase (percent)
Dallas-Calgary	$115	$159	$153	$184	20.3
Dallas-Edmonton	123	170	163	196	20.2
Houston-Calgary	132	182	175	210	20.0
Houston-Edmonton	140	193	186	223	19.9

[1] Levels as of 9-30-79, from Exhibit WA-420, Docket 36419.
[2] Route proceeding proposal adjusted for change in SIFL costs since 9-30-79, plus 5 percent upward fare flexibility: (1.7604/1.34487) x 1.05 = 1.3744.
[3] Effective 4-9-81, and applicable to transportation beginning 4-26-81.
[4] For effectiveness 6-1-81.

[FR Doc. 81-16746 Filed 6-4-81; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Float Glass From Belgium; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on float glass from Belgium. The reviewed time period for the two known exporters to the United States is July 18, 1980 through December 31, 1980. As a result of this review, the Department has preliminarily determined to assess countervailing duties equal to the calculated value of the net subsidy as a percent of the f.o.b. invoice price of the merchandise. The rate for Boussois-Souchan-Neuvesel is 1.16 percent *ad valorem* and for Glaceries de Saint Roch S.A. it is 3.61 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Claire A. Rickard, Office of Compliance, Import Administration, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202–377–1487).

Procedural Background

On January 7, 1976 the Department of the Treasury ("Treasury") published a negative "Notice of Final Countervailing Duty Determination", with respect to float glass from Belgium (41 FR 1299), determining that no bounty or grant was being paid or bestowed, directly or indirectly, upon its manufacture, production, or exportation.

The petitioner challenged that determination and, on July 17, 1980, the U.S. Customs Court (now the Court of International Trade) held in *ASG Industries, Inc.* v. *United States*, 14 Cust. Bull. 20 (Aug. 6, 1980), that imports of float glass from Belgium, manufactured by Boussois-Souchan-Neuvesel ("BSN") and Glaceries de Saint Roch S.A. ("GSR"), did in fact benefit from bounties or grants within the meaning of section 303 of the Tariff Act of 1930 ("the Tariff Act") (19 U.S.C. 1303), as in effect prior to amendment by the Trade Agreements Act of 1979 ("the TAA").

On January 1, 1980, the provisions of title I of the TAA became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from Treasury to the Department of Commerce ("the Department"). As a result, following the court's decision the Department suspended liquidation on July 18, 1980 and published in the Federal Register of February 5, 1981 (46 FR 10905) a countervailing duty order applicable to float glass from Belgium. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on float glass from Belgium.

Scope of the Review

The merchandise covered in this review is flat glass manufactured by the float process from Belgium. It is currently classifiable under item numbers 543.21 through 543.69 of the Tariff Schedules of the United States (TSUS). Entries of float glass which has been substantially further manufactured (e.g., into tempered glass or laminated glass) are not subject to this countervailing duty order.

The review covers BSN and GSR, the two known exporters of this merchandise to the United States. The time period covered by the review is July 18, 1980 through December 31, 1980. We have preliminarily determined that these companies received subsidies under four of six possible programs: Interest rate rebates, capital grants, exemption from real property taxes, and exemption from some local taxes.

The Government of Belgium has submitted information regarding all six programs on behalf of BSN and GSR. Because this information is incomplete, we have used the best information available in several instances.

Analysis of Programs

The Belgian Government provides to companies located in qualifying regional development areas interest rate rebates of up to 5 percent on ¾ of the investment for a five year period. GSR received a rebate during the review period amounting to 1.82 percent *ad valorem*. BSN did not take advantage of this program to the best of our knowledge.

Both GSR and BSN received capital premiums, normally granted by the government for the acquisition of industrial buildings or equipment, during the review period. The *ad valorem* values of these grants are 0.06 percent for BSN and 0.66 percent for GSR.

An exemption from the Precompte Immobilier, a tax on the theoretical rental income of land owned by a firm, is granted to such firms located in qualifying underdeveloped areas in Belgium. We did not have adequate verified information on the exact amount of this subsidy. Therefore, we used the estimated maximum benefit, supplied earlier by the Belgian Government, of this exemption. For each company we calculated the value of this subsidy to be 1.1 percent *ad valorem*.

Finally, GSR, which is located in a regionally depressed area, benefitted from a government program to exempt such firms from local taxes, the value of this subsidy being 0.003 percent *ad valorem*. BSN, whose plant is located adjacent to such an area, not inside it, did not receive any local tax ememption to the best of our knowledge.

The fifth and sixth potential subsidy programs are accelerated depreciation for capital equipment and an exemption from paying a capital registration tax. To the best of our knowledge, neither BSN nor GSR received any benefits from either of these programs.

Preliminary Results of Review

As a result of our review, we preliminarily determine the aggregate net subsidy rate for the period July 18, 1980 through December 31, 1980 conferred upon BSN to be 1.16 percent *ad valorem* and that conferred upon GSR to be 3.61 percent *ad valorem*.

The Department intends to instruct the Customs Service to assess countervailing duties on merchandise entered, or withdrawn from warehouse, for consumption on or after July 18, 1980 and exported on or before December 31, 1980 at the rate of 1.16 percent of the f.o.b. invoice price for BSN and at the rate of 3.61 percent of the f.o.b. invoice price for GSR.

Further, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties at the 1.16 percent *ad valorem* rate for BSN and at the 3.61 percent *ad valorem* rate for GSR. These rates shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This requirement shall remain in effect until publication of the final results of the next administrative review. Pending publication of the final results of the present review, the suspension of liquidation and deposit requirements previously ordered will continue.

Interested parties may submit written comments on these preliminary results on or before July 6, 1981, and may request disclosure and/or a hearing on or before June 22, 1981. Any request for an administrative protective order must be made on or before June 10, 1981. The Department will publish a notice of the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

B. Waring Partridge III,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-16749 Filed 6-4-81; 8:45 am]
BILLING CODE 3510-25-M

Ski-Lifts and Parts Thereof From Italy; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on ski-lifts and parts thereof from Italy. The review covers the period January 1, 1980, through December 31, 1980. As a result of this review, the Department has preliminarily determined the net amount of the subsidy to be the full value of the rebates for these products under Italian Law 639. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Compliance, Room 2803, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1167).

SUPPLEMENTARY INFORMATION:

Procedural Background

On November 22, 1968, a final countervailing duty determination on ski-lifts and parts thereof from Italy, T.D. 68-288, was published in the **Federal Register** (33 FR 17291). The notice stated that the Department of the Treasury had determined that exports of ski-lifts and parts thereof from Italy benefitted from bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Tariff Act"). Accordingly, imports of this merchandise were subject to countervailing duties.

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 ("the TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). On April 3, 1980, the International Trade Commission ("the ITC") notified the Department that an injury determination for this order had been requested under section 104(b) of the TAA. Therefore, following the requirements of that section, liquidation was suspended on April 3, 1980, on all shipments of such merchandise entered, or withdrawn from warehouse, for consumption on or after that date. The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on ski-lifts and parts thereof from Italy.

Scope of the Review

Imports covered by this review are ski-lifts and parts thereof imported directly or indirectly from Italy (see Appendix A). These imports are currently classifiable under item 664.10, Tariff Schedules of the United States, except in the case of parts for which there are various, specific classifications.

The review covers the period January 1, 1980, through December 31, 1980, and is limited to rebates granted under Italian Law 639 of July 5, 1964, which was the only program found countervailable in the Final Determination.

Preliminary Results of the Review

Under Italian Law 639, exporters receive rebates to customs duties and certain indirect taxes on the export of

specified products containing iron and steel. The rates differ for particular types of products. For ski-lifts and parts thereof from Italy (see Appendix A), the rebates are between 15 and 35 lire per kilogram.

The Government of Italy provided no response to our questionnaire of August 20, 1980, nor were our follow-up requests for information answered. Our independent investigation has confirmed that the rates legislated in Law 639 still apply in full for exports of this merchandise to the United States.

Because we have received no information to indicate that any part of the rebates is not countervailable, we preliminarily determine that the rates of net subsidy conferred upon producers exporting to the United States are those listed in Appendix A.

The Department intends to instruct the Customs Service to assess countervailing duties at the rates listed in Appendix A on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980, and prior to April 3, 1980. The provisions of section 303(a)(5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries prior to January 1, 1980. Accordingly, the Department also intends to instruct the Customs Service to assess countervailing duties on all unliquidated entries of this merchandise which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980 in the amounts set forth in T.D. 69–91. (The lower rates are due to allowable offsets reported on during the initial investigation but not reported during this review.) In addition, should the ITC find that there is injury or likelihood of injury to an industry in the United States, the Department intends to instruct the Customs Service to assess countervailing duties at the rates listed in Appendix A on all unliquidated entries of ski-lifts and parts thereof entered, or withdrawn from warehouse, for consumption on or after April 3, 1980, and exported on or before December 31, 1980.

Further, a cash deposit of the estimated countervailing duties listed in Appendix A shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, the existing deposit of estimated duties shall continue to be required, at the rates set forth in T.D. 69–91, on each entry, or withdrawal from warehouse, for consumption of this merchandise, and liquidation shall continue to be suspended on entries made on or after April 3, 1980 until the Department is notified of a determination by the ITC.

Interested parties may submit written comments on these preliminary results on or before July 6, 1981, and may request disclosure and/or a hearing on or before June 22, 1981. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

B. Waring Partridge III,

Acting Deputy Assistant Secretary for Import Administration.

June 1, 1981.

Appendix A

	Per kilogram (lire)
Stations	18
Electric Motor	35
Gasoline Engine	35
Panel	15
Towers	18
Sheave	20
Chairs	15
Cable	20
Launching	20
Monorail	15
Other metal parts	15
Non-metallic parts	None

In the case of importation of a complete ski lift, countervailing duties will be collected on the basis of the countervailing duties applicable to the component parts thereof, as enumerated above.

[FR Doc. 81-16750 Filed 6-4-81; 8:45 am]

BILLING CODE 3510-25-M

Steel Welded Wire Mesh From Italy; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on steel welded wire mesh from Italy. The review covers the period January 1, 1980, through December 31, 1980. As a result of this review, the Department has preliminarily determined the net amount of the subsidy to be the full value of the rebate for this product under Italian Law 639. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Compliance, Room 2803, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1167).

SUPPLEMENTARY INFORMATION:

Procedural Background

On June 1, 1968, a final countervailing duty determination on steel welded wire mesh from Italy, T.D. 68–149, was published in the **Federal Register** (33 FR 8224). The notice stated that the Department of the Treasury had determined that exports of steel welded wire mesh from Italy benefitted from bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Tariff Act"). Accordingly, imports of this merchandise were subject to countervailing duties.

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 ("the TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferredd from the Department of the Treasury to the Department of Commerce ("the Department"). On April 3, 1980, the International Trade Commission ("the ITC") notified the Department that an injury determination for this order had been requested under section 104(b) of the TAA. Therefore, following the requirements of that section, liquidation was suspended on April 3, 1980, on all shipments of such merchandise entered, or withdrawn from warehouse, for consumption on or after that date. The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on steel welded wire mesh from Italy.

Scope of the Review

Imports covered by this review are steel welded wire mesh imported directly or indirectly from Italy. These imports are currently classifiable under item 642.80, Tariff Schedules of the United States.

The review covers the period January 1, 1980, through December 31, 1980, and is limited to rebates granted under Italian Law 639 of July 5, 1964, which

was the only program found countervailable in the Final Determination.

Preliminary Results of the Review

Under Italian Law 639, exporters receive rebates of customs duties and certain indirect taxes on the export of specified products containing iron and steel. The rates differ for particular types of products. For steel welded wire mesh the rebate is 20 lire per kilogram.

The Government of Italy provided no substantive response to our questionnaire of July 23, 1980, nor was a response to our follow-up requests for data more informative. Our independent investigation has confirmed that the rate legislated in Law 639 still applies in full for exports of this merchandise to the United States.

Because we have received no information to indicate that any part of the rebate is not countervailable, we preliminarily determine that the rate of net subsidy conferred upon producers exporting to the United States is 20 lire per kilogram.

The Department intends to instruct the Customs Service to assess countervailing duties of 20 lire per kilogram on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980, and prior to April 3, 1980. The provisions of section 303(3)(5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries prior to January 1, 1980. Accordingly, the Department also intends to instruct the Customs Service to assess countervailing duties of 15.28 lire per kilogram, the amount set forth in T.D. 68-149, on all unliquidated entries of this merchandise which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980. (The lower rate is due to allowable offsets reported on during the initial investigation but not reported during this review.) In addition, should the ITC find that there is injury or likelihood of injury to an industry in the United States, the Department intends to instruct the Customs Service to assess countervailing duties of 20 lire per kilogram on all unliquidated entries of steel welded wire mesh entered, or withdrawn from warehouse, for consumption on or after April 3, 1980, and exported on or before December 31, 1980.

Further, a cash deposit of estimated countervailing duties of 20 lire per kilogram shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, the existing deposit of estimated duties of 15.28 lire per kilogram shall continue to be required on each entry, or withdrawal from warehouse, for consumption of this merchandise, and liquidation shall continue to be suspended on entries made on or after April 3, 1980 until the Department is notified of a determination by the ITC.

Interested parties may submit written comments on these preliminary results on or before July 6, 1981, and may request disclosure and/or a hearing on or before June 22, 1981. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

B. Waring Partridge III,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-16751 Filed 6-4-81; 8:45 am]

BILLING CODE 3510-25-M

Television Receiving Sets, Monochrome and Color, From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On February 13, 1981, the Department of Commerce published the preliminary results of its administrative review of the dumping finding on television receiving sets from Japan. The review covered ten exporters and the period April 1, 1979, through March 31, 1980.

Interested parties were given an opportunity to submit oral and written comments on the preliminary results. After consideration of the extensive written and oral comments received, the Department has adjusted the margins for eight of the exporters.

The results of the Department's examination of possible transshipments of television receiving sets from Japan will be the subject of a separate notice.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT: David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202-377-2657).

SUPPLEMENTARY INFORMATION:

Procedural Background

On March 10, 1971, a finding of dumping with respect to monochrome and color television receiving sets ("televisions") from Japan was published in the **Federal Register** as Treasury Decision 71-76 (36 FR 4597).

On February 13, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 12220-3) the preliminary results of its administrative review of the finding. We afforded parties to the proceeding an opportunity to present written and oral comments. The Department held a hearing on the preliminary results on April 2, 1981.

In accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now completed its administrative review of the finding on televisions from Japan.

Scope of the Review

Imports covered by this review are shipments of television receiving sets, monochrome and color, from Japan. Television receiving sets are currently classifiable under items 685.1103-48, 685.1300 and 685.1455-60 of the Tariff Schedules of the United States, Annotated (TSUSA). Television, receiving sets encompass, but are not limited to, units known as projection televisions, receiver monitors, kits (containing all the parts necessary to assemble a complete television receiver) and sub-assemblies containing the components necessary to receive a broadcast television signal and produce a video image. Not included are monitors (not capable of receiving a broadcast television signal), certain combination units (combinations of television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.) and sub-assemblies not containing the components essential for receiving a broadcast television signal and producing a video image.

The review covered the exportations, by the ten known firms covered by the finding, of Japanese television receiving sets which were entered, or withdrawn from warehouse, for consumption during the period April 1, 1979, through March 31, 1980.

The Department has examined whether certain televisions imported from Taiwan, Korea, Hong Kong and Singapore are transshipments of such merchandise exported from Japan, and

the results of that examination will be the subject of a separate Federal Register notice.

Analysis of Comments Received and Other Corrections

1. The domestic parties challenged the Department's use of prices to related parties in determining foreign market value ("FMV"). For four companies (General, NEC, Otake Trading and VCJ) the Department did not rely on related party sales at all. There is no known equity interest between these firms and those customers whose transactions we used to establish foreign market value. Four other firms (Hitachi, Matsushita, Mitsubishi and Sanyo) made sales to both related and unrelated customers. The Department compared sales to related firms with sales to unrelated firms and found that the adjusted prices did not differ or, if they did, as with Sanyo, the Department used the adjusted prices to the unrelated purchasers. There is no known equity interest between these firms and their customers identified as unrelated. Sharp and Toshiba sold only to related distributors. We accepted Toshiba's sales to related parties because the Department found that the prices of these sales fairly reflected the prices of sales by other manufacturers of comparable merchandise in the home market. For Sharp, we did not gather or analyze the information necessary to determine if sales were at arms-length prices. In the absence of any information on sales at another level of trade in the home market or to third counties, we have decided to use constructed value for Sharp. In subsequent administrative reviews, we intend to develop the information necessary to determine whether such transactions are at arms-length prices.

2. The domestic parties argued that claims for circumstances of sale adjustments to FMV must be based on specific proof of exact costs incurred in the sale of television sets rather than on allocation of costs based on sales volume. We disagree. Section 353.15 of the Commerce Regulations provides that "reasonable allowances will be made" for circumstances of sale which cause the seller to incur direct costs in connection with sales of the product in question. Where the claimant proves that it incurred selling costs but does not have precise product-related accounting records, the actual amount of the adjustment may be based on a reasonable allocation of selling costs from product sales records. In the present review, the circumstance of sale adjustments claimed by the manufacturers were based on corporate records of expenditures for the review period and were verified to be reasonably allocated based on the expenses of the narrowest corporate accounting unit possible for each company.

3. The domestic parties argued that all of the Department's allowances of claims for adjustments to foreign market value are impermissible because the Department did not establish a direct causal relationship between the alleged differences in circumstances of sale and any difference between the United States price and foreign market value. In their view, the Department must require proof not only that there are quantifiable differences in circumstances of sale but also that these differences affect the price differential to the extent of the claimed adjustment. We disagree. All adjustments were made in accordance with § 353.15(d) of the Commerce Regulations which states the reasonable allowances will be made for the *costs* to the seller of any differences in circumstances of sale. This regulation is consistent with section 773(a)(4) of the Tariff Act, which states that an allowance will be made for any price difference "wholly or partly" due to differences in circumstances of sale. We conclude that the differences in cost constitute a reasonable indication of the differences in price.

4. The domestic parties argued that we should base the calculation of foreign market value on information derived from the administration of the Japanese Commodity Tax Law rather than on actual prices. In the alternative, they argued that we should use calculations based on the Commodity Tax Law to test the validity of adjusted selling prices in the home market. According to section 733 and 751 of the Tariff Act, we must use actual prices in the home market, in the absence of evidence refuting their reliability, to determine foreign market value. The Depoartment here has used actual verified prices between unrelated parties, actual verified prices between related parties in accordance with the discussion above, or constructed value. Even if we accepted the argument of the domestic firms that firms in Japan are related by the very nature of the Japanese business community, the statute would obligate the Department to turn from related party sales in the home market to (1) third country sales or (2) constructed value, before resorting to any "best evidence" approach such as the Japanese Commodity Tax.

5. The domestic parties argued that the exporter's sales price ("ESP") offset is contrary to the statute and must not be allowed as an adjustment to foreign market value. We made adjustments for the ESP offset in accordance with § 353.15(c) of the Commerce Regulations. The exporter's sales price offset is intended to permit an equitable adjustment to foreign market value where a comparable expense is required by section 772(e)(2) of the Tariff Act to be deducted from the U.S. price. The ESP offset is a long-standing administrative practice, used as early as 1960. Congress, in its amendments to the antidumping law in 1974 and 1979, did not alter or bar the practice.

6. The domestic parties argued that foreign market value must represent a price certain at the time of exportation and, therefore, the Department may not include in its calculations after-sale rebates. We disagree. Rebates, whether or not fixed at the time of sale, represent a reduction in the net return to the manufacturer and must be deducted in the calculation of the foreign market value. The granting of such rebates has been a long-standing administrative practice. For the companies under review, the certainty of the rebate was well-established at the time of every purchase.

7. The domestic parties have taken the position that the only discounts and rebates which may be considered in determining foreing market value are those "freely offered" to all purchasers. We disagree. Congress in 1958 amended the existing antidumping law to delete the "freely offered" requirement which previously applied to the calculation of foreign market value. A major goal of the 1958 amendments was to conform the definition of foreign market value, set forth in section 205 of the Antidumping Act of 1921 ("the 1921 Act"), with the definition of "fair value" found in section 14.7 of the Treasury Regulations beginning in 1955 (H.R. Rep. No. 1261, 85th Cong., 1st Sess. at 6 (1957)). There is a long-standing administrative practice to reflect, in the foreign market value calculations, all rebates and discounts to the extent actually provided, regardless of whether they were offered to all purchasers. Judicial decisions, interpreting the meaning of the phrase "freely offered" in the context of Customs Appraisement Laws are irrelevant to interpretation of the current antidumping law from which Congress deleted the phrase.

8. General argued that in calculating a weighted average home market price based on sales to all retail stores, we have chosen an overly broad level of trade to compare with its U.S. sales to a large department store. Instead, General

would have the Department use the home market sales to large department stores. Section 353.19 of the Commerce Regulations requires that we choose a price "* * * generally * * * at the same commercial level of trade." We generally consider all retail sales outlets to be at the same level of trade because they serve the same sector of the population—end users. Therefore, we do not believe it appropriate to utilize a subgroup of retailers in determining a foreign market value.

9. General similarly claimed that sales to a leasing company in the U.S. should be compared to sales to large retail stores in the home market rather than to a weighted average of sales to all retail stores. We could compare the sales to the leasing company to those at a similar level of trade in the home market, if one existed. In the absence of such a level of trade, that is, leasing companies in Japan, we used sales to all retail establishments. Since we do not have data on average marketing and distribution costs for the two levels, we could not make a level of trade adjustment.

10. General disputed the calculation of margins on its transactions made prior to April 1, 1979, citing language from the Department's preliminary notice that margins were based on "sales" in the period April 1, 1979, through March 31, 1980. The Department did err in the wording of its notice of preliminary results. However, the Department totally disagrees with General's contention that we are bound by that error. This review covers entries made in the period April 1, 1979, through March 31, 1980. The Department has calculated margins on the sales of such entries. In purchase price situations, sales by definition are made prior to importation of the merchandise. See section 772 of the Act (19 U.S.C. 1677a). For this reason, some sales of General's televisions which occurred prior to the review period are covered by this administrative review.

11. We recalculated General's foreign market value to add an adjustment improperly deducted for certain newspaper advertising. Such advertising is not directly related to sales of televisions.

12. In the case of Hitachi, we had deducted the cost of samples as a selling expense in computing exporter's sales prices. We have corrected our calculations by reducing the selling expenses by the cost of those sets.

13. Matsushita and VCJ claimed that an incentive discount to promote installment sales, granted to their related credit companies, should be allowed as an adjustment to foreign market value. Such transactions between related parties are intracorporate transfers of funds for which no adjustment is allowable.

14. Matsushita and VCJ claimed that the ESP offset should not be restricted to the amount of indirect selling expenses incurred in the U.S. but that the full amount of home market indirect selling expenses incurred should be allowed as a circumstance of sale adjustment. We disagree. Section 353.15(c) of the Commerce Regulations limits the ESP offset deduction to "* * * the amount of the selling expenses incurred in the United States market."

15. In our preliminary calculation of the ESP offset limit for Matsushita and VCJ, we included certain direct selling expenses and excluded certain indirect expenses and commissions paid by subsidiaries in the United States. We have corrected the error to comply with §353.15(c) of the Commerce Regulations.

16. In calculating our preliminary results, we made an adjustment to Matsushita's foreign market value for the cost of a "Rebate for Improvement of Business Operations" which was paid to its distributors and to its related credit companies. Since the payments to the credit companies are intracorporate transfers of funds, we have disallowed the adjustment to the extent that it is paid to the credit companies.

17. Mitsubishi claimed that, in the case of a model on which value was added by its affiliate in the U.S. prior to sale, adjustments for expenses in the U.S. should be calculated on the net value, after deduction of the "value added" in the U.S. We have decided that the cost of the U.S. "value added" portion was properly subtracted after deduction of expenses incurred in selling the merchandise in the U.S. Mitsubishi's methodology would overstate the U.S. price of the imported merchandise by including in that price those selling expenses attributable to the U.S. "value added" portion.

18. Mitsubishi argued that since the authority, in section 773(b) of the Tariff Act, to disregard home market sales at less than cost is not normally applied to below cost sales of obsolete and end-of-model-year merchandise, the Department erred in rejecting for comparison purposes the home market sales of one of Mitsubishi's models. Considerations relevant to a determination of obsolescence include the time during the model year or sale period when below cost sales begin, the company's sales record for the model at prices above and below cost, and the explanation the company provides for its marketing strategy and sales record. The Department believes that information submitted by Mitsubishi demonstrates that the model in question was essentially never competitive from the time of its introduction, rather than obsolete at the time the company began selling it below cost. Accordingly, we could not use the sales prices of this model to determine foreign market value.

19. Mitsubishi claimed that adjustment should be made for indirect selling expenses incurred at home market service centers. We consider three of the four expense items to be eligible for inclusion in the ESP offset (§ 353.15(c) of the Commerce Regulations): differences between repair costs borne by the consumer and actual repair costs, indirect expenses associated with shipments of replacement parts due to "epidemic failure", and indirect expenses associated with the normal sale of replacement parts to distributors. The fourth item, expenses for Service Center Headquarters and service technical costs, contains elements not related to sales and is not allowable as an adjustment to foreign market value.

20. Mitsubishi claimed that we should allow an adjustment to foreign market value for bad debts incurred on home market sales, either as a circumstance of sale or as part of the exporter's sales price offset, because we deducted bad debt expenses incurred in the U.S. market when calculating exporter's sales prices. We have determined that bad debts were properly deducted in determining exporter's sales price because they are expenses generally incurred in selling the merchandise in the U.S. as provided in section 772(e)(2) of the Tariff Act. In the past, bad debts have been deducted from foreign market value as a part of the ESP offset which is defined in § 353.15(c) of the Commerce Regulations. Bad debts are not an appropriate circumstance of sale adjustment under § 353.15(a) of the Commerce Regulations. The Department could have deducted bad debt expenses to the extent that they did not exceed the ESP offset limit, provided that such expenses were incurred in the market under consideration. The Mitsubishi bad debt claim in the home market was based on the corporate experience in both the domestic and export markets and, as such, we could not include it in the ESP offset.

21. Otake Trading argued that foreign market value for its 5 inch and 9 inch sets should be based on sales to West Germany, not to Canada. For 5 inch sets, the volume sold to West Germany is greater than the volume sold to Canada. Section 353.5 of the Commerce

Regulations states first in the order of preference that the third country selected as the foreign market should be that where the product has the greatest degree of similiarity to the product sold in the U.S., "* * * provided the volume of sales to such country is deemed adequate." The test under the statute and regulations is not a test of comparison to U.S. volume but to third country sales. We have selected Canada as the third country since the sets sold in that market are the most similar to sets sold in the United States (and more similar than those sold in West Germany). Since Canadian sales account for 16.6 percent of all third country sales of 5 inch sets, we find the volume of sales to Canada sufficient. We are using sales of 9 inch sets to West Germany for comparison with sales of 9 inch sets to the United States because all sales of 9 inch sets to third countries were made to West Germany.

22. Otake Trading, relying on section 773(f) of the Tariff Act, argued that we should calculate one weighted average foreign market value for a particular model for the entire period of review rather than claculate a foreign market value based on the foreign market transaction price in effect nearest the date of each U.S. transaction. Section 773(a) of the Tariff Act requires that foreign market value in a purchase price situation be ascertained "as of the date of such purchase or agreement to purchase", in other words, that foreign market value be based on the foreign market transaction price nearest the date of the U.S. transactions. Furthermore, we find that a weighted average approach as provided for in section 773(f) of the Tariff Act is inappropriate in this case because there was only one transaction price in effect at any one time during the period.

23. Otake Trading claimed that we should not deduct commissions paid to related parties in our calculations of purchase price and foreign market value. We agree; commissions paid to relatd parties are considered intracorporate transfers of funds.

24. In calculating the exporter's sales price for Sharp Electronics Corporation, the Department initially used individual transaction prices and deducted weighted average expenses associated with each model within each of four channels of distribution. Sharp argued that, in making the calculation, the Department should have used a single weighted average price and one weighted average *ad valorem* expense for all channels. Alternatively, Sharp argued that the Department should have used a weighted average price within each distribution channel and one weighted averaged *ad valorem* expense for each channel. The Department finds Sharp's first approach unacceptable. The Department believes that the second proposal could mask the existence of margins. To test this, the Department calculated margins under the second approach and compared them to the Department's initial individual transaction price approach. As a result if the margins under the Department's original approach were *de minimis*, the Department has adopted Sharp's alternative approach. However, in those instances where the Department's initial margins were significant, the Department has continued to utilize its original individual transaction price approach.

25. Sharp claimed that the limit placed on the ESP offset was improperly calculated in that it was based on actual amounts rather than percentages. Section 353.15(c) of the Commerce Regulations permits an allowance up to the amount of selling expenses in the U.S. market, not for the ratio of U.S. selling expenses to U.S. selling prices.

26. In the case of Toshiba we corrected our calculations to deduct inland freight and shipping charges in Japan from the United States price and to add the difference in packing to the foreign market value.

27. Because sales at less than cost were found for one VCJ model sold in the home market and initially used for comparison, we have now calculated a constructed value for comparison with the United States price of the exported model.

28. In our preliminary calculations of VCJ's ESP on sales (in lieu of commissions) to sales representatives and to employees, we deducted sales promotion, advertising and selling expenses. We have not deducted such expenses in making our final calculation because they were not incurred on such transactions. In addition, certain indirect expenses not previously deducted in the calculation of the ESP for these sales have now been deducted.

29. For various companies, we have corrected improper exchange rates, errors in adjustment calculations, or improper model comparisons where these errors have been brought to our attention or where we have noted them ourselves.

30. Several Japanese manufacturers argued that dumping duties should not be assessed on sample sets, gifts, or sets sold at discounted prices to employees and sales representatives. Goods entered for consumption have been considered subject to a finding whenever ownership was transferred from the exporter of such goods. Since gifts and sales to employees and sales representatives are transfers of ownership, such "non-commercial" disposals of televisions entered during this review period are subject to this finding and, to the extent that they exist, dumping duties should be assessed. Similarly, televisions imported as samples are subject to the finding unless the exporter retains ownership of the television.

Final Results of the Review

The Department has revised the preliminary results of its review after consideration of comments by parties to the proceeding and after correcting other errors in the preliminary calculations. We therefore determine that the following dumping margins, expressed as weighted averages for all entries during the period April 1, 1979, through March 31, 1980, exist:

Japanese manufacturer	Margin (percent)
General Corp	6.20
Hitachi Corp	0.16
Matsushita Electric Industries, Ltd	0
Mitsubishi Electric	0.34
Nippon Electric Corp	0
Otake Trading Co., Ltd	3.37
Sanyo Electric	0
Sharp Corp	0.30
Toshiba Corp	0
Victor Company of Japan	0

In accordance with the injunction of the U.S. Court of Appeals for the District of Columbia Circuit against liquidation of television entries subject to T.D. 71–76, suspension of liquidation shall continue. If appropriate after dissolution of the injunction, the Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

As required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the margins above shall be required (as a percent of the entered value) on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. Since all of General's margins occurred on importations during the first 11 days of the review period, and no margins occurred in the rest of the period, we have determined that no cash deposit shall be required on importations of televisions manufactured by General. Because the weighted average margins listed above for Hitachi, Sharp and Mitsubishi are less than 0.5 percent and therefore *de minimis*, the Department shall not require cash deposits on those manufacturers' entries. These deposit requirements, and waiver of deposit for

General, Hitachi, Sharp and Mitsubishi, shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of March, 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

B. Waring Partridge III,

Acting Deputy Assistant Secretary for Import Administration.

June 2, 1981.

[FR Doc. 81-16813 Filed 6-4-81; 8:45 am]

BILLING CODE 3510-25-M

Television From Japan; Results of Examination of Possible Transshipments

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Results of Examination of Possible Transshipments.

SUMMARY: The Department of Commerce has examined television imports from four countries to determine whether the shipments are transshipments of televisions from Japan. The examination covered twenty-six exporters in Korea, Taiwan, Hong Kong and Singapore, for varying periods through March 31, 1980.

One third country firm indicated that it acts as an exporter of Japanese televisions, but does not transship them or claim any country of origin other than Japan. Our investigation showed no transshipments by any of the other twenty-one firms for which analysis is complete.

For four firms the Department has not received sufficient information to determine whether transshipments exist. Upon receiving the necessary inforamtion we will complete the analysis for these firms.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT: Brian D. Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. (202-377-2923).

SUPPLEMENTARY INFORMATION:

Procedural Background

On March 10, 1971, a dumping finding with respect to television receiving sets from Japan was published in the Federal Register as Treasury Decision 71-76. On April 7, 1977 the Customs Service suspended liquidation of television entries from Taiwan and Korea pending determination whether exports from those countries were actually transshipments subject to the dumping finding on Japanese televisions. In 1979, liquidation of television entries from Hong Kong and Singapore was also suspended for the same reason.

Customs was concerned with the possibility that kits or subassemblies were being exported from Japan for completion in a third country before final export to the United States. On June 22, 1979, the Customs Service determined that such units, capable of being assembled into complete televisions, would be subject to the dumping finding.

On January 2, 1980, the authority for administering the antidumping duty law (including the authority to determine whether merchandise is subject to an order) was transferred from the Treasury Department to the Department of Commerce ("the Department").

Scope of the Examination

The imports covered by this examination are television receiving sets ("televisions") from Korea, Taiwan, Hong Kong and Singapore. Television receiving sets are currently classifiable under items 685.1103-48, 685.1300 and 685.1455-60 of the Tariff Schedules of the United States, Annotated (TSUSA). Television receiving sets encompass, but are not limited to, units known as projection televisions, receiver monitors, kits (containing all the parts necessary to assemble a complete television receiver) and sub-assemblies containing the components necessary to receive a broadcast television signal and produce a video image. Not included are monitors (not capable of receiving a broadcast television signal), certain combination units (combinations of television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.) and sub-assemblies not containing the components essential for receiving a broadcast television signal and producing a video image. This examination includes all firms known by the Department to have suspended entries on or before March 31, 1980. The examination covers separate time periods through that date.

Four firms have not submitted sufficient information to allow a determination concerning their exports. These firms will be covered in a subsequent notice.

Interested parties were invited to submit written comments on the results of the examination. No comments were received.

Criteria for Determining Japanese Origin

For the purpose of enforcing the dumping finding on Japanese televisions, the Department considers a television to be any unit capable of receiving a broadcast television signal and producing a video image. Kits and sub-assemblies which, upon assembly, function as completed televisions fall within the scope of the definition.

The Department identified six major components necessary for a television to receive a broadcast television signal and produce a video image. The six components we evaluated are: the cathode ray tube, the tuner(s), the chassis assembly, the main printed circuit board, the flyback transformer and the deflection yoke. Each is of significant value in itself or requires substantial transformation of the unit for its inclusion. For a set exported from a third country, if any of the six components did not originate in Japan, the Department considered that set not to be Japanese. The Department asked the exporters from the four countries to demonstrate for each unit exported to the United States that at least one of the six components did not originate in Japan.

Results of the Examination

From our examination of television exports from Korea, Taiwan, Hong Kong and Singapore, we conclude that the following firms are not transshipping Japanese televisions:

Firm name	Review period
Korea:	
Korea T.T	7/1/77-3/31/80
Samsung	10/1/76-3/31/80
Gold Star	3/1/76-3/31/80
Taihan Electric Wire Rope	6/1/77-3/31/80
Bando Sangsa	10/1/74-3/31/80
Korea National Electric	10/1/74-3/31/80
Korea Television	10/1/76-3/31/80
Kumho	4/1/78-3/31/80
Taiwan:	
Tatung	4/1/75-3/31/80
Sampo	10/1/76-3/31/80
Sanyo (Taiwan)	8/1/76-3/31/80
Matsushita (Taiwan)	10/1/74-3/31/80
New General	1/1/79-3/31/80
Orion Electric (Taiwan)	12/1/78-3/31/80
Prince Electronics	1/1/78-3/31/80
Philips Video Products (Taiwan)	4/1/77-3/31/80
RCA Taiwan	9/1/78-3/31/80
Lodestar Enterprises	10/1/76-3/31/80
Hong Kong: T.V. Masters	3/1/79-3/31/80
Singapore:	
United Electronic Engineering Corporation	1/1/79-3/31/80
Hitachi (Singapore)	4/1/79-3/31/80

The following Taiwanese firms have not yet submitted sufficient information to allow us to judge whether their exports are in fact transshipments, and will be covered by a subsequent examination.

Firm	Review period
AOC International	1/1/79-3/31/80
Sylvania Philco (Taiwan)	7/1/78-3/31/80
Shirasuna Electric	4/1/78-3/31/80
United Electronics International	1/1/78-3/31/80

The following Hong Kong firm has acted as an exporter of Japanese sets but does not transship them or claim any country of origin other than Japan. These units shall be included in an administrative review of the dumping finding on Japanese televisions:

O.T.C. International (HK)	1/1/77-3/31/80

With the exception of the units from the four firms for which the Department has not completed its examination, the Department intends to order resumption of liquidation of all televisions from Hong Kong, Taiwan, Korea, and Singapore for third country exporters.

B. Waring Partridge, III,

Acting Deputy Assistant Secretary for Import Administration.

June 2, 1981.

[FR Doc. 81-16812 Filed 6-4-81; 8:45 am]

BILLING CODE 3510-25-M

Large Power Transformers From the United Kingdom; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding and of Tentative Determination to Revoke.

SUMMARY: As a result of an administrative review of the antidumping finding on large power transformers from the United Kingdom, the Department of Commerce has tentatively determined to revoke the finding. There are four known exporters of this merchandise to the United States. Three of the four were excluded from the finding on April 7, 1976. This review covers the one remaining exporter, GEC Power Transformers, Ltd., and indicates there were no sales at less than fair value from April 30, 1970 through April 9, 1975, and there were no sales from that time through June 30, 1980. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT: Sid Briggs, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5346).

SUPPLEMENTARY INFORMATION:

Procedural Background

On June 14, 1972, a dumping finding with respect to large power transformers from the United Kingdom was published in the **Federal Register** as Treasury Decision 72-164 (37 FR 11773). On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** on March 28, 1980 (45 FR 20511-12) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on large power transformers from the United Kingdom. The substantive provisions of the 1921 Act and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of large power transformers, that is, all types of transformers rated 10,000 KVA (kilovolt-amperes) or above, used in the generation, transmission, distribution, and utilization of electric power. Such transformers are currently classifiable under items 682.0765 and 682.0775 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of four firms which export large power transformers to the United States. On April 7, 1976, Ferranti, Ltd., Hawker Siddley Electric Export Ltd., and Parsons Peebles Power Transformers, Ltd. were excluded from the finding (41 FR 14731). This review covers the remaining exporter, GEC Power Transformers, Ltd., and all sales, not covered by prior appraisement instructions ("master lists"), during the period from April 30, 1970 through June 30, 1980. The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by such master lists, is under review. Liquidation has been suspended pending disposition of the issue.

Purchase Price

The Department used purchase price, as defined in section 203 of the 1921 Act, since all sales were made prior to exportation through a related U.S. firm to unrelated pruchasers in the U.S. Purchase price was calculated on the basis of the delivered price with adjustments, where applicable, for U.S. duty, U.S. and foreign inland freight, ocean freight, storage expenses on behalf of the unrelated customer, marine insurance and handling. Adjustments claimed for selling expenses were not allowed due to insufficient supporting evidence. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 205 of the 1921 Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. The home market prices are delivered prices and adjustments were made for inland freight and differences in packing. In accordance with § 153.10 of the Customs Regulations, where differences in U.S. and home market purchase dates resulted in significant escalation in costs, adjustments were made based on published monthly wage and material cost indices used in the industry. Adjustments were also made for differences in installation costs and for costs incurred in dealing with the Central Electricity Generating Board. In accordance with section 153.11 of the Customs Regulations adjustments were also made for differences in efficiency and in the physical characteristics of the transformers being compared. The difference in efficiency considers the internal transformer power losses and provides a measure of quality for the transformer.

Owing to the complexity of large power transformer design, the Department derived the theoretical price for each of the compared models by pricing the components of such models from price lists in standard manuals routinely used in the industry in the determination and analysis of transformer pricing. The Department then applied the ratio of the theoretical prices of the U.S. and home market transformers to the actual unadjusted home market price, in order to create a foreign market value adjusted for differences in the merchandise. Adjustments claimed for selling expenses were disallowed due to inadequate supporting evidence. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of purchase price to foreign market value,

we preliminarily determine that for the period April 30, 1970 through April 9, 1975, there were no sales at less than fair value. There have been no sales to the United States from April 9, 1975 through June 30, 1980.

As provided for in § 353.54(e) of the Commerce Regulations, GEC Power Transformers, Ltd. has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that its large power transformers thereafter imported into the United States are being sold at less than fair value.

Tentative Determination

As a result of our review we tentatively determine to revoke the finding on large power transformers from the United Kingdom. If the finding is revoked, it shall apply to unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Interested parties may submit written comments on this determination on or before July 6, 1981 and may request disclosure and/or a hearing on or before June 22, 1981. Any request for an administrative protective order must be made no later than June 10, 1981.

The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing. The Department will issue appraisement instructions separately directly to the Customs Service.

This administrative review, tentative determination to revoke and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and § 353.54(e) of the Commerce Regulations (19 CFR 353.54(e)).

B. Waring Partridge, III,

Acting Deputy Assistant Secretary for Import Administration.

June 1, 1981.

[FR Doc. 81-16684 Filed 6-4-81; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 81-2]

Crown-Tex Corp. Prehearing Conference; Notice of Hearing

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Prehearing Conference. Notice of Hearing in a proceeding under the Consumer Product Safety Act (CPSC Docket No. 81-2).

DATES: Prehearing Conference: June 30, 1981, 9:30 a.m., Hearing on the merits: July 21, 1981 through July 23, 1981 for the complainant's case, and reconvening July 28, 1981 through July 30, 1981 for the respondent's case.

ADDRESS: Both the prehearing conference and the hearing will be held in Hearing Room A, 6th Floor, CPSC New York Regional Office, 6 World Trade Center, Vesey St., New York, NY.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (202) 634-7700.

SUPPLEMENTARY INFORMATION: The principal issue presented is whether the respondent violated reporting requirements in the Consumer Product Safety act in a compalint filed by the Commission (published in the **Federal Register** March 4, 1981, 46 FR 15197), and if so, the appropriate civil penalty which should be imposed. Additional issues presented for adjudication are stated in the complaint, answer and pleadings filed by the parties.

Dated: June 2, 1981.

Sheldon D. Butts,

Deputy Secretary, Consumer Product Safety Commisison.

[FR Doc. 81-16748 Filed 6-4-81; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF EDUCATION

Acceptance of Nominations for Membership on the National Advisory Council on Indian Education

AGENCY: Department of Education.

ACTION: Acceptance of nominations for membership on the National Advisory Council on Indian Education; closing date.

1. *Introduction.* In accordance with 20 U.S.C. 1221g, "National Advisory Council on Indian Education," notice is hereby given that nominations of Indians, as defined below, will be accepted by the Secretary of Education from Indian tribes and organizations in order to make to the President of the United States recommendations of individuals for membership on the National Advisory Council on Indian Education. The Council consists of fifteen (15) members appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and who must represent diverse geographic areas of the country. (Pub. L. 92-318, section 442(a), 20 U.S.C. 1221g(a))

In order to be assured of consideration, nominations submitted to the Secretary of Education by Indian tribes and organizations must be received no later than July 6, 1981. Nominations are being requested in order to make recommendations for five (5) membership positions, which will begin on September 30, 1981. Each Presidential appointment will be for a term of three years ending September 29, 1984.

(20 U.S.C. 1233b(a)(1))

2. *Definition.* "Indian" means an individual who (a) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, or who is a descendant, in the first of second degree, of any such member, or (b) is considered by the Secretary of the Interior to be an Indian for any purpose, or (c) is an Eskimo or Aleut or other Alaska Native.

(Pub. L. 92-318, section 453(a), 20 U.S.C. 1221h(a))

3. *Functions of the Council.* The Council is directed to:

(a) Submit to the Secretary of Education a list of nominees for the position of Deputy Assistant Secretary for Indian Education;

(20 U.S.C. 1221f(a))

(b) Advise the Secretary of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874) and Section 1005 of Title X of the Elementary and Secondary Education Act of 1965 (both as added by Title IV of Pub. L. 92-318 and as amended), and with respect to adequate funding thereof;

(c) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), Section 1005 of Title X of the Elementary and Secondary Education Act of 1965, and Section 316 of the Adult Education Act (all as added by Title IV of Pub. L. 92-318 and as amended), and make recommendations to the Secretary with respect to their approval;

(d) Evaluate programs and projects carried out under any program of the Education Department in which Indian children or adults can participate or from which they can benefit, and

disseminate the results of such evaluations;

(e) Provide technical assistance to local educational agencies and to Indian education agencies, institutions, and organizations to assist them in improving the education of Indian children;

(f) Assist the Secretary in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Pub. L. 81–874) (as added by Title IV, Part A, of Pub. L. 92–318); and

(g) Submit to the Congress not later than June 30 of each year a report on its activities, including any recommendation it may deem necessary for the improvement of Federal education programs in which Indian childen or adults participate, or from which they can benefit, and including a statement of the Council's recommendations to the Secretary with respect to the funding of any such programs.

(Pub. L. 92–318, section 442(b); 20 U.S.C. 1221g(b))

4. *Nomination categories.* Nominations submitted to the Seretary of Education should be made according to the following categories:

(a). *Professional educators.* Indians with active experience as professionals in the areas of early childhood, elementary, secondary, higher, special, vocational, and adult education, such as, teachers, professors, administrators, specialists (e.g., curriculum, language, math, etc.), counselors, and researchers.

(b) *Laypersons involved in education.* Indians with active experience as laypersons involved with education such as school board members, Parent-Teacher Association members, parents of school-age children, or those with other lay involvement.

(c) *Students.* Indians who are college students or who have reached or passed their junior year of high school at the time of nomination.

(d) *Individuals with other than education experience.* Indians who do not have education experience, preferably those individuals who have experience in a field involving Indian affairs.

5. *Nomination review procedure.* The Deputy Assistant Secretary for Indian Education will gather members of the Office of Indian Education staff to screen nominations received and address appropriate criteria including those set out below. A list of recommended individuals will be compiled as a result of this screening and will be forwarded to the Secretary of Education for review. This list will be accompanied by a list of all individuals nominated.

The Secretary of Education will then make recommendations to the President of the United States and forward a list of recommended individuals, as well as the complete list of all individuals nominated, for the President's review and necessary action.

6. *Criteria for recommendations.* To maintain a balanced representation on the Council, priority consideration will be given to nominees in categories other than professional educators. Every effort will be made to recommend individuals representing diverse geographic areas of the country, particularly from those areas with large Indian populations. Consideration will also be given to the balance on the Council in terms of sex, and urban and rural (reservation and non-reservation) representation during the screening process.

The following factors will be considered in selecting individuals to be recommended for appointment: Indian education experience; general education experience; education expertise in the areas of early childhood, elementary, vocational, special and adult education; education background; previous council or committee experience; honors and awards received; and organizational memberships.

Nominees will also be considered on the basis of their knowledge of and experience with both local community and national issues.

7. *Nomination procedure.* Nominations must be submitted to the Secretary of Education on Form OE–543, which may be obtained by writing or telephoning the Office of Indian Education, U.S. Department of Education, FOB–6, Room 2177, 400 Maryland Ave., SW., Washington, D.C. 20202, telephone 202–245–8060. To be assured of considerations, a nomination should be mailed or hand-delivered no later than July 6, 1981. If the nomination is late, the Department of Education may lack sufficient time to review it with other nominations and may decline to accept it.

(a) *Nominations delivered by mail.* A nomination sent by mail must be addressed to the above office and address. The use of registered or at least first class mail is encouraged. Proof of mailing must consist of a legible U.S. Postal Service dated postmark or legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Nominating Indian tribes or organizations should check with the local post office before relying on this method.

(b) *Nominations delivered by hand.* A nomination to be hand-delivered must be taken to the Office of Indian Education, Room 2177, Federal Office Building Six, 400 Maryland Avenue, SW., Washington, D.C. Hand-delivered nominations will be accepted daily between the hours of 7:30 a.m. and 4:00 p.m., Washington, D.C., time, except Saturdays, Sundays, and Federal Holidays.

8. *Incomplete forms.* Incomplete forms will be returned to the nominating Indian tribe or organization accompanied by checklist detailing information necessary for completion. Completed forms must be returned to the Office of Indian Education no later than July 6, 1981, or fifteen (15) days after the date on the checklist (whichever is later), in order to be considered for recommendation by the Secretary. Proof of mailing will be the same as stated in paragraph 7 above.

Dated: May 29, 1981.

T. H. Bell,

Secretary of Education.

[FR Doc. 81-16639 Filed 6-4-81; 8:45 am]

BILLING CODE 4000-01-M

Commission on the Review of the Federal Impact Aid Program; Meeting

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program, the members of which were appointed by the President on August 15, 1979, will hold a business meeting on July 16 and 17, 1981, in Washington, D.C. The meeting will be open to the general public, and all interested persons are invited to attend. Notice of the meeting is given in accordance with policies of the Commission in favor of proper notice to the public of Commission proceedings and public participation therein.

DATE: July 16–17, 1981. The Commission will meet at 9:00 a.m. and continue until business is completed.

ADDRESS: Education Department, Room 3000, FOB No. 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

TENTATIVE AGENDA: The Commission members will consider adoption of a final report and other Commission business.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Program, 1832 M Street, NW., Suite 837, Washington, D.C. 20036, tel. no. (202) 653-5817.

Authority and Function

The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95-961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Public Law 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than September 1, 1981. Such recommendations are to include proposed legislation to accomplish the recommendations. Public Law 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

Records

Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at 1832 M Street, NW., Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C., on the 1st day of June, 1981.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 81-16747 Filed 6-4-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Luke Brothers, Inc.; Consent Order

AGENCY: The Economic Regulatory Administration, DOE.

ACTION: Notice of consent order and opportunity for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: May 12, 1981.

COMMENTS BY: July 6, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 (Phone) 214/767-7745.

SUPPLEMENTARY INFORMATION: On May 12, 1981, the Office of Enforcement of the ERA executed a Consent Order with Luke Brothers, Inc., of Calera, Oklahoma. Under 10 CFR 205.199J(b) a Consent Order which involves a sum of less than $500,000 or more in the aggregate excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Luke Brothers, Inc. wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Luke Brothers, Inc. effective as of the date of its execution by the DOE and Luke Brothers, Inc.

I. The Consent Order

Luke Brothers, Inc. (Luke) is a firm engaged in the retail sales of propane and, during the audit period, was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Luke, the Office of Enforcement, ERA and Luke entered into a Consent Order, the significant terms of which are as follows:

1. During the period November 1, 1973 through September 30, 1975, Luke allegedly sold propane above the allowable prices specified at 10 CFR Part 212, Subpart F and 6 CFR Part 150, Subpart L.

2. Luke and the DOE have agreed to a settlement of $9,000. Luke agreed to make payment on the effective date of the Consent Order. The negotiated settlement was determined to be in the public interest as well as the best interest of the DOE and Luke.

3. This Consent Order constitutes neither an admission by Luke that ERA regulations have been violated nor a finding by the ERA that Luke has violated ERA regulations.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Luke agrees to refund in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of $9,000 in the manner specified in I. 2. above. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges may have been passed through as higher prices to subsequent purchasers. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing

the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim, to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Luke Consent Order." We will consider all comments we receive by 4:30 p.m. local time, on July 6, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 27th day of May, 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-16741 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-015; OFC Case No. 65012-9122-03-12]

Minnegasco Energy Center, Inc.; Availability of Tentative Staff Analysis

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Availability of Tentative Staff Analysis.

SUMMARY: On April 8, 1980, Minnegasco Energy Center, Inc., (MEC) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent general use exemption from the statutory provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq., (FUA or the Act), which prohibit the use of petroleum and natural gas as a primary energy source in new major fuel burning installations (MFBI's). The basis for the requested exemption is the applicant's claim of lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum in the unit for which the exemption is requested.

The MFBI for which the petition is filed is an oil or natural gas-fired packaged boiler (identified hereafter as Unit 3) to be installed at MEC's heating plant located in Minneapolis, Minnesota. The proposed boiler will have a design heat input rate of 242 million Btu's per hour for natural gas and 233 million Btu's per hour for residual fuel oil.

ERA accepted the petition on May 8, 1980, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the **Federal Register** on August 11, 1980 (45 FR 53202). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to section 701 of FUA. During this period, interested persons were afforded an opportunity to request a public hearing. The period expired September 25, 1980. No comments were submitted. No hearing was requested.

Based upon the ERA staff's review and analysis of the information presently contained in the record on this proceeding, a Tentative Staff Analysis has been made recommending that ERA issue an order which would grant a permanent general use exemption based on the applicant's lack of an alternative fuel supply at a cost which does not substantially exceed the cost of using imported petroleum in the unit for which the exemption is requested. Pursuant to 10 CFR § 501.64, notice of the availability of the Tentative Staff Analysis is hereby issued and interested persons are invited to submit written comments in regard to this matter, and any interested person may also submit a written request that ERA convene a public hearing.

The public file containing a copy of the Tentative Staff Analysis and other documents and supporting materials on this proceeding is available upon request at: ERA, 2000 M Street, NW, Room B-110, Washington, DC, Monday through Friday, 8:00 AM-4:30 PM.

ERA will issue a final order granting or denying the petition for permanent exemption from the prohibitions of the Act within six months after the end of the public comment period provided for in this notice, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the **Federal Register.**

DATES: Written comments on the Tentative Staff Analysis are due on or before June 19, 1981. A request for public hearing must also be made within the same 14-day comment period.

ADDRESSES: Fifteen copies of written comments or a request for public hearing shall be submitted to the Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW, Washington, DC 20461. Docket Number ERA-FC-80-020 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room B-110, Washington, DC 20461 (202) 653-4033;

Edward J. Peters, Jr., Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3128, Washington, DC 20461 (202) 653-3934;

Marya A. Rowan, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G-087, Washington, DC 20585 (202) 252-2967;

William H. Freeman, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M. Street, NW, Room 3207, Washington, DC 20461 (202) 653-4496.

SUPPLEMENTARY INFORMATION:

Minnesgasco Energy Center, Inc. (MEC) proposes to install a packaged boiler at its Minneapolis, Minnesota facility. The proposed unit has a design heat input rate of 242 million Btu's per hour for natural gas and 233 million Btu's per hour for residual fuel oil. Title II of FUA prohibits the use of natural gas or petroleum in certain new MFBI's unless an exemption for such use has been granted by ERA.

On April 8, 1980, MEC filed a petition with ERA requesting a permanent general use exemption for the proposed unit (Unit 3) based on the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. MEC's petition was filed under the provisions of section 505.22 of the then effective interim rule implementing the provisions of Title II of FUA (published on May 15 and 17, 1979, at 44 FR 28530 and 28950 respectively). Subsequently, on June 6, 1980, ERA published in the **Federal Register** its final rule on the criteria and procedures for petitioning for an exemption from the prohibitions of FUA (10 CFR Parts 500, 501 and 503, 45 FR 38276 and 38302). The eligibility requirements for the permanent exemption based on the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum are contained at 10 CFR § 503.32 of the final rule. However, the final rule revoked,

effective June 6, 1980, the cost calculation methodology contained at §§ 503.5 and 505.5 of the interim rule.

A cost calculation methodology must be employed by ERA in analyzing those exemptions provided for in FUA, such as the one requested by MEC, which require a determination of whether the cost of using certain alternate fuels substantially exceeds the cost of using imported petroleum as a primary energy source. A Notice of Proposed Rulemaking (NOPR) on a new Calculation for the Cost of Using Alternate Fuels was published in the Federal Register on June 23, 1980, at 45 FR 42190.

As MEC's petition was filed with ERA prior to the revocation of § 505.5, the pertinent interim rule cost calculation, MEC was given the option, as provided in the NOPR, of having ERA (1) analyze its petition using the NOPR as guidance, or (2) hold the petition in abeyance pending finalization of the cost calculation methodology. By letter of July 14, 1980, MEC requested that its petition be processed as expeditiously as possible using the NOPR as guidance. On December 24, 1980, ERA's final rule on the cost calculation was published in the Federal Register at 10 CFR 503.6 and 504.12 (45 FR 84967) and became effective on January 23, 1981.

Based upon the criteria contained in 10 CFR 503.32 and employing the cost calculation methodology prescribed in 10 CFR 503.6, the ERA staff has reviewed the information contained in the record of this proceeding to date and has made a Tentative Staff Analysis which recommends that an order be issued to MEC granting a permanent general use exemption for Unit 3 based upon lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

Recommended Terms and Conditions

The ERA staff also has tentatively determined and recommends that any order granting the exemption described above should, pursuant to section 214 of the Act, be subject to the following term and condition:

(1) The quality of any petroleum to be burned in the unit will be the lowest grade available, technically feasible, and capable of being burned consistent with applicable environmental requirements.

The Tentative Staff Analysis does not constitute a decision by ERA to grant the exemption requested. Such a decision will be made in accordance with 10 CFR 501.68 on the basis of the entire record of this proceeding, including any comments received on the Tentative Staff Analysis.

Issued in Washington, D.C. on May 30, 1981.

Robert L. Davies,

Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-16796 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-01-M

Ryder Truck Rental, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: May 11, 1981. Comments by: July 6, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On May 11, 1981, the Office of Enforcement of the ERA executed a Consent Order with Ryder Truck Rental, Inc. of Miami, Florida. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Ryder Truck Rental, Inc. wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Ryder Truck Rental, Inc. effective as of the date of its execution by the DOE and Ryder Truck Rental, Inc.

I. Consent Order

Ryder Truck Rental, Inc. (Ryder) with its home office in Miami, Florida is a firm engaged in the resale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and Ryder entered into a Consent Order to resolve certain civil actions which could be brought by ERA as a result of its audit of the crude oil resales by Ryder. The significant terms of the Consent Order with Ryder are as follows:

1. This Consent Order concerns the sale of crude volumes of crude oil resold by Ryder during the period February 1, 1975 through December 1978, and is intended by Ryder and DOE to resolve only those matters set forth in this Consent Order.

2. Ryder allegedly applied the provisions of 10 CFR Part 212, Subparts F and L incorrectly when determining the prices to be charged for certain domestic crude oil.

3. The Consent Order constitutes neither an admission by Ryder that DOE regulations have been violated nor a finding by the DOE that Ryder has violated DOE regulations.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Ryder Truck Rental, Inc. agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $130,000.00, including interest, on or before 30 days after the effective date of this Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67.

In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected person, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Ryder Truck Rental, Inc.'s Consent Order." We will consider all comments we receive by 4:30 p.m., local time, July 6, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Tex., on the 27th day of May, 1981.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 81-16744 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration Tresurvey Consultaion Program

AGENCY: Energy Information Administration, DOE.

ACTION: Request for Presurvey Consultation Comments on Proposed DOE Monthly Petroleum Product Sales Form, EIA-740.

SUMMARY: As part of its continuing effort to reduce paperwork burden, the Department of Energy (DOE), through its Energy Information Administration (EIA), conducts a presurvey consultation program which provides for public comment in the early development stages of new or revised reporting forms. This program is designed to ensure that requested data can be provided in the desired format, the cost of reporting is minimized, reporting forms are designed to be clearly understood, and reporting burden estimates accurately reflect the impact of the collection requirements on respondents.

Previously, these presurvey consultations were conducted primarily by mail or telephone with a sample of potential respondents and with various industrial associations, public interest groups, and other government agencies. In order to extend the opportunity for commenting to a larger audience, EIA is now publishing proposed forms and instructions in the **Federal Register.** However, when EIA needs comments quickly, or where the target population is relatively narrow, we may conduct these presurvey consultations by mail, telephone, and/or personal visit.

At this time, EIA is requesting comments on the Monthly Petroleum Product Sales form. It is described in the Supplementary Information Section of this Notice. Interested persons are asked to review the form and instructions and provide comments in the format prescribed below.

EFFECTIVE: 30-day comment period begins with the date of this notice.

FOR FURTHER INFORMATION CONTACT: Director, Survey and Statistical Design Division, Energy Information Administration, Room 4146, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633-9464.

SUPPLEMENTARY INFORMATION: EIA has designed the EIA-740, Monthly Petroleum Product Sales form to replace 17 petroleum product data collection forms. The forms are listed below:

B Series—Surveys of Fuel Oil Dealers (6 forms)
EIA-9A—No. 2 Heating Oil Supply/Prices
EIA-9B—No. 2 Heating Oil Telephone Survey
EIA-25—Prime Suppliers Report
EIA-460—Petroleum Industry Monthly Report for Product Prices (excluding Part VI which will be retained)
FEA-P-306-M-O—Refiner/Importer monthly Report for Product Prices
FEA-P-314-M-O—Monthly Survey of Distillate & Residual Fuel Oil Sales to Ultimate Consumers
FEA-P-315-M-O—Monthly Survey of Propane Sales Volume to Ultimate Consumers
SG Series—Survey of Gallonage Sales of Gasoline (4 forms)

The Form EIA-740 retains State deliveries data and certain key sales data, which are useful to contingency planning or which meet legal requirements, while substantially reducing industry burden. The respondents to the form will be refiners, importers, natural gas plant operators, fuel oil distributors, and jobbers. The current respondents to the EIA-9A, EIA-25, and the FEA-P-315 will make up the majority of respondents. The form was designed to replace the 17 forms listed above and to enhance certain key statistical data used by Federal and State government agencies. Data to be collected include the volume of and revenues related to selected petroleum product sales. Types of data no longer to be collected are retail gasoline service station and jobber market data, fuel oil dealer margins, inventories and capacities of fuel oil dealers, detailed breakout of wholesale prices, and minor product prices.

Collection of product data by State and sales category provides the information necessary to analyze various market shares distributions, such as:

- Shifts in product distribution over time.
- Shares of product market by company and by aggregations of selected types of companies; such as large refiners, small refiners, importers, resellers, etc.
- Shares of market by sales to end-users versus non-end-users.
- Product mix related to total products.
- Prices by sector of sale.

The sales data reported on the EIA-740 would provide, on one form, information for monitoring market shares and product prices.

Proposal

State governments, members of Congress and the National Governors' Association have advised EIA that they have a vital need for information on the volumes of first deliveries of petroleum products into their State intended for consumption in that State. This data, in an expanded format is now collected on

the EIA–25, Prime Suppliers Report. Currently, companies send a copy of the EIA–25 to State agencies in the States in which they deliver prime supplies.

To ensure that the States will receive the data they need, the EIA is requesting comment on the continuance of this practice with the EIA–740. By providing the States with copies of Parts I, II and III of the EIA–740, industry will likely avoid a proliferation of forms from the various States to collect the same data.

It is, therefore, proposed that each company submit a copy of Parts I, II and III directly to the appropriate State agency at the same time it files the entire form with EIA.

Printed below are the form and instructions along with a suggested format for providing comments. This format specifies the areas of particular interest to DOE and also provides space for reviewers to comment on issues of concern to them. The use of this format will facilitate DOE's ability to address comments. Please review the form and send your comments within 30 days of this notice to the address above.

Issued in Washington, D.C., May 29, 1981.

Wray Smith,

Assistant Administrator for Energy Systems and Support, Energy Information Administration.

BILLING CODE 6450-01-M

EIA-740
MONTHLY PETROLEUM PRODUCT SALES

DRAFT

PART I - IDENTIFICATION DATA

1. Respondent's EIN
2. Name
3. Street/Box/RFD
4. City
5. State
6. Zip Code
7. Name of Contact Person
8. Telephone Number of Contact Person
9. What type of report is this?
   - ☐ Original
   - ☐ Revision, to Report Dated → Month / Day / Year
10. Date of Report — Month / Day / Year
11. State

PART II - CERTIFICATION

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Name	Title
Signature	Date of Signing

TITLE 18 USC 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious, or fraudulent statements as to any matter within its jurisdiction.

Company data will be treated as confidential and proprietary to the extent that it is entitled to such treatment under Section 14 of the Federal Energy Administration Act of 1974.

PART III: First Deliveries in State for Consumption in State

1. Reporting Month _____

PRODUCT	a. Actual Deliveries for Last Month (_____) Volume (gallons)	b. Estimated Deliveries for Next Month (_____) Volume (Gallons)
2. Unleaded Gasoline		
3. Leaded Gasoline		
4. Gasohol		
5. Aviation Gasoline		
6. Naphtha Jet Fuel		
7. Kerosene Jet Fuel		
8. Kerosene		
9. Diesel Fuel Oil		
10. Distillate Fuel Oil		
11. No. 4 Fuel Oil		
12. Residual Fuel Oil ≤1% Sul.		
13. Residual Fuel Oil >1% Sul.		
14. Propane		

EIA-740
MONTHLY PETROLEUM PRODUCT SALES

PART IV: Total Sales

DRAFT

Company _____

Last Month _____

State _____

PRODUCT	Sales to End-Users								Sales to Non-End Users			
	Company Operated Retail Outlets		Residential (Single Family Dwellings)		Agricultural		Other Sales to End-Users		Retail Outlets (Except Company Operated)		Other Sales to Non-End Users	
	a. gallons	b. dollars	c. gallons	d. dollars	e. gallons	f. dollars	g. gallons	h. dollars	i. gallons	j. dollars	k. gallons	l. dollars
1. Unleaded Gasoline												
2. Leaded Gasoline												
3. Gasohol												
4. Aviation Gasoline												
5. Naphtha Jet Fuel												
6. Kerosene Jet Fuel												
7. Kerosene												
8. Diesel Fuel Oil												
9. Distillate Fuel Oil												
10. No. 4 Fuel Oil												
11. Residual Fuel Oil ≤1% Sul.												
12. Residual Fuel Oil >1% Sul.												
13. Propane												

14. No. of Motor Gasoline Stations ☐

BILLING CODE 6450-01-C

Monthly Petroleum Product Sales—Form EIA–740

Instructions

I. *Purpose:*

The Monthly Petroleum Product Sales form is designed to provide two basic types of data:

- First deliveries of petroleum products into a State for end-use in that State, and
- Sales volumes and realized revenues of petroleum products to end-users and non-end-users.

II. *Who Should Submit.* The form is to be filed by entities such as refiners, importers, natural gas plant operators, fuel oil distributors, propane dealers and others which either deliver or sell petroleum products to end-users and/or to non-end-users. Any entity which makes a first delivery of a petroleum product into a State intended for consumption in that State should file the form ("first deliveries" are defined in Appendix B). Such deliveries are reported in Part III of the form. Part IV of the form is filed by all companies reporting on Part III and by selected samples of fuel oil distributors, propane sellers and other such entities.

III. *Where to Submit:*

The respondents to the form are to file only one form per month for each State in which first deliveries and/or petroleum product sales are made.

One copy of the EIA–740 for each State should be completed by the respondent and submitted to: U.S. Department of Energy, Energy Information Administration, Washington, D.C.

In addition, a copy of Parts I, II and III for each State should be submitted to the appropriate State energy office or office of emergency preparedness. A list of those State offices is in Appendix A.

IV. *When to Submit.* The Monthly Petroleum Product Sales form should be submitted no later than the 20th of the reporting month. The deliveries reported in Part III are actual for the month prior to the reporting month and estimated for the month after the reporting month. The sales reported on Part IV are actual data for the month prior to the reporting month.

V. *Sanctions.* This report is mandatory under Public Law 93–275, *The Federal Energy Administration Act of 1974.*

VI. *Provisions for Confidentiality.* (To be added later.)

VII. *Definitions.* See Appendix B.

VIII. *General Instructions:*

- Report all volumes rounded to the nearest whole gallon.

Report all revenues realized from reported sales rounded to the nearest whole dollar.

- Exclude all taxes from the reported revenue.

IX. *Specific Instructions:*

Part I: Identification Data—complete as indicated.

Part II: Certification—complete as indicated.

Part III: First Deliveries in State for Consumption in State.

1. Enter at item 1 the reporting month. The reporting month is the calendar month in which the report is required to be filed.

2. Enter at the column b heading the last month. The last month is the month immediately prior to the reporting month.

3. Enter at the column c heading the next month. The next month is the month immediately after the reporting month.

4. Complete columns b and c for items 2 through 14 where appropriate. Enter *only* volumes for those petroleum products which your firm delivered for the *first time* into the State designated in Part I, item 11 and which were/are apparently intended for end-use in that State. Product definitions are in Appendix B.

Important

A list of respondents to Part III is attached as Appendix C. Do not report deliveries to listed firms in Appendix C. These firms will report the first deliveries of those products in the State where the volumes are apparently intended for end-use. For example, firm "X" sells products to firm "Y" in Ohio for apparent end-use in Ohio. Firm "X" does not report the delivered products in Part III of EIA–740. Firm "Y" will report the deliveries in Part III of the form for the State of Ohio.

Part IV: Total Sales:

1. Enter your firm's name and the State for which these data are being reported.

2. Enter the last month. The last month is the month immediately prior to the reporting month.

3. Total sales of the listed petroleum products represent all sales regardless of whether they are first sales made in the State or are intended for consumption in that State. The listed petroleum products are defined in Appendix B.

4. *Sales to End-Users*—in columns a through h, enter the appropriate volumes and revenues generated by the sales of those volumes for each listed petroleum product sold to end-users. Do not double count—if sales qualify for more than one column heading in Sales to End-Users, the sales should be reported in the Agricultural column. The Other End-Use Sales column is for those transactions to end-users in categories other than the first three end-use categories. End-user categories are defined in Appendix B.

5. *Sales to Non-End-Users*—in columns i through l, enter the appropriate volumes and revenues generated by the sales of those volumes for each listed petroleum product sold to non-end-users. If uncertainty exists, whether a sale is to a "Retail Outlet (Except Company Operated)," enter the sales volumes and associated revenues under columns k and l, "Other Sales to Non-End-Users." Non-End-User categories are defined in Appendix B.

6. Enter in item 14 the number of company operated retail motor gasoline stations in the reported State from which the volumes and revenues in columns a and b were derived.

Appendix A—State Energy and Emergency Preparedness Offices [Reserved]

(To be added later.)

Appendix B—Definitions

Petroleum Products

Finished leaded motor gasoline. A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, all of which have been blended to form a fuel suitable for use in spark ignition engines. Meets the detailed requirements for gasoline listed in ASTM D–439 or Federal Specifications VV–G–1690B, to include no more than 10 percent boiling at 122 degrees F under atmospheric pressure to at least 90 percent at 274 degrees F at atmospheric pressure, with Reid vapor pressures ranging from 9 to 15 psi. Consits of: Finished (Marketable) leaded gasoline—produced with the use of any lead additive, containing more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus per gallon. The actual lead content of any given gallon, however, may vary as a function of the size of the producer and company—specific EPA waiver provisions. For example, producers of 5,000 gallons or less per day may include 0.8 to 2.65 grams per gallon; large producers, 0.5 to 0.8 grams per gallon. Include: Both premium and regular grades, depending on the octane rating. Exclude: Any blendstock until blending has been completed and the blendstock is incorporated in the finished leaded gasoline and no longer separately identified. Also excludes any alcohol to be used in the blending of gasohol.

Finished unleaded motor gasoline. A complex mixture of relatively volatile hydrocarbons as described above of "leaded motor gasoline" and meets the

same requirements for distillation temperatures and vapor pressure. Consists of: Finished (marketable) unleaded gasoline containing no more than 0.05 grams of lead per gallon and not more than 0.005 grams of phosphorus per gallon, regardless of the size of the producer. Include: Both premium and regular grade, depending on the octane rating. Exclude: Any blendstock until blending has been completed and the blendstock is incorporated in the finished unleaded gasoline and no longer separately identified. Also excludes any alcohol to be used in the blending of gasohol.

Finished aviation gasoline. All special grades of gasoline for use in aviation reciprocating engines, as given in ASTM Specification D910 and Military Specification MIL–G–5572.

Gasohol. A blend of alcohol and finished motor gasoline consisting of (a) 90 percent or less finished motor gasoline, leaded or unleaded as described above, and (b) 10 percent or more alcohol (ethanol or methanol).

Jet fuel-naphtha type. A fuel in the heavy naphtha boiling range with an average gravity of 52.8 degrees API and 20 to 90 percent distillation temperatures of 290 degrees F to 470 degrees F and/or meeting Military Specification MIL–T–5624L (Grade JP–4). Used for turbojet and turboprop aircraft engines, primarily by the military.

Jet fuel-kerosene type. A quality kerosene product with an average gravity of 40.7 degrees API, a 10 percent distillation temperature of 400 degrees F and an end-point of 572 degrees F covered by ASTM Specification D1655 and Military Specification MIL–T–5624L (Grade JP–5 and JP–8). Used primarily as fuel for commercial turbojet and turboprop aircraft engines. A relatively low freezing point distillate of the kerosene type.

Kerosene. A petroleum distillate in the 300 degrees F to 550 degrees F boiling range and generally having a flash point higher than 100 degrees F by ASTM method D56, a gravity range from 40 degrees to 46 degrees API, and a burning point in the range of 150 degrees F to 175 degrees F. It is a clean-burning product suitable for use as an illuminant when burned in wick lamps. Includes grades of kerosene called range oil having properties similar to No. 1 fuel oil. Used in space heaters, cook stoves, and water heaters.

Diesel fuel. Diesel fuel grade No. 1 and No. 2 as defined in American Society for Testing and Materials (ASTM) D975–71. If doubt exists whether the fuel oil is to be used as diesel fuel, the product should be entered as distillate fuel oil.

Distillate fuel oil, less No. 4 fuel oil. A general classification for one of the petroleum fractions which, when produced in conventional distillation operations, has a boiling range from 10 percent point at 400 degrees F to 90 percent point at 640 degrees F. Included are products known as Nos. 1 and 2 heating oils conforming to ASTM Specification D396 and diesel fuel conforming to ASTM Specification D975 for No. 1–D and No. 2–D.

No. 4 fuel oil. A Fuel oil for commercial burner installations not equipped with preheating facilities. Extensively used in industrial plants. This grade is a blend of distillate fuel oil and residual fuel oil stocks which conforms to ASTM Specification D396 or Federal Specification VV–F–815C for this grade. Kinematic viscosities are between 5.8 and 26.4 percent at 100 degrees F. Also included is No. 4–D which conforms to ASTM Specification D975.

Residual fuel oil. Topped crude of refinery operations. Includes No. 5 and No. 6 fuel oils as defined in ASTM Specification D396 and Federal Specification VV–F–815C; Navy Special fuel oil in Military Specification MIL 859E, including Amendment 2; and Bunker C fuel oil.

Propane. A normally gaseous paraffinic compound (C_3H_8); it is covered by ASTM Specification D1835 and GPA Specifications for commercial and HD–5 propane and ASTM Specification D2154 for special duty propane.

Other Terms

Agricultural. Sales to end-users in this sector are transactions to persons or firms operating farms or ranches. These include sales of the listed products for use in tractors, irrigation pumps, and other agricultural machinery, as well as that used for crop drying, smudge pot fuel, space heating of buildings (including farm residences), cooking, and other uses by the agricultural industry. End-use sales to those engaged in agricultural activities are to be entered in this sector rather than Company Operated Retail Outlets or Residential, even though they may qualify for either of those categories.

Company operated retail outlets. These are motor gasoline and/or diesel service stations operated by the responding company or person.

First deliveries in State for consumption in State. These are the first deliveries of a petroleum product into a given State for intended end-use in that State. The list in Appendix C identifies the firms now known to conduct such transactions. When there are deliveries to firms listed in Appendix C, the seller does not report those deliveries as first deliveries in that State for consumption in that State. The buyer whose name is on the list in Appendix C will decide which of those delivered volumes are to be reported by it on Part III of the form.

Other sales to end-users. These are transactions made by the respondents within the reported State to categories of end-users other than customers of Company Operated Retail Outlets, Residential customers and Agricultural customers. Where doubt exists whether a transaction is qualified for entry in those three end-use categories, the volumes and associated revenues should be entered under Other End-Use Sales.

Other sales to non-end-users. These are transactions made by the respondent within the reported State to entities other than retail outlets. Where there is doubt whether the product being sold will be sold at a retail outlet, the volumes and associated revenues should be reported in Other Sales to Non-End-Users.

Residential. These are transactions by the respondent to single family dwellings. These include any private household to which the respondent bills the head of that household for the products involved in the transaction.

Retail outlets (except company operated). These are transactions by the respondent to retail outlets from which the petroleum products involved are likely to be sold directly to end-users. When doubt exists whether the products will be sold directly to end-users, the volumes and associated revenues should be reported as Other Sales to Non-End-Users.

Total sales. These transactions are all sales of the listed products by the respondent within the reported State irrespective of the sequence of sale or projected State of intended end-use. These data will not necessarily match those reported in Part III, First Deliveries in State for Consumption in State.

Appendix C—Suppliers Providing First Deliveries of Products for End-Use in States [Reserved]

(To be added later)

Comment Format

The following is the format for providing comments on proposed Form EIA–740, "Monthly Petroleum Product Sales."

1. Do the instructions provide sufficient information to enable you to complete the form? Yes☐ No☐

2. Are the instructions sufficiently clear? Yes☐ No☐
If no, which instructions require further clarification?

3. Should additional terms be defined? Yes☐ No☐
Please list these additional terms.

4. Is the form layout easy to follow and understand? Yes☐ No☐
If no, what changes would you make?

5. Do you know of other Federal, State or local agencies that collect similar data? Yes☐ No☐
If yes, please list agencies.

6. Is sufficient time allowed for your firm to complete the form and comply with this data request? Yes☐ No☐
If no, how long do you estimate it will take to complete the form?

7. Is the information necessary for completing the form readily available? Yes☐ No☐
If no, please explain.

8. Are the reporting units specified in the form consistent with those generally used by your firm for recordkeeping and reporting purposes? Yes☐ No☐
If no, please explain.

9a. How many person hours would it take your firm to complete one copy of the form, as attached? (Include the time it takes to research information, aggregate findings, write and type material, if appropriate.) _____ person hours.
9b. If subsequent reports are to be filed, indicate any differences in person/hours that would change the reporting time shown above.

10. Estimate the cost of completing the form including the cost of administrative review and correction errors.
$— _____

11. Please explain any aspect of the form you feel warrants comment, particularly any factor you consider unsatisfactory.

12. How would you improve the form?

13. In your opinion, does the form EIA–740 serve the purpose as defined. Yes☐ No☐

14. As noted earlier, State governments have a need for actual and projected data covering first deliveries of petroleum products for consumption in their State.
Are you willing to continue to send a copy of these data, as represented on the EIA–740 in Parts I, II, and III, to the appropriate State offices each month? Please give your reasons. Yes☐ No☐

Please check the box if interested in receiving a summary of the consultation results. ☐

[FR Doc. 81-16743 Filed 6-4-81; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. G-3894-004, et al.]

ARCO Oil & Gas Co., Division of Atlantic Richfield Co., et al.; Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

June 1, 1981.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 19, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft.³	Pressure base
G-3894-004, D, May 12, 1981	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	United Gas Pipeline Company, South Cabeza Creek Field, Goliad County, Texas.	(1)	
G-3894-005, D, May 12, 1981	..... do.....	United Gas Pipeline Company, Cabeza Creek Area, Goliad County, Texas.	(1)	
G-5339-000, C, May 18, 1981	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	United Gas Pipeline Company, Carthage Field, Panola County, Texas.	(2)	14.73
CI81-336-000 (CI77-267), B, May 14, 1981.	Napeco Inc., 122 South Michigan Avenue, Chicago, Illinois 60603.	Natural Gas Pipeline Company of America, Thornwell South Field, Jefferson Davis Parish, Louisiana.	(3)	
CI81-337-000, A, May 12, 1981	Pioneer Production Corporation, P.O. Box 2542, Amarillo, Texas 79189.	Transwestern Pipeline Company, Section 22, Township 2N, Range 9ECM, Cimarron County, Oklahoma.	(4)	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft.[1]	Pressure base
C81-338-000, E, May 18, 1981[2]	Southland Royalty Company (Succ. in Interest to Shenandoah Oil Corporation), 1000 Fort Worth Club Tower, Fort Worth, Texas 76102.	Northern Natural Gas Company, Pandale Area, Crockett County, Texas.	([3])	14.73
C81-339-000, E, May 18, 1981[2]	do	Transwestern Pipeline Company, Lovett Unit No. 2 NW/4 NW/4 of Section 17, Block B-3, PSL Survey, Winkler County, Texas.	([4])	14.73
C81-340-000, E, May 18, 1981[2]	do	Transwestern Pipeline Company, Lovett Unit No. 1 described as the NE/4 NW/4 of Section 17, Block B-3, PSL Survey, Winkler County, Texas.	([4])	14.73
C81-341-000, E, May 18, 1981[5]	do	Northern Natural Gas Company, Christmas No. 1 Well located in the NW/4 NW/4 of Section 11, Township 20 South, Range 37 East, Lea County, New Mexico.	([6])	14.73
C81-342-000, E, May 18, 1981[5]	do	Northwest Pipeline Corporation, Rock Island No. 1 Well located in the W/2 of Section 22, Township 29 North, Range 9 West, San Juan County, New Mexico.	([10])	14.73
C81-343-000, E, May 18, 1981[5]	do	Northwest Pipeline Corporation, Mesaverde Formation in the Burroughs State No. 4 Well located in the SW/4 of Section 2, Township 27 North, Range 9 West, San Juan County, New Mexico.	([11])	14.73
C81-344-000, E, May 18, 1981[5]	do	Mountain Fuel Supply Company, Osgood Federal 1-19 Well located in the N/2 of Section 19, Township 13 North, Range 100 West, 6th P.M., Sweetwater County, Wyoming, S/2 of Section 18, Township 13 North, Range 100 West, 6th P.M., Sweetwater County, Wyoming.	([12])	1473
C81-345-000, E, May 18, 1981[5]	do	Northern Natural Gas Company, E. R. Moore No. 1 Well located in Section 56, Block 101, AB&M Survey, Pecos County, Texas.	([13])	14.73
C81-346-000, E, May 18, 1981[5]	do	Transwestern Pipeline Company, Federal "I" No. 1 Well located in S/2 of Section 21, Township 6 South, Range 27 East, Chaves County, New Mexico.	([14])	14.73
C81-347-000, E, May 18, 1981[5]	do	Natural Gas Pipeline Company of America, Sun State No. 1 Well located in the N/2 of Section 23, Township 11 South, Range 34 East, Lea County, New Mexico.	([15])	14.73
C81-348-000, E, May 18, 1981[5]	do	Northern Natural Gas Company, J. W. Robbins No. 1 Well located in Section 26, Block 126, T&STL RR Co. Survey, Pecos County, Texas.	([16])	14.73
C81-349-000, B, May 18, 1981	Holly Energy Inc., 2600 Diamond Shamrock Tower, 717 North Harwood St., Dallas, Texas 75201.	Transwestern Pipeline Company, N/2 Sec. 27, T-17-S, R-26-E, Eddy County, New Mexico.	([17])	
C81-350-000, A, May 18, 1981	Cabot Corporation, One Houston Center, Suite 1000, Houston, Texas 77010.	Columbia Gas Transmission Corporation, Blocks A-446, A-447 and A-448, High Island Area, Offshore Texas.	([18])	14.73
C81-351-000, A, May 20, 1981	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Transcontinental Gas Pipe Line Corporation, High Island Block A-447 and A-448, Offshore Texas.	([19])	14.73

[1] Contract expired July 1, 1980; Land no longer productive of gas and ARCO plans no further development.
[2] Applicant is filing under Gas Purchase Contract dated March 1, 1976, amended November 1, 1980.
[3] The J. M. Petitjean #1 Well has been depleted and there are no remaining economically producible reserves. The well has been plugged and abandoned.
[4] Applicant is filing under Gas Purchase Contract dated September 1, 1980.
[5] Effective as of February 1, 1979, Southland acquired all of Shenandoah's interest in properties.
[6] Applicant is filing under Gas Purchase Contract dated July 10, 1970.
[7] Applicant is filing under Gas Purchase Agreement dated March 4, 1959, amended by Gas Purchase Agreement dated November 1, 1979.
[8] NOT USED.
[9] Applicant is filing under Gas Purchase Agreement dated February 16, 1954.
[10] Applicant is filing under Gas Purchase Agreement dated January 2, 1967.
[11] Applicant is filing under Gas Purchase Agreement dated January 12, 1965.
[12] Applicant is filing under Gas Purchase Agreement dated February 1, 1966.
[13] Applicant is filing under Gas Purchase Contract dated April 1, 1958.
[14] Applicant is filing under Gas Purchase Agreement dated April 16, 1971.
[15] Applicant is filing under Gas Purchase Contract dated August 7, 1975.
[16] Applicant is filing under Renewal Gas Purchase Contract dated June 4, 1978.
[17] Depletion of reserves.
[18] Applicant is filing under Gas Purchase Contract dated December 22, 1980.
[19] Applicant is filing under Gas Purchase Contract dated May 15, 1981.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 81-18709 Filed 6-4-81; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. QF81-30-000]

ARCO Polymers, Inc.; Notice of Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 2, 1981.

On April 30, 1981, ARCO Polymers, Inc., of Monaca, Pennsylvania, filed with the Federal Energy Regulatory Commission an application to be certified as a qualifying congeneration facility pursuant to § 292.207 of the Commission's rules.

The facility is a topping-cycle cogeneration facility which uses coal as its primary energy source. The power production capacity of the facility is 31.5 megawatts. Energy is used to generate steam which is passed through a turbogenerator to produce electrical power. The reject heat from the power production system is used to provide thermal energy for use in an adjacent manufacturing process. The facility was installed in June, 1943. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status 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 §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 6, 1981, and must be served on the applicant. 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. 81-16770 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-464-000]

Boston Edison Co.; Notice of Filing

May 29, 1981.

The filing Company submits the following:

Take notice that on May 14, 1981, Boston Edison Company ("Edison") tendered for filing an amendment to its non-firm transmission tariff under which transmission charges are computed on a daily basis. The Company also filed a service agreement and exhibits specifying the power to be transmitted for the towns of Braintree and Taunton, Massachusetts.

Edison requests an effective date for the amendment of October 8, 1980, the date on which service commenced thereunder.

Edison states that it has served the filing on the Towns of Braintree and Taunton and on the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 15, 1981. 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16752 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-188-000]

Central Maine Power Co.; Notice of Revision of Fuel Adjustment Clause

June 1, 1981.

Pursuant to ordering paragraph (c) of the Commission's order issued February 20, 1981, in the above captioned docket, Central Maine Power Company submitted the following materials designed to revise the proposed fuel adjustment clause:

(1) First Revised Sheet 3 of 4 of the proposed W-3 Tariff schedule; and

(2) a two page sample calculation illustrating the above revision.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 15, 1981. 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. 81-16771 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER78-360]

Connecticut Yankee Atomic Power Co.; Notice of Compliance Filing

June 1, 1981.

Take notice that Connecticut Yankee Atomic Power Company (Connecticut Yankee) submitted a compliance filing on May 15, 1981, pursuant to Opinion No. 102 which was issued November 21, 1980, in Docket No. ER78-360. This report advises the Commission that Connecticut Yankee has made refunds to its customers for the difference between the Company's originally filed rates and the compliance rates. As enclosures Connecticut Yankee submitted (1) monthly billing determinants and revenues at proposed rates for the period November 5, 1978, through March 31, 1981; (2) monthly billing determinants and revenues at compliance rates for the period November 5, 1978, through March 31, 1981; and (3) computation of the monthly refunds, including interest, for the monthly billings for the period November 5, 1978, through March 31, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 15, 1981. 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. 81-16753 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA81-39-000]

Copolymer Rubber and Chemical Corp.; Notice of Application for Adjustment From Incremental Pricing Regulations and for Interim Relief

June 2, 1981.

Take notice that on May 20, 1981, Copolymer Rubber and Chemical Corporation (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp. II 1978). Applicant seeks interim and final relief from § 282.204(d)(7) of the Commission's regulations. That section provides that if the owner or operator of an industrial boiler fuel facility files an exemption affidavit with the Commission, and sends a copy to the facility's natural gas supplier, the facility shall be exempt from incremental pricing as of the first full month following the date the affidavit is filed.

Applicant filed with the Commission an affidavit for a partial cogeneration exemption for its Baton Rouge plant on May 20, 1981. Applicant would therefore be exempt from incremental pricing as of June 1, 1981, under the above-described regulation. Applicant seeks an adjustment of this regulation in order to permit the partial exemption to become effective as of May 1, 1981. In support of this request, Applicant notes that a temporary certificate authorizing natural gas service to its Baton Rouge facility by Mid-Louisiana Gas Company (Mid-Louisiana) was granted by the Commission on April 30, 1981 (Docket No. CP81-204), and service was commenced on May 1, 1981. Applicant states that as soon as the certificate was issued, it began to prepare its exemption affidavit. Applicant further states that in telephone conversations with

Commission staff it became aware that a difference of opinion existed between itself and staff as to the extent to which its Baton Rouge facility qualifies for a cogeneration exemption. Applicant notes that it subsequently met with staff in an attempt to resolve these differences and in order that the affidavit could be completed accurately. Applicant asserts that because it attempted to file the affidavit at the earliest practicable date following issuance of the certificate, equitable principles support deeming the affidavit to be effective May 1, 1981.

Applicant further states that Mid-Louisiana will not render a bill for May gas sales to Applicant until early June, 1981, and that Mid-Louisiana supports Applicant's request that the exemption be deemed effective as of May 1, 1981.

The procedures applicable to this adjustment proceeding are set forth at 18 CFR § 1.41. Any person desiring to participate shall file a petition to intervene in accordance with § 1.41(e). All such petitions must be on file on or before June 22, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16772 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ST79-5-001; ST79-16-001; ST79-17-001; ST80-10-001; ST80-78-001]

Delhi Gas Pipeline Corp.; Notice of Application for Approval of Rates

June 2, 1981.

Take notice that on April 17, 1981, Delhi Gas Pipeline Corporation (Delhi), Fidelity Union Tower Building, Dallas, Texas 75201, filed in Docket Nos. ST79-5-001, ST79-16-001, ST79-17-001, ST80-10-001 and ST80-78-001 an application, as supplemented April 29, 1981, pursuant to § 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas in the State of Oklahoma pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA) all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Delhi states that it is proposing herein to increase the rate it charges for transportation services conducted pursuant to section 311(a) of the NGPA from the currently effective rate of 29.5 cents per million Btu to 39.07 cents per million Btu. Delhi says the rate of 29.5 cents per million Btu has been in effect since July 1, 1980, and has previously been approved by the Commission.

Delhi submits that the proposed rate of 39.07 cents per million Btu is fair and equitable and that such rate is the same rate currently being charged Oklahoma Natural Gas, the principal intrastate customer of Delhi. Delhi states that the proposed rate increase is necessitated by the increased costs experienced by it, the current economic conditions affecting the financial markets and the current level of rates charged Oklahoma intrastate customers.

Delhi states, that it is presently transporting gas through its Western Oklahoma System on behalf of Transwestern Pipeline Company, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Columbia Gas Transmission Corporation pursuant to Section 311(a) of the NGPA. Additionally, Delhi says that it is transporting gas through its Kinta System on behalf of Northern Natural Gas Company, a Division of InterNorth, Inc., which transportation is also pursuant to section 311(a) of the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 22, 1981, 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 a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16773 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-470-000]

Delmarva Power & Light Co.; Notice of Filing

May 29, 1981.

The filing company submits the following.

Take notice that Delmarva Power & Light Company on May 18, 1981, tendered for filing a Supplement to its Border Line Interchange Agreement with Philadelphia Electric Company, designated FPC Electric Rate Schedule No. 2 of Delmarva and FPC Electric Rate Schedule No. 7 of PE, reflecting proposed increased rates and charges. The proposed changes would increase revenues under the Border Line Agreement by $2,082, based upon estimated sales for the twelve-month period ending August 1982.

The company states the foregoing tariff changes are being filed so that it can achieve revenues adequate to cover its costs of providing service.

Copies of the filing were served upon the Delaware Public Service Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the Pennsylvania Public Utilities Commission.

Any person desiring to be heard or to protest said application 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 §§ 1.8, 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 15, 1981. 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16754 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-469-000]

Delmarva Power & Light Co.; Notice of Filing

May 29, 1981.

The filing company submits the following.

Take notice that Delmarva Power & Light Company on May 18, 1981, tendered for filing a Supplement to its Border Line Interchange Agreement with Conowingo Power Company, designated FPC Electric Rate Schedule No. 8 of Delmarva and FPC Electric Rate Schedule No. 3 of CP, reflecting proposed increased rates and charges. The proposed changes would increase revenues under the Border Line Agreement by $383, based upon estimated sales for the twelve-month period ending August 1982.

The company states the foregoing tariff changes are being filed so that it can achieve revenues adequate to cover its costs of providing service.

Copies of the filing were served upon the Delaware Public Service Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the

Pennsylvania Public Utilities Commission.

Any person desiring to be heard or to protest said application 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 §§ 1.8, 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 15, 1981. 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16755 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-59-001]

The Detroit Edison Co.; Notice of Supplemental Application

June 1, 1981.

Take notice that on May 20, 1981, The Detroit Edison Company, a corporation organized under the laws of the states of Michigan and New York, with principal business offices in Detroit, Michigan, filed a Supplemental Application pursuant to Section 204 of the Federal Power Act, seeking authorization to increase the amount of short-term debt securities outstanding from $800 million to $1 billion, with no change in the issuance or maturity dates.

Any person desiring to be heard or to make any protest with reference to said Supplemental Application should, on or before June 19, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Supplemental Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16756 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-466-000]

Duquesne Light Co.; Notice of Filing

May 29, 1981.

The filing Company submits the following:

Take notice that Duquesne Light Company (Duquesne) on May 15, 1981, tendered for filing Modification No. 1 to Duquesne Light Company Rate Schedule FERC No. 16, a Temporary Transmission Agreement Between Duquesne Light Company and St. Joe Resources Company (St. Joe). Modification No. 1 is effective April 28, 1981.

Duquesne states that Modification No. 1 provides for an increase in the temporary transmission service from a maximum of 17 megawatts to a maximum of 27 megawatts. The charge by Duquesne for the temporary transmission service has not been changed.

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 and 1.10). All such petitions or protests should be filed on or before June 15, 1981. 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. 81-16758 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-298]

El Paso Electric Co.; Notice of Filing of Refund Compliance Report

June 1, 1981.

The Filing Company submits the following:

On April 6, 1981, the El Paso Electric Company (El Paso) filed a refund Compliance Report in accordance with the Commission's direction. El Paso states that a review of specific interest calculations uncovered an error. The amount of refund should be $164,306.56 rather that the $170,370.38 cost stated in the original Compliance filing.

El Paso further states that it has received $6,063.56 from the Southern California Company as reimbursement of this overpayment.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with this 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 and 1.10), on or before June 19, 1981. 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. 81-16759 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1958-000]

Frederic E. Greenman; Notice of Application

May 29, 1981.

The filing individual submits the following:

Take notice that the following application was filed by Frederic E. Greenman on May 18, 1981, pursuant to Section 305(b) of the Federal Power Act, for authority to hold the position of officer or director of more than one public utility, viz:

Title and Company

Vice President—New England Power Company.

Clerk—Yankee Atomic Electric Company.

Any person desiring to be heard or to protest said application 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 §§ 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 15, 1981. 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16760 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-465-000]

Illinois Power Co.; Notice of Proposed Tariff Change

May 29, 1981.

The filing Company submits the following:

Take notice that Illinois Power Company ("the Company") on May 15, 1981 tendered for filing proposed changes in the following rate schedules:

Rate Schedule FERC No. 79, applicable to the City of Princeton
Rate Schedule FERC No. 80, applicable to the City of Waterloo
Rate Schedule FERC No. 81, applicable to the City of Peru
Rate Schedule FERC No. 82, applicable to the City of Mascoutah
Rate Schedule FERC No. 83, applicable to the Village of Freeburg
Rate Schedule FERC No. 84, applicable to the Cities of Breese and Carlyle
Rate Schedule FERC No. 85, applicable to the City of Highland

The proposed changes would increase revenues from jurisdictional sales and service by approximately $1,100,000 based on the twelve month period ending July 31, 1982.

The Company states that with the present rates it would earn a rate of return of only 6.8 percent on electric sales to these customers during the twelve months ending July 31, 1982. Continuing increases in cost of capital, labor, materials and supplies are expected to further reduce the Company's earnings. The Company states that the electric rate changes made by this filing are necessary to more fully provide compensation for these increasing costs. The Company proposes the increased rates become effective on June 15, 1981 as agreed to by the Company and each of its seven Partial Requirements customers.

Copies of this filing were served upon the Company's electric partial requirements customers and the Illinois Commerce Commission, Springfield, Illinois.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 15, 1981. 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. 81-16774 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-471-000]

Indiana & Michigan Electric Co.; Notice of Filing

May 29, 1981.

The filing company submits the following.

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Indiana & Michigan Electric Company (I&M) tendered for filing on or before May 18, 1981, Modification No. 4 and Modification No. 5 to the Federal Energy Regulatory Commission I&M's Rate Schedule No. 70 which represents the Agreement with Richmond Power & Light Company (RP&L). These proposed Modifications are stated to be a filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

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 §§ 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 15, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken. 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. 81-16761 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1961-000]

Donald R. Koessel; Notice of Application

May 29, 1981.

The filing individual submits the following:

Take notice that on May 18, 1981, Donald R. Koessel filed an application pursuant to Section 305(b) of the Federal Power Act and the Commission's order issued March 27, 1981 in Docket No. EL81-5-000 to hold the following positions:

Director—Otter Tail Power Company
Executive Vice President and Chairman of Trust Committee—First National Bank of Minneapolis

Any person desiring to be heard or to protest said aplication should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before June 15, 1981. Protest 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16737 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-333-000]

Louisiana Intrastate Gas Corp.; Notice of Application

June 2, 1981.

Take notice that on May 11, 1981, Louisiana Intrastate Gas Corporation (Applicant), P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. CP81-333-000 an application pursuant to § 284.127 of the Commission's Regulations for authorization to transport natural gas on a long-term basis for Texas Gas Transmission corporation (Texas Gas) and for approval of the rate for such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an agreement between Applicant and Texas Gas, dated January 29, 1981, Applicant proposes to transport natural gas from various points of delivery in East Baton Rouge, West Baton Rouge, and Pointe Coupee Parishes, Louisiana, and to redeliver equivalent volumes, less Texas GAS' *pro rata* share of compressor fuel, company use and unaccounted for gas, at points in Iberville and Lafayette Parishes, Louisiana. Further, it is indicated, that pursuant to an amendment to the agreement, additional transportation service would be performed in East Baton Rouge and Pointe Coupee Parishes, Louisiana. Applicant states that the proposed service is for a term of 15 years and as long thereafter as the operation of the

Tuscaloosa Pipeline is economically justified. Applicant asserts that the estimated total volume of gas to be transported under the agreement is the total volumes of committed gas purchased by Texas Gas during the term of the agreement and that although committed gas includes gas for which the first sale prices are currently regulated under the Natural Gas Policy Act of 1978 (NGPA) (provided the same is committed under a gas purchase contract under which "deep, high cost gas" as defined in Section 107 of the NGPA is also dedicated), at present all gas to be transported is deep, high cost gas.

Applicant proposes to charge Texas Gas a fee of 20.0 cents per million Btu for each million Btu redelivered at the points of redelivery has specified in the transportation agreement. The additional service described in the amendment to the agreement would be performed for no additional fee. Further, it is stated that Applicant has the right to increase its rates so as to be reimbursed for any increased severance tax and to file with any entity or entities having jurisdiction over its rates to receive a higher rate.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 22, 1981, 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 a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing there in must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16775 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-332-000]

Louisiana Resources Co.; Notice of Application

June 2, 1981

Take notice that on May 11, 1981, Louisiana Resources Company (Applicant), P.O. Box 3102, Tulsa, Oklahoma 74101, filed in Docket No. CP81-332-000 an application pursuant to § 284.127 of the Commission's Regulations for authorization to transport natural gas on a long-term basis for Texas Gas Transmission Corporation (Texas Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport gas for Texas Gas for a term of 15 years from the date of initial delivery at Point J in Iberville Parish, Louisiana. Applicant would redeliver such gas at a point of interconnection with Texas Gas in Cameron Parish, Louisiana. The application indicates that the maximum daily quantity to be transported is 125 billion Btu, with an estimated total quantity of 423,190 billion Btu.

Applicant asserts that because of the operational benefits accruing to it by reasons of the transportation service proposed, the rate or charge for such service would be 0.0 cent per million Btu.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 22, 1981, 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 person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16776 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-5]

Minnesota Power & Light Co.; Notice of Filing

June 1, 1981.

Take notice that on May 8, 1981, the Minnesota Power & Light Company (MP&L) filed with the Commission a compliance filing to FERC Opinion Number 112 and 112A.

Any person desiring to be heard or to protest said compliance 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 §§ 1.8 and 1.18, 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 22, 1981. 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. 81-16777 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-329-000]

Mississippi River Transmission Corp.; Notice of Application

June 2, 1981.

Take notice that on May 11, 1981, Mississippi River Transmission Corporation (Mississippi River), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP81-329-000 an application pursuant to section 7 of the Natural Gas Act and § 157.7(e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon during the 12-month period commencing June 7, 1981, direct sale service and facilities no longer required for deliveries of natural gas to Mississippi River's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Mississippi River's ability to act with reasonable dispatch in abandoning service and removing direct sale measuring, regulating and related facilities.[1]

The application indicates that Mississippi River would not abandon any direct service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission from the customer to terminate service could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 22, 1981, 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

[1] Mississippi River states that it would abandon service and facilities only when deliveries to any one direct sale customer would not exceed 100,000 Mcf of natural gas during the last year of service.

of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Mississippi River to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16778 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-309-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Notice of Application

June 2, 1981.

Take notice that on April 29, 1981, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-309-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for resale, from production offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it is purchasing 25 percent of the gas produced in West Cameron Block 222 from Cities Service Company, 100 percent of the gas produced in West Cameron Block 238A from ARCO Oil and Gas Company, Division of Atlantic Richfield Company, and 47.3 percent of the gas produced in Eugene Island Block 384 from Union Texas Petroleum, a Division of Allied Chemical Corporation. In order to provide the necessary transportation of the gas to its primary pipeline system Applicant has entered into transportation agreements with Tennessee and other pipeline companies. In partial consideration of Tennessee's transportation of such gas, delivery of the gas to processing plants, and the reservation for Applicant and Applicant's producer-suppliers of processing rights associated with said gas, Applicant proposes to sell pursuant to an agreement dated November 25, 1980, the following portions of the gas to Tennessee:

Supply source	Minimum percent of annual volume available to Tennessee (November-October)	Daily percentage availability		Effective date of sale	Rate [1]
		Winter season (November-April)	Summer season (May-October)		
West Cameron Block 222	25	20 percent of applicant's purchase	30 percent of applicant's purchase	July 1, 1980	$3.07
West Cameron Block 238A	30	30 percent of applicant's purchase	30 percent of applicant's purchase	July 1, 1980	2.89
Eugene Island	25	25 percent of applicant's purchase	25 percent of applicant's purchase	Feb. 16, 1981	2.51

[1] Applicant proposes to sell gas to Tennessee at rates based upon Applicant's monthly actual cost of service at the point of delivery to Tennessee. The rates set forth herein are the estimated actual costs of service per Mcf for the first year.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 22, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16679 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP76-287-001]

Northern States Power Co. (Minnesota); Notice of Petition To Amend

June 2, 1981.

Take notice that on May 6, 1981, Northern States Power Company (Minnesota) (NSP-Minn), 414 Nicollet Mall, Minneapolis, Minnesota 55401 filed in Docket No. CP76-287-000 a petition to amend the order issued

January 12, 1977 in said docket [1] pursuant to Section 7(c) of the Natural Gas Act so as to authorize it to implement a revised LNG Agreement between it and Northern Natural Gas Company (Northern), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

NSP-Minn states that, in order to supplement its pipeline supplies, it has constructed an LNG peaking facility near St. Paul, Minnesota called the Westcott Plant which consists of liquefaction, storage, and vaporization facilities, which is capable of a liquefaction rate equal to 10,000 Mcf per day, a vaporization rate equal to 138,000 Mcf per day, and a maximum storage volume equal to 2,130,000 Mcf. On January 12, 1977, NSP-Minn was issued a certificate of public convenience and necessity authorizing it to receive, liquefy, store, vaporize, and redeliver natural gas to Northern pursuant to an LNG Agreement dated December 17, 1975. NSP-Minn states that it and Northern have now executed a revised LNG Agreement dated March 11, 1981 with a primary period ending March 26, 1983. The new agreement was necessitated, it is alleged, by significant operating and pricing considerations.

NSP-Minn says that, pursuant to the terms of the new agreement, Northern would deliver to NSP-Minn up to 4,800 Mcf per day of natural gas plus an additional 20 percent of such volumes for use as fuel, and that the maximum annual volume NSP-Minn would be obligated to receive for liquefaction is 1,000,000 Mcf in each summer period. NSP-Minn says that, during the winter period, NSP-Minn, as requested by Northern, would redeliver up to 65,000 Mcf per day. Further, NSP-Minn says that Northern would deliver to it fuel volumes equal to 2.5 percent of the volumes vaporized for redelivery each day redelivery occurs. Northern's LNG volume in storage at the end of each month, according to NSP-Minn, would be adjusted to reflect boil-off losses. NSP-Minn says that, on a best efforts basis and by mutual agreement, Northern may deliver volumes for liquefaction and storage and NSP-Minn may vaporize volumes for redelivery at times outside the respective liquefaction or vaporization periods or in amounts additional to NSP-Minn's vaporization periods or in amounts additional to NSP-Minn's contractual obligations.

[1] This proceeding was commenced before the Federal Power Commission. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

According to NSP-Minn, the new agreement revised the prior agreement by:

(1) Reducing the demand charge from $1.65 per Mcf to $1.47 per Mcf.

(2) Increasing the service charge from 62.0 cents per Mcf to 90.0 cents per Mcf.

(3) Increasing the charge for additional annual volumes from $1.00 per Mcf to $1.25 per Mcf.

(4) Increasing the volumes Northern is required to deliver for fuel from 16 percent to 20 percent.

(5) Reducing Northern's maximum daily vaporization entitlement from 73,000 Mcf per day to 65,000 Mcf per day.

(6) Requiring Northern to deliver vaporization fuel equal to 2.5 percent of vaporized redelivered volumes.

(7) Athorizing NSP-Minn to adjust Northern's LNG inventory to reflect winter boil-off losses.

(8) Authorizing NSP-Minn to reduce Northern's daily redelivery entitlement for the 1981–82 heating season and to reduce Northern's annual liquefaction entitlement for the 1982–83 heating season under certain conditions.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 22, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16780 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF81-17-000]

Norton Co.; Notice of Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 2, 1981.

On April 21, 1981, Norton Company of Worcester, Massachusetts completed a filing with the Federal Energy Regulatory Commission (Commission) of an application to be certified as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility is an existing oil- and gas-fired steam topping cycle cogeneration facility. The facility has an installed capacity of 6 megawatts and supplies 24,000,000 kwh per year, about one-third of the Norton Company's plant needs. Thermal output in the cogeneration process is more than 5 percent of the total energy output of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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. 81-16781 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-463-000]

Ohio Power Co.; Notice of Filing

May 29, 1981.

The filing Company submits the following:

Take notice that Ohio Power Company, on May 13, 1981, tendered for filing proposed changes in its FERC Electric Service Rate Schedule No. 18, applicable to service to Wheeling Electric Company. The proposed changes would increase revenues from jurisdictional sales and service by $9,122,000 based on the 12-month period ending December 31, 1981. Ohio Power Company proposed that the rates and charges and terms and conditions of service revised by this filing become effective July 15, 1981.

Copies of the filing were served upon Wheeling Electric Company and the Public Service Commission of West Virginia, Capitol Building, Charleston, West Virginia.

Any person desiring to be heard or to protest said application 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 §§ 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 15, 1981. 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16762 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-462-000]

Ohio Power Co.; Notice of Filing

May 29, 1981.

The filing Company submits the following:

Take notice that Ohio Power Company, on May 15, 1981, tendered for filing proposed changes in its FERC Electric Tariff MRS For Municipal Resale Electric Service, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $1,481,000 based on the 12-month period ending December 31, 1981. Ohio Power Company proposed that the rates and charges and terms and conditions of service revised by this filing become effective July 15, 1981.

Copies of the filing were served upon the affected municipal customers and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 15, 1981. 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16763 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-472-000]

Ohio Power Co.; Notice of Filing

May 29, 1981.

The filing company submits the following.

Take notice that American Electric Power Service Corporation (AEP) on May 18, 1981, tendered for filing on behalf of its affiliate Ohio Power Company (OPCo.) Supplement No. 6 dated April 9, 1981, to the Agreement dated April 1, 1974, between American Municipal Power-Ohio, Inc. (AMP-Ohio) and Ohio Power Company, OPCo.'s Rate Schedule FERC No. 74.

Sections 1 and 2 of Supplment No. 6 provide for an increase in the demand charge for Short Term and Limited Term Power from $0.85 to $1.05 per kilowatt per week and $4.50 to $5.50 per kilowatt per month respectively. Both schedules proposed to become effective February 23, 1981.

Applicant states that since the use of Short Term Power and Limited term Power connot be accurately estimated, for the twelve-month period succeding the date of filing, it is impossible to estimate the increase in revenues resulting from its Supplement for such period. Applicant's Appendix V which is included with the filing of this Supplement, demonstrate that the increase in revenues which would have resulted had the Supplement been in effect during the twelve-month period ending December 1980 would have been $7,000.01 (i.e., from $59,402.70 to $66,402.71) for Short Term Power and $81,000.00 (i.e., from $695,989.50 to $775,989.50) for Limited Term Power.

Copies of the filing were served upon AMP-Ohio, the Orrville Municipal Utilities and Public Utilities Commission of Ohio.

Any person desiring to be herd or to protest said application 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 §§ 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 15, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16782 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-49-000]

Pacific Power & Light Co.; Notice of Application

June 1, 1981.

Take notice that on May 18, 1981, Pacific Power & Light Company (Applicant) a Maine corporation, qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana, and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to engage in negotiations for the placement of no more than $300 million of Pollution Control Revenue Bonds.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16764 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-468-000]

Southern Company Services, Inc.; Notice of Filing

May 29, 1981.

The filing company submits the following:

Take notice that Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company, on May 18, 1981, tendered for filing Amendment No. 1 to the Transmission Facility Charge Allocation Agreement between those companies. The Amendment provides for the inclusion of certain additional transmission facilities within the Agreement where the facilities, owned by one of the parties to the Agreement, are to be used principally for the benefit

of another party to the Agreement. Rates for such compensation are not revised by this filing, only the facilities to which such rates are applicable.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 15, 1981. 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. 81-16765 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-153]

Texas Gas Transmission Corp.; Notice of Petition To Vacate

June 2, 1981.

Take notice that on May 11, 1981, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky, filed in Docket No. CP79-153 a petition pursuant to Section 7 of the Natural Gas Act to vacate in part an Order Amending Order Permitting and Approving Abandonment, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is indicated that on January 22, 1979, Texas Gas filed in Docket No. CP79-153 an application for authority to abandon direct industrial service to Mississippi Power and Light Company (MP&L) and to abandon certain related facilities which consisted of two 10-inch meter runs. The request for abandonment, according to Texas Gas, was a result of the expiration on October 6, 1978, of its authorization to sell natural gas to MP&L. Texas Gas says that, pursuant to a letter agreement dated August 1, 1978, both parties agreed to terminate the sales contract, and that on April 17, 1979, the Commission granted an order permitting the requested abandonment authorization. Subsequently, according to Texas Gas, on May 30, 1980, it filed a motion to vacate the April 17 order as it related to the facilities authorized to be abandoned. This motion, it is stated, was filed at the request of both MP&L and Michigan Consolidated Gas Company (Mich-Con) who had entered into certain agreements involving the sale of gas to MP&L under the provisions of Order No. 30. In order to perform the services described under these agreements, it is stated, Mich-Con approached Texas Gas concerning the delivery of gas to MP&L utilizing the two sales meter runs owned by Texas Gas.

On August 7, 1980, the Commission issued an Order Amending Order Permitting and Approving Abandonment in the instant docket. This order amended the April 17, 1980 order so as to vacate abandonment authorization for the two sales meter runs exclusively. Such order specifically restricted the use of these two meter runs for the purpose of facilitating the transporation of gas by Mich-Con to MP&L under Order No. 30 unless requisite authorization for other uses was received before the expiration of Order No. 30 which date is May 31, 1981.

According to Texas Gas, by this petition, it requests the Commission to vacate that part of the August 7, 1980 order which restricts the use of the two 10-inch meter runs for the purpose of effectuating the order No. 30 transaction described above. As more fully set forth in the original abandonment application, Texas Gas says, the two meter runs in question are located adjacent to a third meter run presently utilized to serve Mississippi Valley Gas Company (MVG). Texas Gas says it now wishes to retain the two meter runs in place in order to provide increased operating flexibility for deliveries to MVG. Texas Gas states that the manifolding of the one Mississippi Valley meter run and the two MP&L meter runs is such that no alteration or additional cost is required to provide the expanded flexbility to the Mississippi Valley Meter Station. This added operating flexbility, it says, will benefit both Mississippi Valley and Texas Gas by providing greater distribution of the gas delivered to Mississippi Valley without exceeding its present contract demand as filed in its FERC Gas Tariff, Third Revised Volume No. One.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 22, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16783 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER81-144-000 and ER81-144-001]

Upper Peninsula Power Co.; Order Accepting for Filing and Suspending Rates, Granting Waiver, Consolidating Proceedings, and Establishing Procedures

Issued: May 29, 1981.

On November 26, 1980, in Docket No. ER81-144-000, Upper Peninsula Power Company (UPPCO) tendered for filing rates applicable to its seven firm power wholesale customers. In addition, the Company proposed a service curtailment plan. A public hearing has been ordered in Docket No. ER81-144-000.[1]

Subsequently, on April 8, 1981, UPPCO tendered for filing in Docket No. ER81-144-001, revisions to its filed cost of service study, together with corresponding revised firm power rates.[2] UPPCO states that the instant submittal corrects errors which the company has identified in its cost of service study relating to the computation of Operation and Maintenance (O&M) expenses and income tax. The revisions reduce the proposed revenue increase from $654,021 (16.28%) to $473,575 (11.97%) for the test year. This reduction is reflected in the revised rates.

UPPCO requests that the revised rates become effective on June 30, 1981, the effective date previously designated for the originally filed rates. In addition, UPPCO seeks waiver of § 35.17(b) of the regulations, which prohibits the filing of changes to rates that are subject to suspension, absent express Commission permission. In support of its request for waiver, UPPCO states that the rates, as

[1] By order issued January 23, 1981, the firm power service rates were suspended for five months to become effective on June 30, 1981, subject to refund. The Commission suspended the service curtailment plan for one day to become effective on February 1, 1981, subject to the outcome of a hearing. The instant submittal makes no change in the curtailment plan.

[2] *See* Attachment A for rate schedule designations and customer identification.

revised, will result in lower charges to its wholesale customers than those originally proposed. Also, UPPCO asserts that the revised rates will reduce any refund obligation that may result from the proceeding instituted in Docket No. ER81-144-000.

Public notice of the filing was issued on May 4, 1981, with comments, protests, or petitions to intervene due on or before May 19, 1981. No responses were filed.

Discussion

The revisions made by UPPCO to its cost of service study appear to represent only the correction of a computational error in summing the various allocated O&M expenses for the wholesale customers, which resulted in an overstatement of the total allocated O&M expense. The income tax revisions appear to reflect only the increased taxable income resulting from the lower O&M expense deduction.

Because the instant submittal reduces the test year revenue increase by approximately $180,446 and seeks to eliminate computational mistakes, we find that good cause exists to permit UPPCO to substitute the revised cost of service and rates for those originally filed. However, even in light of these corrections, our analysis indicates that UPPCO's revised rates have not been shown to be just and reasonable and that they may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing, and suspend them as ordered below.

In a number of suspension orders,[3] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances are presented here. As discussed above, the revised rates reflect UPPCO's correction of a computational error, and result in lower charges to the wholesale customers than those under the originally filed rates. Furthermore, we note that no protests or objections to the filing have been received. Accordingly, we shall suspend the revised rate schedules to become effective June 30, 1981, subject to refund.

The originally filed rates were set for investigation in Docket No. ER81-144-000. Because common questions of law and fact are presented, we shall consolidate the instant docket with the ongoing proceeding. Additionally, we note that in our order of January 23, 1981, in Docket No. ER81-144-000, the Commission summarily rejected UPPCO's inclusion of Accumulated Deferred Investment Tax Credits (ADITC) as a separate component of its capitalization. The previous summary disposition of ADITC is applicable to the revised rates as well.

The Commission orders:

(A) Waiver of the requirements of section 35.17(b) of the regulations prohibiting changes in suspended rate schedules is hereby granted.

(B) UPPCO's submittal is hereby accepted for filing, and the revised rates are substituted for the originally filed rates and are suspended to become effective June 30, 1981, subject to refund.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [(18 CFR Chapter I (1980))], a public hearing shall be held concerning the justness and reasonableness of UPPCO's rates.

(D) Docket No. ER81-144-001 is hereby consolidated with the proceedings in Docket No. ER81-144-000, for purposes of hearing and decision.

(E) The administrative law judge designated to preside in Docket No. ER81-144-000 shall determine the appropriate procedures necessary to accommodate consolidation of Docket No. ER81-144-001 with the pending proceeding.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[Docket No. ER81-144-001]

Attachment—Upper Peninsula Power Company

Filed: April 8, 1981
Dated: Undated
Description: Rate WR-1—
Sheet 1 as corrected 3/31/81

Designation	Other party
Supplement No. 1 to Supplement No. 16 to Rate Schedule FPC No. 2.	Wisconsin Electric Power Company.
Supplement No. 1 to Supplement No. 17 to Rate Schedule FPC No. 3.	Wisconsin Electric Power Company.
Supplement No. 1 to Supplement No. 16 to Rate Schedule FPC No. 6.	Village of Baraga.
Supplement No. 1 to Supplement No. 16 to Rate Schedule FPC No. 7.	Village of L'Anse.
Supplement No. 1 to Supplement No. 14 to Rate Schedule FPC No. 11.	City of Negaunee.
Supplement No. 1 to Supplement No. 16 to Rate Schedule FPC No. 14.	Alger-Delta Cooperative. Electric Association.
Supplement No. to Supplement No. 16 to Rate Schedule FPC No. 15.	Ontonagon County REA.
Supplement No. to Supplement No. 3 to Rate Schedule FPC No. 23.	City of Gladstone.

[FR Doc. 81-16794 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-121]

Utah Power & Light Co.; Notice of Filing

June 1, 1981.

Take notice that on May 20, 1981, the Utah Power & Light Company (UP&L) filed with the Commission a compliance filing to FERC Opinion No. 113.

Any person desiring to be heard or to protest said compliance 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 1.18 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 22, 1981. 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. 81-16796 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

[3] *E.g., Boston Edison Co.*, Docket No. ER80-506 (August 29, 1980) (five-month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one-day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one-day suspension).

[Docket Nos. CP80-581 and CP81-308-000]

Pataya Storage Co. and El Paso Natural Gas Co.; Notice of Informal Technical Conference

June 2, 1981.

Take notice that on June 9, 1981 through June 11, 1981, an informal technical conference will be held at the offices of Pataya Storage Company, 5241 Spring Mountain Rd., Las Vegas, Nevada 89114.

The purpose of the conference is to enable Staff to acquire additional information from Pataya Storage Company (Pataya) and El Paso Natural Gas Company (El Paso) regarding Pataya's proposal in Docket No. CP80-581 to solution-mine two underground cavities in a salt formation located in Mohave County, Arizona. Pataya plans to construct brine-settling and evaporation ponds to hold the brine removed from the caverns. The brine-settling ponds will cover an area in excess of a square mile.

Pataya additionally plans to construct 30 miles of 16-inch pipeline to interconnect with El Paso's main transmission line in Mohave County, Arizona. El Paso's application requests authorization to transport natural gas on behalf of Southwest Gas Corporation to be delivered to Pataya at a proposed interconnection.

For further information, contact Donald K. Hart, Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, Tel. (202) 357-8841.

The informal conference is open to the public; however, attendance or participation at the conference will not serve to make attendees parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the applicant's filing are on file with the Federal Energy Regulatory Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-16767 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-85-M

Southeastern Power Administration

Proposed Rate Extensions and Rate Adjustment, Public Hearing, and Opportunities for Public Review and Comment

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice of proposed rate extensions and rate adjustment for Kerr-Philpott System, notice of public hearing and opportunity for review and comment.

SUMMARY: Southeastern proposes to extend the currently approved rate schedules KP-1-B and KP-2-B for Kerr-Philpott Projects power for a 12-month period through September 30, 1982. Southeastern also proposes to adjust the JHK-1-B rate schedule to pass through the increased costs of wheeling to the preference customers served through the facilities of the Carolina Power and Light Company (CP&L).

Opportunities will be available for interested persons to review the present rates, the proposed rate, and the supporting studies, to participate in a hearing and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before August 14, 1981. A public information and public comment forum will be held in Raleigh, North Carolina, on July 9, 1981.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public comment forum will begin at 10 a.m. on July 9, 1981, in room 505, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27601.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-3261.

SUPPLEMENTARY INFORMATION: The Federal Power Commission by order issued February 18, 1976, in Docket No. E-7002 confirmed and approved Wholesale Power Rate Schedules KP-1-B, KP-2-B, and JHK-1-B applicable to Kerr-Philpott Projects' power for a period ending June 30, 1980. On April 22, 1980, the Assistant Secretary for Resource Applications confirmed and approved on an interim basis extension of those rates for a 15-month period through September 30, 1981. Southeastern was in the process of developing a new written power marketing policy and requested the extension to allow time to finalize the policy. On January 29, 1981, the Federal Energy Regulatory Commission by order in Docket No. EF80-3041 confirmed and approved the rate schedules on a final basis.

Southeastern is still in the process of finalizing the power marketing policy and is therefore requesting an extension of such rates to allow time to finalize the policy, renegotiate contracts, and permit applicable rates appropriate to such revised policy to be developed, confirmed and approved, and placed in effect.

There is one major change in the data which was used to determine the required revenue level. The wheeling cost to the customers served by the facilities of CP&L increased substantially. Southeastern is proposing to adjust rate schedule JHK-1-B, to simply pass this added cost on to the effected customers.

Discussion

Existing rate schedules are predicted upon a March 1975 repayment study and other supporting data all of which are contained in FPC Docket No. E-7002. Expenses were considerably less during the period 1975-1979 than originally estimated in the 1975 study. Therefore, Southeastern had a very favorable repayment position when the original 15-month extension was requested. The repayment study prepared in April of 1980 showed that existing rates were adequate through fiscal year 1980, and therefore an extension was requested and allowed.

The repayment study prepared in March of 1981 shows that the repayment status is good. Current plans anticipate finalizing the new power marketing policy within the next fiscal year. This policy is expected to materially affect the rates in the future. Therefore, it was decided not to go through the process of preparing detailed cost of service and rate design studies to provide revenues for only a one year period.

Wheeling cost for those customers who are served by the facilities are the only costs that have increased materially above those that were used in the 1975 repayment study and the 1980 repayment study.

In the proposed rate schedule JHK-1-C, an offsetting wheeling charge has been added to the other charges in JHK-1-B. The charge was developed to distribute the increased costs ratably over the 30,000 kw of capacity that is sold to those customers. The monthly rate so computed is $0.56 per kilowatt of contract capacity. Southeastern anticipates that this rate schedule may only be in effect for a one year period. The unaffected rates are a monthly capacity charge of $1.25 per kilowatt of contract demand and energy charge of 5.00 mills per kilowatt-hour. At the time that the new rates are designed to implement the power marketing policy, all costs will be reanalyzed, and appropriate rates will be established.

In developing the extension of rates and the rate adjustment, Southeastern considered revenue requirements as determined by the March 1981 system repayment study. The study is available for examination at the Samuel Elbert Building, Elberton, Georgia 30635, as are the 1975 and 1980 repayment studies and the proposed rate schedules.

Issued in Elberton, Georgia May 28, 1981.

Harry F. Wright,

Administrator.

[FR Doc. 81-16742 Filed 6-4-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-1846-6]

Availability of Environmental Impact Statements

AGENCY: Office of Federal Activities (A-104) Environmental Protection Agency.

PURPOSE: This notice lists the Environmental Impact Statements (EISS) which have been officially filed with the EPA and distributed to federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's regulations (40 CFR 1506.9) during the week of May 26, 1981 to May 29, 1981.

REVIEW PERIODS: The 45-day review period for Draft EISs' listed in this notice is calculated from June 5, 1981 and will end on July 20, 1981. The 30-day review period for Final EISs' as calculated from June 5, 1981 will end on July 6, 1981.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the federal agency which prepared the EIS. If a federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA, for further information. Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Federal Activities, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 245-3006.

Dated: June 2, 1981.

William N. Hedeman, Jr.,

Director, Office of Federal Activities (A-104).

Department of Agriculture

FS: Draft—Mill Creek Wilderness Designation, Jefferson National Forest, Giles County, Virginia (EIS Order No. 810411)

FS: Draft—Mountain Lake Wilderness Study, Jefferson National Forest, Craig and Giles Counties, Virginia and Monroe County, West Virginia (EIS Order No. 810412)

FS: Final—Hells Canyon National Recreation Area Comprehensive Management Plan, Baker and Wallowa Counties, Oregon and Nez Perce, Idaho and Adams Counties, Idaho (EIS Order No. 810418)

Army Corps of Engineers

Draft—Riverport Port Facilities, Permit, Jefferson County, Kentucky (EIS Order No. 810406)

Draft—Haikey-Fry Watershed Local Flood Protection, Tulsa County, Oklahoma (EIS Order No. 810408)

Draft—Baltimore Harbor and Channels Improvement, Maryland and Virginia (EIS Order No. 810424)

Final—Bayou Boeuf Fabrication Yard Expansion, Permit, Assumption Parish, Louisiana (EIS Order No. 810387)

Final—Lucky Peak Hydropower Development, Ada County Idaho (EIS Order No. 810409)

Final—West Carrollton Water Resources Development, Miami River, Little Miami River and Mill Creek Basin, Montgomery County, Ohio (EIS Order No. 810420)

Draft Supplement—Swinomish Channel Maintenance Dredging, Skagit County, Washington (EIS Order No. 810404)

Final Supplement—Lock Haven Local Flood Protection Plan, Clinton County, Pennsylvania (EIS Order No. 810413)

Reestablishment of EIS Availability Date: COE:Final—Cooperative Aquatic Plant Control Program, South Carolina—published FR May 22, 1981—based on the actual availability of this EIS, EPA has reestablished the date filed as May 29, 1981 and the end of the review period as July 6, 1981 (EIS Order No. 810276)

Department of Commerce

NOAA: Draft—Mullica River Estuarine Sanctuary, Grant Award, Atlantic, Burlington Ocean Counties, New Jersey (EIS Order No. 810426)

Department of the Interior

BLM: Draft—Southern Rio Grande Planning Area Grazing Management Program, Dona Ana, Sierra, Luna, Socorra and Otero Counties, New Mexico; the review period for this EIS has been extended until July 24, 1981 (EIS Order No. 810422)

BR: Draft—Grand Coulee Dam Riverbank Stabilization, Douglas County, Washington; the review period for this EIS has been extended until July 28, 1981 (EIS Order No. 810417)

Department of the Navy

Final Supplement—San Diego Naval Regional Medical Center, San Diego County, California (EIS Order No. 810419)

Department of Transportation

FHWA: Draft—US 264 Bypass of Wilson, Wilson to Greenville, Wilson County, North Carolina; the review period for this EIS has been extended until July 24, 1981 (EIS Order No. 810405)

FHWA: Draft—Route 36 Widening and Realignment, Humbolt and Trinity Counties, California; the review period for this EIS has been extended until August 3, 1981 (EIS Order No. 810415)

FHWA: Draft—Springfield Railroad Relocation Demonstration Project, Sangamon County, Illinois (EIS Order No. 810425)

FHWA: Draft—I-110 Completion, US 90 to Charleston Street, Harrison County, Mississippi; the review period for this EIS has been extended until July 31, 1981 (EIS Order No. 810427)

FHWA: Final—M-37/MI-82 Bridge Over C&O Railway and Penoyer Creek, Newaygo County, Michigan (EIS Order No. 810410)

FHWA: Final—FL-525 Construction, I-4 to US 98, Polk County, Florida (EIS Order No. 810423)

Environmental Protection Agency

EPA1: Draft—Falmouth Wastewater Collection and Treatment Facilities, Barnstable County, Massachusetts (EIS Order No. 810414)

EPA4: Draft—Farmland Phosphate Mine, NPDES Permit, Hardee County, Florida; the review period for this EIS has been extended until July 28, 1981 (EIS Order No. 810421)

Extension: EPA2: Draft—Lajas-Boqueron 201 Facilities Plan, Puerto Rico—published FR May 29, 1981—the review period for this EIS has been extended until July 23, 1981 (EIS Order No. 819394)

Department of Housing and Urban Development

Draft—Highlands Ranch Housing Development, Mortgage Insurance, Douglas County, Colorado (EIS Order No. 810416)

104H: Final—East Hendersonville Revitalization Project, CDBG, Henderson County, North Carolina; Federal action cannot be taken in regards to this project until completion of the minimum 90 day period (July 9, 1981) (EIS Order No. 810407)

[FR Doc. 81-16614 Filed 6-4-81; 8:45 am]

BILLING CODE 6560-37-M

[ER-FRL-1846-5]

Intent To Prepare an Environmental Impact Statement

AGENCY: Environmental Impact Statement Branch, Surveillance and Analysis Division, Environmental Protection Agency, Region IV.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (EIS).

PURPOSE: In accordance with section 102(2)(C) of the National Environmental Policy Act, the EPA has identified a need to prepare an EIS and therefore publishes this Notice of Intent to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT:
Ms. A. Jean Tolman, Project Officer, Environmental Impact Statement Branch, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone: (Commercial) 404/881-7458, (FTS) 8/257-7458.

SUMMARY:

Description of Proposed Action

The EPA, Region IV will prepare an EIS on the proposed C.F. Industries, Inc. (CFI) South Pasture Phosphate Mine in Hardee County, Florida. CFI proposes to construct and operate an open pit phosphate mining and beneficiation facility projected to produce 2 million tons per year of phosphate rock for the first 4 years and 4 million tons per year for the remaining 18 years of the 22-year life of the mine. The proposed project will be located on a 15,000 acre site lying east of Horse Creek in the northwest portion of Hardee County. The proposed facility has been declared a New Source as defined in Section 306 of the Clean Water Act. Operation of the facility would require a National Pollutant Discharge Elimination System (NPDES) permit. A permit from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act also may be required. EPA has accepted lead agency responsibility for the development of the EIS.

Description of Alternatives

The major alternatives to be addressed include: location of the beneficiation facility; routing, treatment and disposal of waste and wastewater streams; mining and reclamation techniques; air and water pollution controls; and "no action." The "no action" alternative is defined as non-issuance of the NPDES permit.

Public Participation

Participation by Federal, State and local agencies as well as by interested private organizations and citizens is invited.

Significant issues to be addressed in the EIS include possible impacts from radiation, impacts to surface water and groundwater quality, wetlands preservation and restoration, and socioeconomics.

A public scoping meeting will be held at 7:30 p.m. on July 13, 1981, in the Hardee County Agricultural and Civic Center, located at Altman Road and Stenstrom Road in Wauchula, Florida. The purpose of the meeting is to develop and provide comments on the scope of issues that should be addressed in the EIS.

The Draft EIS is tentatively scheduled for issuance by December of 1982.

All interested parties are encouraged to submit their names and addresses to the person above for inclusion on the mailing list for the Draft EIS and other related notices.

Dated: June 2, 1981.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

[FR Doc. 81-16815 Filed 6-4-81; 8:45 am]

BILLING CODE 6560-37-M

[A-1-FRL 1845-6]

Prevention of Significant Deterioration of Air Quality (PSD); Determination of Exemption; Medical Area Total Energy Plant, Boston, Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination of exemption.

SUMMARY: The purpose of this notice is to announce that on May 27, 1981, the EPA Region I Office issued a final determination that the Medical Area Total Energy Plant (the Facility) located at Brookline Avenue and Francis Street, Boston, Massachusetts is exempt from EPA's PSD review requirements (40 CFR 52.21(j)-(r)). The Facility is owned by the Medical Area Total Energy Plant, Inc. (MATEP), which is a wholly-owned subsidiary of the President and Fellows of Harvard University (Harvard). The determination was issued because the institutional arrangement involving Harvard, certain hospitals affiliated with Harvard's Medical School, MATEP, and the Facility is such as to render the Facility a "nonprofit health or education" institution pursuant to Section 169(1) of the Clean Air Act, 42 U.S.C. 7479(1), and 40 CFR 52.21(i)(4)(vi). Accordingly the installation and operation of six diesel engines at the Facility will not be subject to these PSD review requirements.

DATES: The determination was effective on May 27, 1981.

FOR FURTHER INFORMATION CONTACT:
Mr. Harley F. Laing, Chief, Air Branch, U.S. Environmental Protection Agency Region I, J. F. Kennedy Federal Building—Room 1903, Boston, Massachusetts 02203, (617/223-4450).

SUPPLEMENTARY INFORMATION: This final determination of exemption was made response to a request, dated March 2, 1981, by the Honorable Edward J. King, Governor of the Commonwealth of Massachusetts.

Copies of this Final Determination and all information used in making the determination are available for public inspection at the U.S. Environmental Protection Agency Region I, Library, John F. Kennedy Federal Building—Room 2100B, Boston, Massachusetts 02203. Copies of the determination are also available for public inspection at Massachusetts Department of Environmental Quality Engineering, Air and Hazardous Materials Division, One Winter Street, 8th Floor, Boston, Massachusetts 02108; Brookline Main Library, 361 Washington Street, Brookline, Massachusetts 02146; and Betty Powers Library, Mission Park, 25 Mission Park Drive, Boston, Massachusetts 02115.

The determinations a final action under the Clean Air Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the First Circuit by August 4, 1981. Under section 307(b)(2) of the Clean Air Act, this final determination shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Leslie Carothers,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region I.

May 27, 1981.

[FR Doc. 81-16715 Filed 6-4-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 81-236; Transmittal Nos. 13633, 13686]

American Telephone & Telegraph Co., Revisions to Tariff F.C.C. No. 260, Series 7000, Type 7008 (Satellite Television Service); Memorandum Opinion and Order

Adopted: May 21, 1981.

Released: May 28, 1981.

By the Acting Chief, Common Carrier Bureau.

1. Before the Bureau is a petition of Midwestern Relay Company (MRC) to reject tariff revisions filed under Transmittal No. 13686 by the American Telephone and Telegraph Company (AT&T). These revisions would advance the effective date of tariff material covering interconnection by other common carriers (OCC) with Type 7008 channels. The interconnection provisions thus relate to AT&T's recent proposal to offer Satellite Television Service, which the Commission suspended for five months and set for investigation. *See Memorandum Opinion and Order* FCC 81-165 (released April 22, 1981) (*Order*).

2. In the *Order*, at paras. 14–15, the Commission discussed the procedural complexity surrounding AT&T's tariff filings on Satellite Television Service and the need for Commission action prior to receipt of petitions against the latest revisions. To ensure that all arguments would be considered, the Commission directed the Bureau to enter a subsequent order including in the investigation any substantial questions of lawfulness raised by MRC or other interested persons in pleadings unavailable during preparation of the *Order*. For reasons explained below, we add one issue to the investigation, and otherwise deny MRC's petition.

3. MRC argues that, as proposed, Satellite Television Service would bar direct downlink connection of the facilities of other common carriers with those of AT&T.[1] MRC interprets the interconnection provisions as requiring a Service Terminating Arrangement between AT&T's satellite and non-AT&T receive-only earth stations. Such a configuration, according to MRC, is wholly unjustified, and, moreover, is technically impossible, since the two facilities cannot be physically connected.

4. AT&T for its part, denies that its tariff would bar interconnection with other common carriers, and states that it has already provided the technical information necessary for such interconnection. As for the tariff references to Service Terminating Arrangement, AT&T explains that they are applicable only in the case of terrestial interconnection, and therefore are not relevant to the receipt of a satellite signal by an earth station.

5. Despite AT&T's protestations, we find that sufficient confusion exists to include this matter in our investigation of Satellite Televisions Service. Indeed, AT&T's assurance that Service Terminating Arrangements are not required for a receive-only earth station seems to conflict with language in its proposed tariff:

> Television channels furnished by an Other Common Carrier may be connected with Type 7008 inter-exchange channels for television transmission provided that:
> —Connection at the studio or station of the customer or user or at the premises of the Other Common Carrier is made through a Service Terminating Arrangement provided by the telephone company.

Tariff F.C.C. 260, proposed 14th revised page 122.2, para. 3.2.7.

6. If in fact Service Terminating Arrangements are not required for receive-only earth stations, the foregoing language may be contrary to the requirement of § 61.55(f) of the Commission's Rules, 47 CFR 61.57(f), that tariff language be clear and unambiguous. We expect AT&T to provide additional information in the investigation on its plans for dealing with all aspects of interconnection by OCC's. Other parties in turn will be provided an opportunity to comment on these arrangements.

7. Accordingly, it is ordered, That, pursuant to authority delegated by Section 0.291 of the Commission's Rules and Regulations, 47 CFR 0.291 and by *Memorandum Opinion and Order* in this proceeding (FCC 81–165), Midwest Relay Company's petition to reject Tranmittal No. 13686 is denied.

8. It is further ordered, That the issues of interconnection discussed in paragraphs 3–6 above are added to this investigation.

9. It is further ordered, That the American Telephone and Telegraph Company shall address the added issues in its direct case to be submitted by June 11, 1981, pursuant to *Memorandum Opinion and Order* (FCC 81–165). Other parties may address the issue in their reply cases or comments due 30 days thereafter.

10. It is further ordered, That this action is effective immediately.

11. It is further ordered, That the Secretary shall cause this Memorandum Opinion and Order to be published in the **Federal Register.**

Federal Communications Commission.

Joseph A. Marino,

Acting Chief, Common Carrier Bureau.

[FR Doc. 81-16693 Filed 6-4-81; 8:45 am]

BILLING CODE 6712-01-M

[1] MRC raises several other points which either have already been addressed in the *Order* or are without merit.

Radio Technical Commission for Marine Services (RTCM); Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RMTC) meetings is as follows:

Special committee No. 75, "MPS—Automatic Coordinate Conversion Systems"

Notice of 11th Meeting: Tuesday, June 16, 1981—9:00 a.m., Conference Room 6336, Nassif (DOT) Building, 400 Seventh Street, S.W. at D Street, Washington, DC.

Agenda

1. Call to Order; Chairman's Report.
2. Administration Matters.
3. Review of draft specifications.

Mortimer Rogoff,

Chairman, SC–75, 4201 Cathedral Avenue, N.W., Apartment 1W, Washington, DC 20016, Phone: (202) 362–5462.

Executive Committee Meeting

Notice of April Meeting: Thursday, June 18, 1981—9:30 a.m., Conference Room A–110, 1229 20th Street, N.W., Washington, D.C.

Agenda

1. Administration Matters.
2. Special Committee Reports.
3. Discussion of U.S. Coast Guard Prioritized List of Subjects for Possible Development of Standards.
4. Consideration of International Associates as a special category of RTCM membership.
5. Consideration of Terms of Reference for a new Special Committee to study Universal Marine Telephone Compatibility.

Special Committee No. 78

Notice of 5th Meeting: Tuesday, June 23, 1981—9:30 a.m., Conference Room 6248, Nassif (DOT) Building, 400 Seventh Street, S.W. at D Street, Washington, DC.

Agenda

1. Call to order and administrative matters.
2. Review of Federal Radionavigation Plan.

John C. Fuechsel,

Chairman SC–78, National Ocean Industries Association, 1100 17th Street, N.W., Washington, DC, Phone: (202) 785–5116.

Special Committee No. 74, "Digital Selective Calling"

Notice of 20th Meeting, Tuesday, June 23, 1981—9:00 a.m., Wednesday, June 24, 1981—9:00 a.m., Conference Room 7424, Nassif (DOT) Building, 400 Seventh Street, S.W. (at D Street), Washington, DC.

Agenda

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Safety Working Group and Coast Station Working Group.
4. Future work assignments.

T. de Haas,

Chairman, SC–74, National Telecommunications and Information Administration, 325 Broadway; Building 22, Boulder, CO 80303, Phone: (303) 497–3728.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 81-16691 Filed 6-4-81; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Company; Proposed de Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage to *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifiying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 18, 1981.

A. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261: Dominion Bankshares Corporation, Roanoke, Virginia (insurance activities; Virginia): to engage through its subsidiary, Dominion Bankshares Services, Inc., in acting as insurance agent or broker with respect to credit life insurance, credit accident and health insurance and credit disability insurance and nonconvertible term life insurance related to or arising out of loans or credit transactions involving Dominion Leasing Corporation, a subsidiary of Dominion Bankshares Corporation. These activities would be conducted from an office in Roanoke, Viriginia, serving the State of Virginia.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, June 1, 1981.
D. Michael Manies,
Assistant Secretary of the Board.
[FR Doc. 81-16696 Filed 6-4-81; 8:45 am]
BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[E-81-7]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Illinois Commerce Commission involving the applicability of PURPA to the Iowa-Illinois Gas and Electric Company.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Illinois Commerce Commission involving the applicability of PURPA to the Iowa-Illinois Gas and Electric Company.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall forward to the General Services Administration copies of its testimony and briefs within 60 days of formal submission.

Dated: May 22, 1981.
Ray Kline,
Acting Administrator of General Services.
[FR Doc. 81-16689 Filed 6-4-81; 8:45 am]
BILLING CODE 6820-AM-M

[E-81-8]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the New Jersey Board of Public Utilities involving gas and electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the New Jersey Board of Public Utilities involving the application of the Public Service Electric and Gas Company for an increase in its gas and electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall forward to the General Services Administration copies of its testimony and briefs within 60 days of formal submission.

Dated: May 26, 1981.
Ray Kline,
Acting Administrator of General Services.
[FR Doc. 81-16690 Filed 6-4-81; 8:45 am]
BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81F-0156]

American Cyanamid Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces that the American Cyanamid Co. has filed a petition proposing to amend the food additive regulations to provide for the safe use of sodium acrylate-acrylamide resins to control organic and mineral scale in beet sugar juice and liquor or cane sugar juice and liquor by the polymerization and hydrolysis of acrylamide.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9A3475) has been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that § 173.5 *Acrylate-acrylamide resins* (21 CFR 173.5) be amended to provide for the safe use of sodium acrylate-acrylamide resins to control organic and mineral scale in beet sugar juice and liquor or cane sugar juice and liquor by the polymerization and hydrolysis of acrylamide.

The agency has carefully considered the potential environmental effects of this proposed action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 26, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-16450 Filed 6-4-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81F-0154]

American Cyanamid Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces that the American Cyanamid Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,3,5-Tris(4-*tert*-butyl-3-hydroxy-2,6-dimethylbenzyl)-1,3,5-triazine-2,4,6-(1H,3H,5H)-trione, as an antioxidant in polypropylene and high-density polyethylene, without limitation regarding the condition of use.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B3548) has been filed by the American Cyanamid Co., Wayne, NJ 07470, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of 1,3,5-Tris(4-*tert*-butyl-3-hydroxy-2,6-dimethylbenzyl)-1,3,5-triazine-2,4,6-(1H,3H,5H)-trione (Chemical Abstracts Service Registry No. 40601-75-1), as an antioxidant in polypropylene and high-density polyethylene complying with § 177.1520 *Olefin polymers* (21 CFR 177.1520), without limitation regarding the condition of use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979, 44 FR 71742).

Dated: May 26, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-16451 Filed 6-4-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81F-0158]

Chemidyne Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that the Chemidyne Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of α-hydro-*omega*-hydroxy-poly (oxyethylene)/poly(oxypropylene) (minimum 15 moles)/poly (oxyethylene) block polymer as a foam control and rinse adjuvant in hog dehairing machines.

FOR FURTHER INFORMATION CONTACT: James B. Lamb, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 0A3512) has been filed by the Chemidyne Corp., 8679 Freeway Dr., Macedonia, OH 44056, proposing that the food additive regulations be amended to provide the safe use of α-hydro-*omega*-hydroxy-poly (oxyethylene)/poly(oxypropylene) (minimum 15 moles)/poly (oxyethylene) block polymer as a foam control and rinse adjuvant in hog dehairing machines.

The agency has carefully considered the potential environmental effects of this proposed action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's findings of no significant impact and the evidence supporting that document may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 26, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-16448 Filed 6-4-81; 8:45 am]

BILLING CODE 4110-03-M

[Dcket No. 81M-0136]

Cordis Corp.; Premarket Approval of Cordis Programmable Neural Stimulator Models 900A, B, E, F, X, Y, and Cordis Neural Lead

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Cordis Programmable Neural Stimulator, Models 900A, B, E, F, X, Y, and the Cordis Neural Lead, sponsored by Cordis Corp. Miami, FL. After reviewing the recommendation of the Neurological Device Section of the Respiratory and Nervous System Devises Panel, FDA notified the sponsor that the application

was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by July 6, 1981.

ADDRESS: Request for copies of the summary of the safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On July 7, 1980, Cordis Corp., Miami, FL, submitted to FDA, an application for premarket approval of the Cordis Programmable Neural Stimulator, Models 900A, B, E, F, X, Y, and the Cordis Neural Lead. The application was reviewed by the Neurological Device Section of the Respiratory and Nervous System Devices Panel, an FDA advisory committee, which recommended approval of the application. On April 14, 1981, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval and is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 6, 1981, file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 28, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-16446 Filed 6-4-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81F-0152]

SSC Industries, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that SSC Industries, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of oxidized polyethylene as a component of defoamer formulations employed in the processing of nutrient supplements such as edible protein.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A3315) has been filed by SSC Industries, Inc., P.O. Box 90987, East Point, GA 30344, proposing that Subpart H of Part 172 (21 CFR Part 172) of the food additive regulations be amended by adding a new section to provide for the use of oxidized polyethylene as a component of defoamer formulations employed in the processing of nutrient supplements such as edible protein.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: May 26, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-16449 Filed 6-4-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81P-0171]

Tomato Juice Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a temporary permit has been issued to the Morgan Packing Co., Inc., to market test tomato juice from concentrate. The purpose of this temporary permit is to permit the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than September 3, 1981. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In accordance with § 130.17 (21 CFR 130.17) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of indentity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to the Morgan Packing

Co., Inc., Austin, IN 47102. The permit covers limited interstate marketing tests of tomato juice that deviates from the standard of identity prescribed for tomato juice under § 156.145 (21 CFR 156.145). The product is prepared from tomato paste that complies with the requirements of § 155.191(a)(1) (21 CFR 155.191(a)(1)). The test product is equivalent to a single-strength tomato juice normally found in the marketplace. The finished product contains not less than 5.5 percent tomato soluble solids. The permit provides for the temporary marketing of 200,000 cases of twelve 46-ounce cans and 50,000 cases of forty-eight 5½-ounce cans of the product to be distributed in the States of Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Wisconsin, Wyoming, West Virginia, and in the District of Columbia.

The test product is to be packed at the Morgan Packing Co., Inc., plant located in Austin, IN.

The principal display panel of the label states the product's name as "tomato juice from concentrate". Each of the ingredients used in stated on the lable as required by the applicable sections of 21 CFR Part 101, except that the tomato ingredient complying with the requirements of § 155.191(a)(1) is declared as "tomato concentrate". This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than September 3, 1981. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

Dated: May 28, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-16447 Filed 6-4-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81F-0151]

Toray Industries, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that Toray Industries, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of Nylon 12 and Nylon 12/6 as components of side seam cement formulations.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food Drug, and Cosmetic Act (sec 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B3556) has been filed by the law offices of Weil, Gotshal & Manges, 1101 Connecticut Ave. NW., Washington, DC 20036, on behalf of Toray Industries, Inc., proposing that § 175.300(b)(3)(xxxii) (21 CFR 175.300(b)(3)(xxxii)) of the food additive regulations be amended for the safe use of Nylon 12 and Nylon 12/6 as components of side seam cement formulations.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: May 26, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-16452 Filed 6-4-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81N-0087]

Potassium Iodide as a Thyroid-Blocking Agent in a Radiation Emergency; Draft Recommendations on Use

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of draft recommendations about administering potassium iodide to the general public in a radiation emergency. The draft recommendations prepared by FDS's Bureau of Radiological Health and Bureau of Drugs are being made available for public comment to provide FDA with views to be considered for incorporation into any final recommendations that the agency may develop on this use of potassium iodide.

DATE: Comments by September 3, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. The draft recommendations are on display in the Dockets Management Branch, and copies may be obtained from Bernard Shleien at the address below.

FOR FURTHER INFORMATION CONTACT: Bernard Shleien, Bureau of Radiological Health (HFX-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6220, or Edwin V. Dutra, Jr., Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fisher Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 22, 1980 (45 FR 69904), the Federal emergency Management Agency (FEMA) outlined the responsibilities of several Federal agencies concerning emergency response planning guidance that the agencies should provide to State and local authorities. The October 22, 1980, notice updated a prior notice on the same subject that the General Services Administration (GSA) published in the **Federal Register** of December 24, 1975 (40 FR 59494). (GSA responsibility for emergency management was transferred by Executive Order 12148 to FEMA.)

The Department of Health and Human Services (HHS) responsibilities for emergency-response planning include assisting State and local authorities in developing plans for perventing adverse effects from exposure to radiation in the event that radioactivity is released into the environment. These plans are to include the prophylactic use of drugs that would reduce the radiation dose to specific organs from the sudden release into the environment of large quantities of radioactivity that might include several radioactive isotopes of iodine.

As one step in meeting HHS responsibilities, FDA issued a notice in the **Federal Register** of December 15, 1978 (43 FR 58798), announcing FDA's conclusion that potassium iodide is safe and effective for use as a thyroid-blocking agent in a radiation emergency under certain specified conditions of

use. The notice also announced, however, that potassium iodide has not been used to such an extent or for such a period of time under radiation emergency conditions to permit the conclusion that the drug may be marketed without an approved new drug application; thus, in the interest of the public safety, the notice encouraged interested persons to submit to the agency new drug applications for potassium iodide in oral dosage forms for use as a thyroid-blocking agent. Now, potassium iodide as a thyroid-blocking agent for use in a radiation emergency is available commercially in both a tablet and a solution form (see 45 FR 11912; February 22, 1980).

FDA is now making available draft recommendations on the use of potassium iodide to provide information and guidance to State and local public health agencies and other persons responsible for formulating response plans for use in developing emergency plans and for use in the emergency response to radiation accidents.

The draft recommendations prepared by the agency's Bureau of Radiological Health and Bureau of Drugs discuss projected levels of radiation following a radiation accident that would warrant the use of potassium iodide as a thyroid-blocking agent for the general public. It recommends establishing an integrated system for disseminating information about the proper use of potassium iodide and for reporting suspected or actual occurrences of side effects from the use of the drug. The draft also recommends that authorities make the general public aware of where and how they may contact medical personnel for assistance in a radiation emergency.

One purpose of the draft recommendations is to facilitate a national consensus on the use of potassium iodide during a radiation emergency. They also may serve as provisional guidance to State and local officials and the nuclear industry, should a serious nuclear accident occur. These draft recommendations are not free of controversy. The agency specifically invites comment on the following controversial issues:

(1) Whether the benefits to be derived from protection of the thyroid gland from projected doses of 10–20 rads outweight the potential for side effects from potassium iodide administered at the recommended dose regimen, and if not, at what projected radiation dose the benefit/risk decision is favorable?

(2) Whether the probability of a nuclear power plant incident resulting in releases of radiodine at levels high enough to justify the administration of potassium iodide to the public is so small that the recommenations are unnecessary?

Further, the issuance of such guidance on potassium iodide use must be put into the entire context of radiation emergency planning. The use of potassium iodide in a radiation emergency is not a panacea, and needs to be balanced against the cost and effectiveness of other protective measures such as seeking shelter, evacuation, or respiratory protection. Persons are invited to comment in addition on these issues as well.

Interested persons may, on or before September 3, 1981, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding these draft recommendations. Comments received after September 3, 1981, may be considered, depending on the stage of development of any final recommendations. Four copies of any comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The draft recommendations and receiving comments may be seen in the Dockets Management Branch between 9 a.m.and 4 p.m., Monday through Friday.

Dated: May 27, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 81-16568 Filed 6-4-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80P–0135]

Triton Community College; Approval of Variance for the Cernan Space Theater Laser Light Show and Laser Projector

Correction

In FR Doc. 81–13584, appearing in the issue of Friday, May 8, 1981, at page 25700, make the following change:

In the third column the address in the third line of the SUPPLEMENTARY INFORMATION section now reading "2200 Fifth Ave.," should be changed to read "2000 Fifth Ave."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Don's Desert Gem, RR Box 33K, Hereford, AZ 85615

The applicant requests a permit to sell in interstate commerce and export artificially propagated specimens of endangered and threatened cacti.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2–8010. Interested persons may comment on this application on or before July 6, 1981 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: May 29, 1981.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 81-16095 Filed 6-4-81; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the Reciept of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Marathon Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1618, Block 89, South Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m. 3301 North Causeway blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information

contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 29, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-16687 Filed 6-4-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[Colorado 31241]

Colorado; Notice of Realty Action Noncompetitive Sale of Public Lands in Rio Blanco County

The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value.

Sixth Principal Meridian

T. 1 N., R. 102 W.,
Sec. 1, Lot 8, and SE¼SE¼;
Sec. 12, NE¼NE¼.

The land described aggregates 106.87 acres of Rio Blanco County.

This land is being offered at direct sale to the Town of Rangely, Colorado.

The sale of this land to the Town of Rangely allow for orderly growth. The Town plans to use Lot 8 of Section 1 for a commercial park. The remaining 80 acres is planned to be used for a model subdivision.

This sale is consistent with the Bureau of Land Management's planning system and has been discussed with the Rio Blanco County Commissioners. The Town's proposed purchase of these lands has been the subject of public meetings; acquisition and use of the lands is consistent with Rio Blanco County and Town of Rangely planning and zoning. The public interest would be served by offering thes lands for direct sale to the town. The land will not be offered for sale until 60 days after the date of this notice.

The terms and conditions applicable to the sale are:

1. The patent will include a reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. All mineral rights will be reserved to the United States.

3. The sale of this land will be subject to all valid existing rights, including the right of any prior mineral permittee or lessee to occupy so much of the surface of the lands as may be reasonably required for mineral leasing operations, without liability to the patentee or successors in interest for damage to improvements resulting from such mineral activity.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions is available for review at the Bureau of Land Management White River Resource Area Office, Meeker, Colorado 81641, telephone Area Code (303) 878-5084.

For a period of 45 days from the date of this notice, interested parties may submit comments to the State Director, Bureau of Land Management, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Any adverse comments will be evaluated by the State Director who will issue a notice of determination to proceed with, modify, or cancel the action.

For a period of 45 days from the date of first publication indicated below, persons asserting a claim to or interest in the described lands, other than existing leases under the mineral leasing laws, may file such claim with the chief, Division of Technical Services, Bureau of Land Management, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, together with evidence that a copy thereof has been served on the Mayor, Town of Rangely, Colorado.

Dated: May 28, 1981.

Lee Carie,

District Manager.

[FR Doc. 81-16665 Filed 6-4-81; 8:45 am]

BILLING CODE 4310-84-M

Multiple Use Recommendations for the Southern Rio Grande Planning Area Public Meetings

AGENCY: Bureau of Land Management, Las Cruces District, Interior.

ACTION: Notice of meetings.

SUMMARY: The Bureau of Land Management, Las Cruces District Office will conduct a meeting open to the public, limited only by the space available.

DATES AND ADDRESSES: Public meetings are scheduled at the Branigan Library, 200 W. Picacho, in Las Cruces on July 8, 1981, and at the Convention Center, corner of Daniels and McAdoo, in Truth or Consequences on July 9, 1981. Both meetings will begin at 10:00 a.m.

FOR FURTHER INFORMATION CONTACT: Diana Edwards, Public Information Officer, Las Cruces District, Bureau of Land Management, P.O. Box 1420, Las Cruces, New Mexico, 88004. Phone: (505) 523-5571.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to receive written and oral statements about conflicting resource uses in the Southern Rio Grande Planning Area. The basis for the meeting will be the multiple use analysis and recommendations (Management Framework Plan Step 2) completed by the Area Managers as well as the proposed action for the Environmental Impact Statement (EIS) on livestock grazing.

The agenda for the meeting is as follows:

1. Introduction and overview of the planning process.

2. Presentation of Area Manager's multiple use recommendations (Management Framework Plan Step II).

3. Presentation of Proposed Action for the Environmental Impact Statement on livestock grazing.

4. Discussion Period: Expression of opinions and concerns about conflicting resource uses in the Southern Rio Grande.

Daniel C. B. Rathbun,

District Manager.

May 29, 1981.

[FR Doc. 81-16666 Filed 6-4-81; 8:45 am]

BILLING CODE 4310-84-M

[U-47751]

Utah; Notice of Invitation by B. J. Mining to Participate in Coal Exploration Program

May 27, 1981.

B. J. Mining is inviting all qualified parties to participate in a program for the exploration of coal reserves on the Roan Cliffs approximately 50 miles northeast of Green River, Utah. The lands are located in Grand and Uintah Counties, and are described as follows:

T. 16 S., R. 23 E., SLM, Utah,
Secs. 25, 26, and 35, all.
T. 17 S., R. 23 E., SLM, Utah,
Secs. 1, 3, 10, 11, and 12, all.
T. 15 S., R. 24 E., SLM, Utah,
Secs. 34, and 35, all.
T. 16 S., R. 24 E., SLM, Utah,
Secs. 1, 3, 9-11, 14, 15, 17-22, and 29-31, all;
Sec. 4, E½;
Sec. 8, S½.
T. 17 S., R. 24 E., SLM, Utah,
Sec. 6, all.
Containing 17,981.62 acres.

Any party electing to participate in this exploration program must send written notice of such election to the

Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, and B. J. Mining, 1454 West 5910 South, Salt Lake City, Utah 84107. Such written notice must be received within 30 days after publication in the **Federal Register**.

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by B. J. Mining, is available for public review during normal business hours, in the following office, under Serial No. U-47751: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Robert E. Anderson,

Chief, Division of Technical Services.

May 27, 1981

[FR Doc. 81-16726 Filed 6-4-81; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

Notice of Receipt of a Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of Receipt of a Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations and Request for Comments.

SUMMARY: Notice is given that the Office of Surface Mining and the Montana Department of State Lands have received a petition to designate certain lands in 16 Townships in southeastern Montana as unsuitable for surface coal mining operations, pursuant to Section 522 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272) and the Montana Strip and Underground Mine Reclamation Act (Part 2, Chapter 4, Title 82, MCA). Interested persons are requested to submit relevant information and comment on the issues raised in the petition at this time.

DATE: Information on which to base analyses of the issues raised by the petitioner is being sought from all interested parties. In order to be timely considered comments should be received preferably by August 4, 1981.

ADDRESS: Comments should be sent to: Regional Director, Region V, Office of Surface Mining, Brooks Towers 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Paul E. Bodenberger, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado, 80202, phone 303-837-5966, or Sandi Johnson, Montana Department of State Lands, 1625 Eleventh Avenue, Helena, Montana 59601, Phone 406-449-4560.

SUPPLEMENTARY INFORMATION: Under Section 522 of the Surface Mining Control and Reclamation Act of 1977 and its implementing regulations, persons with interests which are or may be adversely affected by surface coal mining operations may petition the Office of Surface Mining to have an area of Federal land designated as unsuitable for all or certain types of surface coal mining operations. The State of Montana has a similar provision for land under its jurisdiction. Both agencies have been jointly named in a petition to designate certain intermingled Federal, State and private lands as unsuitable for surface coal mining. The petitioners allege that:

1. Reclamation of the lands is neither technologically nor economically feasible under either the Federal or the State act, the Federal regulatory program or the State regulatory program. 30 U.S.C. 1272(a)(2); 30 CFR 762.11(a); 30 CFR Parts 764 and 769; 82-4-228(2)(a) MCA; ARM 26.4.1141 through 26.4.1148.

2. Mining will affect renewable resource lands which would suffer a substantial loss or reduction of long-range productivity of water supply and of food and fiber products. 30 U.S.C. 1272(a)(3)(B); 30 CFR 762.11(b)(3); 30 CFR Parts 764 and 769; 82-4-228(2)(b)(iii) MCA; ARM 26.4.1141 through 26.4.1148.

The petition was initially submitted on December 1, 1980, but was rejected as incomplete by OSM on December 19, 1980, with regard to the Federal lands and on December 19, 1980, by the State of Montana for lands under State jurisdiction. The petition was found to be incomplete because the petitioners had not adequately tended to establish the truth of the allegations by means of facts and supporting evidence. See 30 CFR 764.13(b)(2).

The petition was resubmitted jointly to the OSM and the State of Montana by letter of December 26, 1980. It was received by OSM On December 29, 1980. The resubmittal was determined complete by both OSM and the State of Montana on January 19, 1981.

The following is a list of petitioners and a description of the land involved.

Petitioners: Northern Plains Resource Council, Tongue River Agriculture Protection Association, Tri-County Ranchers Association, and Rosebud Protective Association.

State: Montana.

Counties: Rosebud and Powder River.

Petition Area is described as: T 1.N, 44.E., M.P.M., Sections 25 through 36;

T 1.S., R 44.E., M.P.M., all;

T 1.S., R 45.E., M.P.M., all;

T 2.S., R 44.E., M.P.M. except sections 16 through 20, 28 through 33, and those portions of sections, 8, 9, 10, 15, 21, 22, 27, 34, and 35 lying within the boundaries of the Northern Cheyenne Indian Reservation;

T 2S., R 45.E., M.P.M. except sections 1 through 3, 8 through 17, 23, 24, 27, 33 through 35, and those portions of sections 4, 20 through 22, 25, 26, 28, 29 and 36 lying within the boundaries of the Custer National Forest;

T 3.S., R 44.E., M.P.M. except sections 4 through 8, 16 through 20, 30, and 31, and those portions of sections 2, 3, 9, 10, 15, 21, 22, 28, 29, 32, and 33 lying within the boundaries of the Northern Cheyenne Reservation;

T 3.S., R 45.E., M.P.M. except sections 2 and 10, and those portions of sections 4, 12, 14, and 24 lying within the boundaries of the Custer National Forest;

T 4.S., R 43.E., M.P.M. except sections 1 through 12, 14 through 22, 28 through 32, and those portions of sections 23, 24, 26, 27, and 33 through 35 lying within the boundaries of the North Cheyenne Reservation;

T 4.S., R 44.E., M.P.M. except sections 6, 10 through 14, 23 through 28, and 33 through 36, and those portions of sections 5, 7, 8, and 18 lying within the boundaries of the Northern Cheyenne Reservation, and sections 15, 21, and 22 lying within the boundaries of the Custer National Forest;

T 4.S., R 45.E., M.P.M., except sections 19, 30 through 32, and those portions of section 29 lying within the boundaries of the Custer National Forest;

T 5.S., R 42.E., M.P.M. except sections 1 through 16, and those portions of sections 17, 18, 20 through 26 lying within the boundaries of the Northern Cheyenne Reservation.

T 5.S., R 43.E., M.P.M. except sections 5, 6, 11 through 15, 21 through 28, 32 through 36, and those portions of sections, 4, 7, 8, 9, 17, 18, and 19 lying within the boundaries of the North Cheyenne Reservation;

T 5.S., R 44.E., M.P.M. *only* those portions of sections 4, 5, 8, 9, 10, 16, 21, 22, 27, 33, 34, and 35 of which the surface is privately owned;

T 5.S., R 45.E., M.P.M. except sections 5 through 8, 17 through 21, 28 through 33, and those portions of sections 14, 22, 23, 27, and 34 lying within the boundaries of the Custer National Forest;

T 6.S., R 42.E., M.P.M. all;

T 6.S., R 43.E., M.P.M. except sections 1 through 4, 9 through 14, 24, 27, and 34 through 36, and those portions of sections 15, 22, 23, 25, and 26 lying within the boundaries of the Custer National Forest.

Petitioners do not seek a designation for those lands which lie within the boundaries of the Northern Cheyenne Indian Reservation, of where surface

coal mining operations are currently prohibited (i.e., Custer National Forest). The petition is also not directed to any existing coal mine as presently permitted.

A review of the area's suitability for mining will be undertaken by this Office and by the State of Montana. Factual information such as coal resource data on Federal lands will be supplied by the U.S. Geological Survey. In addition the Bureau of Land Management, as the Federal surface managing agency, will make recommendations on the petition.

Because the Federal and non-Federal lands of the petition area are thoroughly intermingled, it is anticipated that processing the petition will involve a cooperative effort between the Montana Department of State Lands and the Office of Surface Mining. However, the decision authority on non-Federal lands rests with the State of Montana, and the decision authority on Federal lands with the Department of the Interior See 30 U.S.C. 1253(a)(5) and 45 FR 21560 (State Program Approval). A decision on the petition will be made by December 29, 1981.

Copies of the petition may be obtained upon request at the addresses below. The public record on the petition is available for public review during normal working hours at the Division of State and Federal Programs, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; at the Montana Department of State Lands, Reclamation Division, 1625 Eleventh Avenue, Helena, Montana 59601; and the Montana Department of State Lands, Reclamation Division, 1245 North 29th Street, Room 207, Billings, Montana 59101.

After reviewing and analyzing available information, OSM will issue a draft evaluation document which will be available for public review. This will be followed by a public hearing to be held in the locality of the area covered by the petition. Notice of the time and place of the hearing will be given at a later date.

After completion of the analyses and hearing mentioned above, the Department may designate the area or a portion thereof as unsuitable for all or certain types of surface coal mining operations (which includes the surface effects of underground mining). The agency may also decline to designate all or any part of the area as unsuitable.

Andrew V. Bailey,

Acting Director.

[FR Doc. 81-16818 Filed 6-4-81; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-19 (Sub-53)]

Baltimore & Ohio Railroad Co.—Abandonment—Near Lake Junction and Lester in Medina County, Ohio; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided May 20, 1981, a finding, which is administratively final, was made by the Commission, Review Board Number 3, that the public convenience and necessity permit the abandonment by the Baltimore and Ohio Railroad Company (B&O) of the line of railroad extending between milepost 127.4 near Lake Junction, and milepost 137 near Lester, OH a distance of 9.58 miles in Medina County, OH, subject to the conditions for the protection of employees developed in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 ICC 91 (1979). A certificate of abandonment will be issued to the B&O based on this finding unless within 15 days from the date of publication the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen D. Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this notice; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 90 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of the execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. § 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448, effective October 1, 1980). All interested persons are advised to follow the instructions contained herein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-16712 Filed 6-4-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. *Parent Corporation and Address of Principal Office:* American Hoist & Derrick Company, 63 South Robert Street, St. Paul, Minnesota 55107, and its divisions:

(a) American Hoist & Derrick Company, St. Paul, Minnesota
(b) American Hoist & Derrick Company, Road Machinery Division (Bros), Minneapolis, Minnesota
(c) American Hoist & Derrick Company, Excavator Division, Duluth, Minnesota
(d) American Hoist & Derrick Company, Cleveland Trencher Division, Cleveland, Ohio
(e) American Hoist & Derrick Company, Fort Wayne Machinery Division, Fort Wayne, Indiana
(f) American Hoist & Derrick Company, Bay City Manufacturing, Bay City, Michigan
(g) American Hoist & Derrick Company, Bay City Steel Casting Division, Bay City, Michigan
(h) Lucker Manufacturing Company, King of Prussia, Pennsylvania
(i) Crosby—Portland, Maine
(j) Crosby—Wood-Ridge, New Jersey
(k) Crosby—Fort Wayne, Indiana
(l) Lebus Manufacturing Company, Longview, Texas
(m) National Swage, Jacksonville, Arkansas
(n) Crosby McKissick, Tulsa, Oklahoma
(o) Western Block, Lockport, New York
(p) Crosby Owensboro, Owensboro, Kentucky
(q) Harris Press & Shear Division, Cordele, Georgia

2. Wholly-owned Subsidiaries which will Participate in the Operations, and the States of Incorporation:

(a) Waterous Company, St. Paul, Minnesota; a Minnesota corporation, and its division, Traverse City Iron Works, Traverse City, Michigan
(b) Smith-Berger Manufacturing Corporation, Seattle, Washington; a Washington corporation
(c) Farwell, Ozmun, Kirk & Co., So. St. Paul, Minnesota; a Minnesota corporation, and its division, Harper McIntire in Cedar Rapids, Iowa
(d) Forman Ford Paint, Inc., Golden Valley, Minnesota, a Minnesota corporation
(e) Taylor Manufacturing Company, Tulsa, Oklahoma; an Oklahoma corporation
(f) American Hoist of Canada, Ltd., Brampton, Ontario; a foreign subsidiary

1. Parent Corporation: The Duchossois/Thrall Group, Inc., P.O. Box 218, Chicago Heights, IL 60411.

2. Subsidiaries: (i) Thrall Car Manufacturing Company (Delaware), (ii) Chamberlain Manufacturing Company (Iowa).

1. Parent corporation and address of principal office: Fluor Corporation 3333 Michelson Drive, Irvine, California 92730.

2. Wholly-owned subsidiaries which will participate in the operations and States of incorporation: (i) C. A. Roberts Co., an Illinois corporation; and (ii) Kilsby Tubesupply Company, a California corporation.

1. Parent corporation and address of principal office: Fluor Corporation, a Delaware corporation, 3333 Michelson Drive, Irvine, California 92730.

2. Wholly-owned subsidiaries which will participate in the operations and states of incorporation:

Aftermarket Diesel, Inc., South Carolina
Amarillo Freightliner Sales, Inc., Texas
C. A. Roberts Co., Illinois
Deer Park Equipment Company, California
Fluor Canada Ltd., Canada
Fluor Constructors International, Inc., California
Fluor Distribution Companies, Inc., California
Fluor Drilling Services, Inc., California
Fluor Engineers and Constructors, Inc., California
Fluor Alaska, Inc., Alaska
Fluor Northwest, Inc., Alaska
Fluor Mining & Metals, Inc., California
Fluor Pipe and Piling Company, Delaware
Fluor Power Services, Inc., Delaware
Goldston Inc., North Carolina
Goldston Transfer, Inc., North Carolina
Jacksonville Freightliner, Inc., Florida
Kilsby Tubesupply Company, California
Liquefied Coal Development Corporation, California
Oklahoma City Freightliner, Inc., Oklahoma
Republic Supply Company of California, California
Fluor Supply Company, Texas
Triad Freightliner, Inc., North Carolina.

1. Parent corporation and address of principal office: General Cinema Corporation, 27 Boylston Street, Chestnut Hill, Massachusetts 02167

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(i) GCC Beverages, Inc., a Delaware corporation
(ii) Holiday General Corporation, a Massachusetts corporation
(iii) Pepsi-Cola Bottlers of Washington, D.C., Inc., a Delaware corporation
(iv) Pepsi-Cola Bottlers of Akron, Inc.,[1] an Ohio corporation
(v) Pepsi-Cola Bottlers of Youngstown, Inc.,[1] an Ohio corporation
(vi) South Florida Beverage Corporation,[1] a Florida corporation
(vii) Sunkist Soft Drinks, Inc., a Delaware corporation
(viii) GCC Beverages of Mass., Inc., a Massachusetts corporation

1. Parent corporation and address of principal office: George Tope Company, Inc., 140 Midland Executive Bldg., P.O. Box 3789, Midland, Texas 79702.

2. Wholly-owned subsidiary which will participate in the operations, and address of its principal office: (a) Freehill, Inc., 1511 West Montgomery, P.O. Box 3789, Midland, Texas 79702.

1. Parent corporation and address of principal office: Hon Industries Inc., 414 East Third Street, Muscatine, Iowa 52761.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(a) The HON Company, unincorporated
(b) Corry Jamestown Corporation, Iowa
(c) Holga Metal Products Corporation, Iowa
(d) Murphy-Miller Co., Iowa
(e) Norman Bates Inc., Iowa
(f) Oakes Manufacturing, Inc., North Dakota
(g) The Prime-Mover Co., Iowa
(h) Hiebert, Inc., Iowa
(i) Heatilator Inc., Iowa

1. *Parent Company:* Pabst Brewing Company, 917 W. Juneau Avenue, Milwaukee, Wisconsin.

2. *Wholly-owned subsidiaries are as follows:*

Premier Malt Products, Inc., 1037 W. McKinley Avenue, Milwaukee, Wisconsin 53201
P-L Biochemicals, Inc., 1037 W. McKinley Avenue, Milwaukee, Wisconsin 53201
Blitz-Weinhard Co., 1133 W. Burnside Street, Portland, Oregon 97209

1. The parent corporation is Peoples Drug Stores, Incorporated (Maryland), with its principal office at 6315 Bren Mar Drive, Alexandria, Virginia 22312.

2. Wholly owned subsidiaries which will participate in the operations, and states of incorporation, are as follows:

Peoples Drugs Stores, Inc., West Virginia
Peoples Drug Stores, Incorporated, Delaware
Peoples Drug Stores, Incorporated, New Jersey
Peoples Prescription Center, Inc., Virgina
Peoples Service Drug Stores, Inc., Delaware
Peoples Service Drug Stores, Inc. Maryland
Peoples Service Drug Stores, Incorporated, North Carolina
Peoples Service Drug Stores, Incorporated, Virginia
The Lane Drug Company, Ohio
The Reed Drug Company, Georgia
Health Mart, Inc., Delaware
Alliance Family Centers, Inc., Ohio
B. H. Krueger, Inc., New York
Gray's Southgate, Inc., Virginia
H. A. Woods Drug Company, Inc. Indiana

1. Parent corporation and address of principal office: Petra International Corporation, 4608 South Garnett, Suite 400, Tulsa, OK 74145.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Petra Drilling Corporation, 4608 South Garnett, Suite 400, Tulsa, OK 74145
(2) Petra Petroleum Corporation, 4608 South Garnett, Suite 400, Tulsa, OK 74145
(3) Arden Drilling Company, 4608 South Garnett, Suite 400, Tulsa, OK 74145
(4) ADC, Inc., 4608 South Garnett, Suite 400, Tulsa, OK 74145
(5) Petra Transportation Corporation, 4608 South Garnett, Suite 400, Tulsa, OK 74145

1. Parent corporation and address of principal office: Roundy's, Inc., 11300 West Burleigh Street, Wauwatosa, Wisconsin 53222.

2. Wholly owned subsidiaries which will participate in the operations, and State(s) of incorporation:

[1] Wholly owned by Holiday General Corporation.

(i) Jondex Corporation (Wisconsin)
(ii) Ropak, Inc. (Wisconsin)
(iii) W–Marketing, Inc. (Wisconsin)
(iv) Villard Ave. Shop-Rite, Inc. (Wisconsin)
(v) Shop-Rite, Inc. (Wisconsin)
(vi) National Ave. Shop-Rite, Inc. (Wisconsin)
(vii) Pick 'N Save Warehouse Foods, Inc. (Wisconsin)
(viii) Kee Wholesale, Inc. (Wisconsin)
(ix) Cedarburg Dairy Inc. (Wisconsin)
(x) Super Market Investors, Inc. (Wisconsin)
(xi) Lila's Supermarket, Inc. (Wisconsin)
(xii) Supermarket Development Corporation (Wisconsin)
(xiii) United Foods of Delavan, Inc. (Wisconsin)
(xiv) United Foods of Hartford, Inc. (Wisconsin)
(xv) United Foods of Lake Geneva, Inc. (Wisconsin)
(xvi) United Foods of West Bend Inc. (Wisconsin)
(xvii) United Foods of Elkhorn, Inc. (Wisconsin)
(xviii) Midwest Grocery of Appleton, Inc. (Wisconsin)

1. Parent corporation and address of principal office: The Standard Oil Company, an Ohio Corporation, Midland Building, 101 Prospect Avenue, Cleveland, Ohio 44115.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

I. BP Oil Inc.—An Ohio Corporation
II. Vistron Corporation—An Ohio Corporation
III. Mountaineer Carbon Company—A West Virginia Corporation
IV. Old Ben Coal Company—A Delaware Corporation

1. Parent corporation and address of principal office: United Brands Company, 1271 Avenue of Americas, New York, New York 10020.

2. Wholly-owned subsidiary which will participate in the operations and address of their respective principal office: Roberts & Oake, Inc., 4240 Blue Ridge Blvd., Suite 820, Kansas City, MO 64123.

1. Parent corporation and address of principal office: Walgreen Co., 200 Wilmot Road, Deerfield, Illinois.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of respective principal offices.

a. Walgreen Oshkosh, Inc., 200 Wilmot Road, Deerfield, IL 60015
b. Rennebohm Drug Stores, Inc., 200 Wilmot Road, Deerfield, IL 60015
c. Walgreen Drug, Inc., 200 Wilmot Road, Deerfield, IL 60015
d. Walgreen Texas Co., 200 Wilmot Road, Deerfield, IL 60015
e. Walgreen Louisiana Co., Inc., 200 Wilmot Road, Deerfield, IL 60015
f. Walgreen Racine, Inc., 200 Wilmot Road, Deerfield, IL 60015
g. Bond Drug Company of Clinton, 200 Wilmot Road, Deerfield, IL 60015
h. Bond Drug Company of Illinois, 200 Wilmot Road, Deerfield, IL 60015
i. Walgreen Arizona Drug Co., 200 Wilmot Road, Deerfield, IL 60015
j. Walgreen Milwaukee, Inc., 200 Wilmot Road, Deerfield, IL 60015
k. Walgreen Southgate Corp., 200 Wilmot Road, Deerfield, IL 60015
l. Walgreen Woodmar, Inc., 200 Wilmot Road, Deerfield, IL 60015
m. Walgreen Capitol Court, Inc., 200 Wilmot Road, Deerfield, IL 60015
n. Walgreen South Dakota, Inc., 200 Wilmot Road, Deerfield, IL 60015
o. Walgreen Pentagon Co., 200 Wilmot Road, Deerfield, IL 60015
p. Walgreen of Puerto Rico, Inc., 200 Wilmot Road, Deerfield, IL 60015
q. Walgreen of San Patricia, Inc., 200 Wilmot Road, Deerfield, IL 60015
r. Walgreen Fremont Co., 200 Wilmot Road, Deerfield, IL 60015
s. Walgreen Hastings Co., 200 Wilmot Road, Deerfield, IL 60015
t. Walgreen Lincoln Co., 200 Wilmot Road, Deerfield, IL 60015
u. Robin Hood Restaurants of Illinois, Inc., 200 Wilmot Road, Deerfield, IL 60015
v. Walgreen Cudahy, Inc., 200 Wilmot Road, Deerfield, IL 60015
w. Walgreen New Berlin, Inc., 200 Wilmot Road, Deerfield, IL 60015
x. Walgreen West Bend, Inc., 200 Wilmot Road, Deerfield, IL 60015
y. Walgreen Altoona Co., 200 Wilmot Road, Deerfield, IL 60015
z. Globe Stores, Inc., 200 Wilmot Road, Deerfield, IL 60015
a'. Flint Realty Co., 200 Wilmot Road, Deerfield, IL 60015
b'. Chambly Creations, Inc., 200 Wilmot Road, Deerfield, IL 60015
c'. Fountain Products Corporation, 200 Wilmot Road, Deerfield, IL 60015
d'. Globe Discount City of Arizona, Inc., 200 Wilmot Road, Deerfield, IL 60015
e'. Globe Discount City of Louisiana, Inc., 200 Wilmot Road, Deerfield, IL 60015
f'. Globe Discount City of New Mexico, Inc., 200 Wilmot Road, Deerfield, IL 60015
g'. Grenada Advertising Agency, Inc., 200 Wilmot Road, Deerfield, IL 60015
h'. Home Drug Company, 200 Wilmot Road, Deerfield, IL 60015
i'. Intercom Pharmacy Systems, Inc., 200 Wilmot Road, Deerfield, IL 60015
j'. International Travel Service, Inc., 200 Wilmot Road, Deerfield, IL 60015
k'. Lord Jim, Inc., 200 Wilmot Road, Deerfield, IL 60015
l'. Luxury Mint Corporation, 200 Wilmot Road, Deerfield, IL 60015
m'. Memphis Warehouse Co., 200 Wilmot Road, Deerfield, IL 60015
n'. Nicollet & Ninth Corporation, 200 Wilmot Road, Deerfield, IL 60015
o'. Nutrition Research Laboratories, Inc., 200 Wilmot Road, Deerfield, IL 60015
p'. RAO Corporation, 200 Wilmot Road, Deerfield, IL 60015
q'. Sanborns Mexico (Texas), 200 Wilmot Road, Deerfield, IL 60015
r'. Wag's Restaurants of Illinois, Inc., 200 Wilmot Road, Deerfield, IL 60015
s'. Walgreen Canada Limited, 200 Wilmot Road, Deerfield, IL 60015
t'. Walgreen Drug (Ontario) Limited, 200 Wilmot Road, Deerfield, IL 60015
u'. Walgreen Fond du Lac, Inc., 200 Wilmot Road, Deerfield, IL 60015
v'. Walgreen Laboratories, Inc., 200 Wilmot Road, Deerfield, IL 60015
w'. Walgreen Oconomowoc, Inc., 200 Wilmot Road, Deerfield, IL 60015
x'. Walgreen of Hato Rey, Inc., 200 Wilmot Road, Deerfield, IL 60015
y'. Walgreen Eastern Co., Inc., 200 Wilmot Road, Deerfield, IL 60015
z'. Walgreen Properties, Inc., 200 Wilmot Road, Deerfield, IL 60015
a''. Walgreen Waukesha, Inc., 200 Wilmot Road, Deerfield, IL 60015
b''. W O C Optical, Inc., 200 Wilmot Road, Deerfield, IL 60015
c''. Worthmore Cosmetic and Vitamin Co., 200 Wilmot Road, Deerfield, IL 60015

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-16711 Filed 6-4-81; 8:45 am]
BILLING CODE 7035-01-M

[Ex parte No. 290 (Sub-No. 2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of approval of railroad cost index.

SUMMARY: The Commission has decided to approve the cost index filed by the Association of American Railroads under the procedures of Docket Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures.* The October 1, 1980 index is 118.6. The first quarter, 1981 index is 125.4 and the second quarter, 1981 index is 127.9. the rail cost adjustment factors are 1.057 for the first quarter, 1981 and 1.078 for the second quarter, 1981. When discounted by Ex Parte 386 and Ex Parte 311 fuel increases, the Rail Cost Adjustment factor is 1.011, applicable to rates presently in effect.

EFFECTIVE DATE: June 5, 1981.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 275–7656, or Raymond Hobbs (technical), (202) 275–7457.

SUPPLEMENTARY INFORMATION: By decision served April 17, 1981, 46 FR 22594 (4–20–81), we outlined the procedures for calculation of the Interim Mid-Quarter Index of Railroad costs and the methodology for computing the Rail Cost Adjustment Factor. We also decided to require the Association of American railroads (AAR), no later than 20 days before the end of each quarter, to calculate and submit to the Commission the mid-quarter index.

We have received AAR's calculations of the mid-quarter index and have found that these calculations comply with the guidelines outlined in our decision served April 17, 1981.

The indices derived from these calculations are shown in the table below.

Interim Mid-Quarter Index (1979–100)

Category	10/1, 1980	Q1, 1981	Q2, 1981
Salaries, wages and supplements	112.6	119.6	119.6
Fuel	153.1	170.8	167.5
Other materials and supplies	119.1	121.9	123.6
Other expenses	117.3	121.7	124.0
Weighted Average [1]	118.6	125.4	127.9

[1] Based on the following 1979 weights:

	Percent
Salaries, wages and supplements	49.9
Fuel	9.6
Other Materials and supplies	12.5
Other Expenses	28.0

The Rail Cost Adjustment Factors for first and second quarters, 1981, are computed in the following table.

Rail Cost Adjustment Factor

Item	10/1, 1980	Q1, 1981	Q2, 1981
Weighted Index	118.6	125.4	127.9
Rail Cost Adjustment Factor		1.057	1.078

In computing the Rail Cost Adjustment Factor, the October 1, 1980 index was used in the denominator in lieu of the mid-quarter index for fourth quarter, 1980. We believe that this is appropriate, since the application of the adjustment factor commenced with rates at the October 1, 1980 level.

AAR's calculations included a discounting computation designed to give effect to Ex Parte 386 and Ex Parte 311 fuel increase taken since October 1, 1980. We have reviewed these calculations and have restated the discounting computation in the table below. Since the effect of the increases taken is compounded, the effective portions of these increases were multiplied, rather than added, in our restatement. The resulting 1.2 percentage points for the discounted Rail Cost Adjustment Factor, when applied to the October 1, 1980 rates, result in a remaining allowable increase of 1.1 percent applicable to present rates.

Rail Cost Adjustment Factor Discount

Line	Ex parte number	Effective date	Factor increase	Portion allocated to post 10/1/0 (percent)	Factor in effect
1	386	12/31/80	1.050	[1] 74	1.037
2	311	1/17/81	1.011	[1] 91	1.010
3	311	2/20/81	1.011	100	1.011
4	311	4/07/81	1.007	100	1.007
Total (Line 1xLine 2xLine 3xLine 4)					1.068
Rail Cost Adjustment Factor					107.8
Discounted Rail Cost Adjustment Factor					106.6
Discount (percentage points)					1.2
Rail Cost Adjustment Factor					
Applicable to Present Rates (107.8 – 106.6) = 1.011					

[1] Rate increases allocated to post October 1, 1980, based on relative portion of increased costs incurred after that date.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. Although this proceeding is not subject to Public Law 96–354, it is out opinion that it will not have a significant adverse impact on a substantial number of small entities.

(49 U.S.C. 10321, 10701a, 5 U.S.C. 553.)

Dated: June 1, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-16708 Filed 6-4-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 94]

Motor Carriers; Restriction Removals; Decision-Notice

Decided: June 2, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC-FF-53 (Sub-3)X, filed May 11, 1981. Applicant: YELLOW FORWARDING COMPANY, P.O. Box 7270, Shawnee Mission, KS 66207. Representative: David R. Schneider, P.O. Box 1540, Edmond, OK 73034; William Martin (same as applicant). Applicant seeks to remove restrictions in No. FF-53 permit as required to be modified by Finance Docket 29113F to (1) remove the exceptions of AK and HI, (2) remove restriction to traffic consigned for export, (3) change one-way to radial authority (a) between KS and points in a described portion of the US, and points in AK and HI, (b) between points in CA, and, points in the U.S., (c) between points in HI, and, points in AK, and (d) change territorial authority from specific points in SD, NE and KY and points in IL, MO, IN, IA, MI, MN, WI, OH, PA,

NY, and WV to Vancouver, British Columbia to between the above-mentioned points, and, points in WA.

MC 7840 (Sub-41)X, filed May 1, 1981. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street, Watertown, NY 13601. REPRESENTATIVE: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street, NW., Washington, DC 20001. Applicant seeks to remove restrictions in its Sub-Nos. 8F, 13F, 14F, 20F and 22F certificates to (1) broaden the commodity descriptions from paper and paper products, and materials, equipment and supplies used and useful in the manufacture and shipping of the commodities named above to "pulp, paper, and related products," in Sub-Nos. 8F, 13F, 14F, 20F and 22F and from plastic film to "rubber and plastic products, in Sub-No. 14, (2) remove the "in-bulk" restriction, in Sub-Nos. 13F, 14F and 20F, (3) replace authority to serve specified plantsites or points with county or city-wide authority as follows: (a) St; Lawrence County, NY, for a facilities at Newton Falls, NY in Sub-No. 8; (b) Des Moines County, IA and Henderson County, IL for facilities at Burlington, IA; Gary IN for a plantsite at Gary; Kalamazoo, MI, for a facilities at Kalamazoo, MI; Clinton and Lewis Counties, NY, for plantsites at Lyons Falls and Plattsburg, NY; Cincinnati, OH for a plantsite at Cincinnati, OH; and Essex County, VT, for a plantsite at Gilman, Vt in Sub-No. 13; (c) New Castle County, DE, for facilities at Newark and New Castle, DE; Decatur County, IN, for a facility at Greensburg, IN, Jefferson, Saratoga, Warren and Washington Counties, NY, for facilities at Carthage and South Glen Falls, NY; and Boone County, KY, for a facility at Florence, KY in Sub-No. 14; (d) Christian and Will Counties, IL for facilities at Lockport and Taylorville, IL; St. Louis, MO, for a plantsite at St. Louis, Washington County, ME for a plantsite at Woodland, ME; Albany, Orange, and Wayne Counties, NY, for a facility at Guilderland Center, and Thomson and Warwick, NY; Richmond County, NC, for Hamlet, NC; Berks County, PA, for Reading, PA; Richmond, VA for plantsite at Richmond and Lincoln County, WI, for Tomahawk, WI in Sub.-No. 20; and (e) Clinton County, NY, for Plattsburg, NY in Sub-No. 22; (4) broaden the territorial description in Sub. No. 22 from one-way authority to radial authority between Clinton County, NY, and several States and DC; (5) remove the "originating at and destined to" restrictions in Sub-Nos. 8, 13, and 14; and (6) eliminate the restriction prohibiting transporting traffic from Plattsburg, NY, to MI and OH in Sub 13F.

MC 8958 (Sub-48)X, filed March 26, 1981, previously noticed in the Federal Register of April 13, 1981, republished as corrected this issue. Applicant: THE YOUNGSTOWN CARTAGE CO., 825 W. Federal Street, Youngstown, OH 44501. Representative: James W. Muldoon, 50 W. Broad Street, Columbus, OH 43215. Applicant seeks to remove restrictions in its lead and Sub-Nos. 12, 13, 18, 21, 24, 25, 26, 27, 32F, 38F, 39F, 40F, 41F, 42F, 43F, 44F, 45F, 46F certificates and letter notices E1 through E20 and E23 through E25 as follows: In its lead, part (1), broaden the commodity description from bar steel, iron and steel castings, engine parts, forgings, and wooden patterns to "metal products, transportation equipment and lumber and wood products"; authorize service at all intermediate points between Grove City, PA, and, Mount Vernon, OH; and eliminate the "minimum 20,000 pounds" restriction; part (2), broaden metal, metal products, malt beverages and empty beverage containers, agricultural implements and parts, steel storage cabinets and automobile wheels, wheel rims and bands to "metal products, food and related products, machinery, and transportation equipment"; authorize service at all intermediate points between Pittsburgh, PA, and, Warren, OH and between Youngstown, OH, and, Pittsburgh, PA; part (3), remove all exceptions except classes A and B explosives from its general commodities authority; part (4) broaden rough-iron castings to "metal products"; broaden Grove City to Mercer County, PA and Hamilton to Butler County, OH; part (5), broaden Sharon to Mercer County, PA; remove the "delivery only to points in MI" restriction; part (6), broaden malt beverages to "food and related products"; part (7), remove all exceptions except classes A and B explosives from its general commodities authority; broaden plantsites located in Novi Township and Sterling Township to Oakland and Macomb Counties, MI; eliminate the restriction against service to points in IN lying within the Chicago, IL, CZ; broaden Libertyville and Grayslake, to Lake County, IL; part (8), remove all exceptions except classes A and B explosives from its general commodities authority; part (9), broaden household goods, contractors' equipment, machinery, and iron and steel articles, of the kind used in construction and manufacture, to "household goods, and such commodities as are dealt in or used by manufacturers or distributors of contractors' equipment, machinery, and metal products"; part (10) broaden metal, metal products, asphalt, roofing cement, and prepared roofing materials to "such commodities as are dealt in or used by manufacturers or distributors of metal products and building materials and petroleum and petroleum products"; part (12) remove all exceptions except classes A and B explosives from its general commodities authority; remove the restriction against service between Chicago, IL and Detriot, MI; in Sub-No. 12, broaden the commodity description from building materials, steel pipe, machinery, factory equipment, and contractors' equipment to "such commodities as are dealt in or used by manufacturers or distributors of "building materials, metal products, machinery, factory equipment and contractors' equipment"; eliminate the "except in bulk, in tank or hopper type vehicles" restriction; in Sub-No. 13, broaden the commodity description from metal, metal products, machinery, and iron and steel articles of the kind used in construction and manufacture to "metal products and machinery"; replace a plantsite at Burns Harbor with Porter County, IN; remove the "originating at/or destined to" restrictions; in Sub-No. 18, broaden the commodity description from iron and steel articles to "metal products and material, equipment, and supplies used in the manufacture or distribution of metal products"; replace a plantsite in Putnam County with Putnam County, IL; eliminate the restriction "against commodities in bulk"; and remove the "originating at or destined to" restriction; in Sub-No. 21, remove all exceptions except classes A and B explosives from its general commodities authority; replace a plantsite in Sterling Township with Macomb County, MI; in Sub-No. 24, remove all exceptions except classes A and B explosives from its general commodities authority; in Sub-No. 25; broaden the commodity description from pipe and tubing to "building materials"; replace a plantsite at Hometown with Schuylkill County, PA; in Sub-No. 26, remove all exceptions except classes A and B explosives from its general commodities authority; replace facilities at Romeo with Macomb County, MI; in Sub-No. 27, broaden iron and steel articles to "metal products"; replace facilities at Reading with Berks County, PA; eliminate the "originating at and destined to" restriction; in Sub-No. 32F, broaden the commodity description from iron and steel articles to "metal products"; eliminate the restriction against the use of "dump vehicles"; in Sub-No. 38F, broaden the commodity

description from iron and steel articles and materials, equipment and supplies to "such commodities as are dealt in or used by manufacturers or distributors of metal and metal products"; expand Welton to Brooke and Hancock Counties, WV; and eliminate the "except commodities in bulk" restriction; in Sub-Nos. 39F, 40F, 41F, 42F, 43F, 44F, 45F, 46F, E1, E2, E3, E10, E11, E16, E17, E19, and E20, broaden the commodity descriptions from specified metal products such as iron and steel articles, steel storage racks and aluminum articles and materials, equipment and supplies used in the manufacture and distribution of such commodities to "such commodities as are dealt in or used by manufacturers or distributors of metal products"; in Sub-Nos. E4, E5, E6, E7, E8, E12, E13, and E14, broaden the commodity description from iron and steel articles the kind used in construction and manufacture, and contractors' equipment and machinery to "such commodities as are dealt in or used by manufacturers or distributors of metal products, building materials, machinery and equipment"; in Sub-Nos. E9, E18, and E23, broaden the commodity description from metal, metal products, asphalt, roofing cement and prepared roofing materials to "such commodities as are dealt in or used by manufacturers or distributors of metal products, building materials, and petroleum and petroleum products"; in Sub-Nos. E15, E24, and E25 remove all exceptions except classes A and B explosives from its general commodities authority; in Sub-No. 39F through 46F remove the "except commodities in bulk" restriction; in Sub-No. E3, E8, E9, E20, and E23 remove the "except commodities in bulk and those requiring special equipment" restrictions; in Sub-No. 39F, broaden New Haven and Windsor to New Haven and Hartford Counties, CT; in Sub-No. 40F, replace a plantsite at Strongsville with Cuyahoga County, OH; in Sub-No. 41F, replace a plantsite at East Hartford, CT with Hartford County, CT; in Sub-No. 42F, replace a plantsite at New Britain, CT with Hariford County, CT; and in Sub-No. 43F, replace a plantsite at Perth Amboy with Perth Amboy, NJ; in Sub-No. E2, and E20, broaden Monroe to Monroe County, MI; in Sub-No. E3, E8, E9, broaden Libertyville and Grayslake to Lake County, IL, Belvidere to Boone County, IL; in Sub-No. E10, E11, E15, E19, E20, and E23, broaden Belvidere to Boone County, IL; in Sub-No. E16, E17, E18, E20 replace a plantsite in Putnam County with Putnam County, IL; in Sub-No. E25, replace plantsites in Oakland and Macomb Counties, MI with Oakland and Macomb Counties, MI, a plantsite at Romeo with Macomb County, MI, and broaden Belvidere, IL to Boone County, IL. In each of its above numbered certificates expand its one-way authority to radial authority between various combinations of points in the U.S. The purpose of this republication is to correct the commodity descriptions in part (9), part (10) and Sub-No. 12.

MC 9153 (Sub-8)X, filed May 20, 1981. Applicant: J. R. CHRISTONI, INC., North Cherry Street Ext., Wallingford, CT 06492. Representative: Gerald A. Joseloff, 410 Asylum Street, Hartford, CT 06103. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2, 4, 5, 6 and 7 certificates to (1) broaden the commodity authority in its lead docket from general commodities with the usual exceptions to "general commodities (except Classes A and B explosives)"; from machinery and steel to "machinery and supplies, waste or scrap materials, and metal products", and from "steel to metal products and waste or scrap materials"; (2) broaden the commodity authority in Sub-Nos. 2 and 4 from steel and steel articles to "metal products and waste or scrap materials"; (3) broaden the commodity authority in Sub-Nos. 5, 6 and 7 from tanks and machinery and machinery and steel to "machinery and supplies, transportation equipment, waste or scrap materials, and metal products"; (4) expand the territorial description in its lead docket from one-way to radial authority between New Haven County, CT and, New York, NY and points in MA and RI; (5) expand the territorial description to authorize county-wide authority on its irregular route authority from Wallingford, CT to New Haven County, CT, from the Town of Newington, CT to Hartford County, CT and from the City of Hartford, CT to Hartford County, CT in the lead; from Glastonbury, CT to Hartford County, CT in Sub-No. 2; from Wallingford, CT and Seabrook, NH to New Haven County, CT and Rockingham County, NH in its Sub-No. 4; and from Hainesport, NJ to Burlington County, NJ in its Sub-No. 5.

MC 76262 (Sub-7)X, filed May 15, 1981. Applicant: WEIR-COVE MOVING & STORAGE COMPANY, 4224 Freedom Way, Weirton, WV 26062. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Applicant seeks to remove restrictions in its lead and Sub-Nos. 3 and 5 to (1) broaden the commodity descriptions to (a) "general commodities (except classes A and B explosive)" from general commodities (with exceptions), in the lead; (b) "lumber and wood products" from wood boxes, skids, plywood, packing cases, and lumber, in the lead; (c) "metal products" from tin plate and iron and steel products, in truckload lots, in the lead; (d) "metal products" from iron and steel and aluminum articles, in the Sub-No. 3; and (e) "metal products" from iron and steel articles in the Sub-No. 5; (2) authorize service at all intermediate points in connection with its regular-route operations between Martins Ferry, OH and Weirton, WV in the lead; (3) replace Weirton, WV with Brooke and Hancock Counties, WV, in irregular route portion of the lead; (4) remove truckload lot restrictions in the lead; and (5) remove a restriction against commodities in bulk in Sub-No. 5.

MC 81835 (Sub-9)X, filed May 18, 1981. Applicant: MONIOWCZAK TRANSIT COMPANY, P.O. Box 235, Escanaba, MI 49829. Representative: William B. Elmer, 624 Third St., Traverse City, MI 49684. Applicant seeks to remove restrictions in its lead and Sub-No. 7 certificates to (1) broaden its commodity descrition to "food and related products", from malt beverages, wines, and carbonated beverages, in both certificates; (2) replace its cities with county-wide authority: in the lead, Manistique, Escanaba, and St. Ignace, MI with Schoolcraft, Delta, and Mackinac Counties, MI; and in Sub-No. 7, Escanaba, MI with Delta County, MI and South Bend with St. Joseph County, IN, Milwaukee with Milkwaukee, Ozaukee, Waukesha, Racine, and Washington Counties, WI in both authorities; St. Louis with St. Louis, St. Charles and Jefferson Counties, MO, St. Louis, MO, and St. Clair, and Madison Counties, IL in Sub-No. 7, and Chicago with Cook, Dupage, Lake, and Will Counties, IL in the lead; and (3) change its one-way to radial authority between combinations of the above points.

MC 104523 (Sub-82)X, filed May 15, 1981. Applicant: HUSTON TRUCK LINE, INC., P.O. Box 427, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its Sub-No. 40 certificate to (1) broaden the commodity description from (a) building and landscaping materials and stone and stone products to "building materials, ores and minerals, and clay, concrete, glass or stone products;" (b) materials used in the laying or erection of electrical transmission lines to "such commodities as are used in the laying or erection of electrical transmission lines;" (c) floor covering to "textile mill products, lumber and wood products, clay, concrete, glass or stone products, rubber and plastic products, and metal products;" and (d) buildings, knocked

down or in sections to "metal products and lumber and wood products;" (2) remove exceptions of commodities in bulk, lumber, cement, and roofing materials; (3) remove restrictions against the transporation of stone and stone products from specified counties in Texas, fencing from Houston, TX to points in MO, KS, and CO, and stone and stone products from points in specified counties in CO; and of Irving, TX; (4) replace Wheatland, WY with Platte County; and (5) change one-way authorities to radial authorities between points in the central U.S.

MC 119560 (Sub-23)X, filed May 14, 1981. Applicant: SOUTHERN BULK HAULERS, INC., P.O. Box 278, Harleyville, SC 29448. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St., N.W., Washington, DC 20004. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2, 3, 4, 6, 8, 11, 14, 16, 17, 18, 20F, 21F and 22F certificates to (1) broaden the commodity description from (a) cement, brick, and sand to "building materials" in the lead and Sub-Nos. 2, 3, 4, 6, 11, 14, and 16; (b) lumber (except plywood and veneer) to "building materials and lumber and wood products" in Sub-No. 8 and 18F; (c) lumber amd fiberboard to "building materials, lumber and wood products, and pulp, paper and related products" in Sub-No. 21F; (d) fertilizer, fertilizer materials, anhydrous ammonia, urea, and soda ash and dry terephthalic acid to "chemicals and related products" in Sub-Nos. 17 and 20F; and (e) aluminum articles, and materials, equipment, and supplies to "metal products and materials, equipment and supplies used in their manufacture" in Sub-No. 22F; (2) remove the restrictions (a) in bulk in Sub-Nos. 11, 14, 17 and 20F; (b) against transportation of flint sand from Shuler, SC to Atlanta, GA in Sub-No.11; (c) in tank vehicles, hopper-type vehicles, and dump vehicles in Sub-No. 17; (d) in tote bins and hopper-type vehicles in Sub-No. 20; and (e) ex-rail in Sub-Nos. 2 and 3; (3) eliminate the facilities limitation in the lead and Sub-Nos. 18F, 21F and 22F; (4) expand city to county-wide authority from Harleyville and Summerville to Dorchester County, SC in the lead and Sub-Nos. 16 and 18F; Cayce to Lexington County, SC, and Conyers to Rockdale County, GA, in Sub-No. 6; Four Holes (Four Hole Station) and Charleston to Orangesburg and Charleston Counties, SC, in Sub-No. 8; and Holly Hill and Walterboro to Orangeburg and Colleton Counties, SC, in Sub-No. 21F; and (5) change one-way to radial authority between numerous points throughout the U.S.

MC 123581 (Sub-1)X, filed May 18, 1981. Applicant: BILMAR CORPORATION, Broad and Hazel Streets, Clifton, NJ 07011. Representative: Joseph R. Siegelbaum, 17 Academy Street, Newark, NJ 07102. Applicant seeks to remove restrictions in its lead permit to broaden the commodity description from steels, metals, and steel and metal products to "metal products", and broaden the territorial description to between points in the U.S. under continuing contract(s) with a named shipper.

MC 125628 (Sub-6)X, filed May 18, 1981. Applicant: S. S. BAIRD & SONS, LTD., 155 Whiting Road, Fredericton, New Brunswick, Canada E3B 5Y5. Representative: Bernard J. Kompare, Suite 1600, 10 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-No. 1 certificate to (1) broaden the commodity description to "lumber or wood products" from lumber and fuel blocks; (2) authorize radial service for existing one-way authority; and (3) replace named ports of entry in Maine with all ports of entry in Maine on the International Boundary line betwen the U.S. and Canada.

MC 126271 (Sub-2)X, filed May 20, 1981. Applicant: KODIAK TRANSFER, INC., P.O. Box 347, Kodiak, AK 99615. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101; J. M. Stern, Jr., P.O. Box 1672, Anchorage, AK 99510. Applicant seeks to remove restrictions in its Sub-No. 1 certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)", and (2) broaden the territorial description to the Third Judicial District of AK from Homer and Seward, AK.

MC 129742 (Sub-14)X, filed May 20, 1981. Applicant: PUROLATOR COURIER, LTD., Valhalla Executive Center, 304 The East Mall, Islington, Ontario, Canada M9B 6C7. Representative: Peter A. Greene, Suite 700, 1920 N Street, N.W., Washington, D.C. 20036. Applicant seeks to broaden the territorial authority in MC 129456 Sub.-No. 4 permit to allow service between points in the United States, under contract(s) with unnamed banks and banking institutions.

MC 136635 (Sub-61)X, filed May 14, 1981. Applicant: WHITEFORD TRUCK LINES, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions in its Sub. Nos. 7F and 26F certificates to (1) broaden the commodity description from refrigeration equipment in Sub-No. 7F to "machinery"; and from lawn and garden tractors, snow blowers, parts and attachments for these commodities and materials equipment and supplies used in the manufacture and assembly of garden tractors, in Sub-No. 26F to "machinery and materials, equipment, and supplies used in the manufacture and distribution of machinery"; (2) remove facilities limitations at and replace (a) South Bend, IN, with St. Joseph County, IN, Lansing, MI, with Ingham County, MI, Hopkins, MN, with Hennepin County, MN, Leetsdale, PA, with Allegheny County, PA, West Springfield, MA, with Hampten County, MA, Little Rock, AR, with Pulaski County, AR, and Doraville, GA, with DeKalb County, GA, in Sub-No. 26F; and (b) Niles, MI, with Berrien County, MI, in Sub-No. 7F; and (3) replace one-way with redial authority between Berrien County, MI, and the eastern portion of the U.S.

MC 141914 (Sub-101)X, filed April 27, 1981. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666—Eleventh St. N.W., Washington, D.C. 20001. Applicant seeks to remove restrictions in its Sub-Nos. 9, 16, 28, 32, 57, 65, 66, 67, 74, 79, 83, 84, 95 and 96 certificates, to (1) in Sub-No. 57F broaden the commodity descriptions to "general commodities (except classes A and B explosives and household goods, as defined by the Commission)" rrom (a) glass products, metal products, plastic products, clay and clay products, feldspar, and talc, (b) molds and machinery used in the manufacture of glass products, (c) bottle coating systems, (d) parts and accessories for the commodities in (b) and (c) above and (e) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (a) through (d) above, remove the in bulk restriction; broaden the territorial description by replacing facilities at Flat River, MO with county-wide authority to authorize radial service between St. Francois County, MO, and, points in the U.S.; remove the AK and HI exception; (2) in Sub-No. 66F, broaden the commodity description to "general commodities (except classes A and B explosives and household goods, as defined by the Commission)" from (a) glass products, metal products, plastic products, clay and clay products, feldspar, and talc, (b) molds and machinery used in the manufacture of glass products, (c) bottle coating systems, (d) parts and accessories for the commodities in (b) and (c) above,

and (e) materials, equipment and supplies used in the manufacture and distribution of the commodities in (a), (b), (c) and (d) above; remove the AK and HI restrictions, and broaden the territorial description be replacing by replacing facilities at Flat River, MO with county-wide authority to authorize radial service between St. Francois County, MO, and, points in the U.S.; remove the AK and HI exception; (2) in Sub-No. 66F broaden the commodity description to "general commodities (except classes A and B explosives and household goods, as defined by the Commission)" from (a) glass products, metal products, plastic products, clay and clay products, feldspar, and talc, (b) molds and machinery used in the manufacture of glass products, (c) bottle coating systems, (d) parts and accessories for the commodities in (b) and (c) above, and (e) materials, equipment and supplies used in the manufacture and distribution of the commodities in (a), (b), (c) and (d) above; remove the AK and HI restrictions, and broaden the territorial description be replacing facilities at Centralia, IL with county-wide authority to authorize service between Marion County, IL, and points in the U.S., and remove the in bulk exceptions; (3) in Sub-No. 79F broaden the commodity descriptions to "general commodities (except classes A and B explosives and household goods as defined by the Commission)" from (a) glass, metal, plastic, feldspar, talc, and clay articles and products, (b) gift items, (c) molds and machinery used in producing glass, plastic, and metal articles, (d) bottle coating systems, (e) parts and accessories for the commodities in (a), (b), (c) and (d) above, and (f) materials, equipment, and supplies used in the production, sale, and distribution of the above described commodities; broaden the territorial description be replacing facilities at Springfield, KY with county-wide authority to authorize service between Washington County, KY, and, points, in the US; remove the AK and HI restrictions, (4) broaden the commodity description from residential heating cooling units, components, accessories, and equipment used in the manufacturing of the named commodities to "machinery", in Sub-Nos. 9 and 16; from paint, paint materials, stains, varnishes, protective coating materials, and athletic field surfacing materials and component materials used in the manufacture of the above commodities to "chemical and related products, and rubber and plastic products", in Sub-No. 28; from vinyl coated fabrics and plastic sheeting (except cellulose) exceeding 15 pounds per square foot, to "textile mill products and rubber and plastic products", in Sub-No. 32F; from automotive fluids (except in bulk), and new containers, used in the transportation and storage of automotive fluids to "petroleum and petroleum products, chemicals and related products, and containers", in Sub-No. 67F; from refrigerant jell, cooler boxes, athletic and gymnasium equipment, athletic dressings, freezers, and refrigerators to "chemicals and related products, rubber and plastic products, athletic and gymnasium equipment, textile mill products, and machinery," in Sub-No. 74F; from carpet strip and carpet adhesive to "metal products and chemicals and related products" and from nails to "metal products," in Sub-No. 83F; from adhesives, cleaning, preserving and sealing products, solvents, strains, plastic carpeting, carpet strip and moldings (except commodities in bulk) and equipment and supplies used in the installation of the commodities above to "chemicals and related products, plastic and rubber products, metal products, and lumber and wood products," in Sub-No. 84F; from alcoholic liquors and materials, supplies and equipment used in the manufacture, distribution and sales of alcoholic liquors to "food and related products," in Sub-No. 95; and from general commodities (with exceptions) to "general commodities (except classes A and B explosives and household goods as defined by the Commission)," in Sub-No. 96; (5) replace one-way authority with radial authority in Sub-Nos. 9, 16, 28, 65F, 74F, 83F and 84F; (6) broaden the territorial description by substituting county-wide and city-wide authority for city-wide authority and facilities: Fort Smith, AR (for Ft. Smith, AR), in Sub-No. 9; Baldwin County, GA (for Milledgeville, GA), in Sub-No. 16; Cambridge, MA (for facilities at Cambridge, MA), in Sub-No. 28; Columbus, OH and Indianapolis, IN (for facilities at Columbus, OH and Indianapolis, IN), in Sub-No. 32F; Fort Smith, AR, Bentonville and Whites Counties, AR (for facilities at Fort Smith, Bentonville and Searcy, AR) and Anderson County, TX (for Palestine, TX), in Sub-No. 65F; Denton County, TX (for Roanoke, TX), in Sub-No. 67F; Orange County, CA (for Tustin, CA), in Sub-No. 74F; Buncombe County, NC (for Asheville, NC), and Bryan County, GA (for Savannah, GA), in Sub-No. 83F; Kalamazoo County, MI (for Kalamazoo, MI) and Montgomery and Greene Counties, OH (for Dayton, OH), in Sub-No. 84F; Posey County, IN (for Mt. Vernon, IN) and Greene County, MO (for Springfield, MO), in Sub-No. 96; (7) remove the "in bulk" restrictions, in Sub-Nos. 28, 95 and 96, and (8) remove the AK and HI exceptions, in Sub-Nos. 67F, 74F, 95 and 96.

MC 145954 (Sub-3)X, filed May 12, 1981. Applicant: FOUR TRUCKERS,

INC., Post Office Box 1211, Morganton, NC 28655. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) broaden the commodity description from new furniture to "furniture and fixtures"; (2) delete the plantsite restriction; (3) replace city-wide authority in Drexel, Morganton, Hildebran, Marion, Mocksville, High Point, and Shelby, NC, with county-wide authority in Burke, Cleveland, Davie, McDowell and Guilford Counties, NC; and (4) authorize radial service between points in above-specified Counties and points in AZ, CA, ID, NV, OR and WA.

MC 147521 (Sub-8)X, filed May 15, 1981. Applicant: J.S.I., 918 E. Vermont Ave., Anaheim, CA 92806. Representative: Miles L. Kavaller, 315 So. Beverly Dr., Suite 315, Beverly Hills, CA 90212. Applicant seeks to remove restrictions from its Sub-Nos. 1F and 6F certificates to: (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)" in Sub-No. 1F; and from wood products to "lumber and wood products" in Sub-No. 6F; and (2) expand facilities at Vernon, CA to Los Angeles County, CA in Sub-No. 1F.

MC 147661 (Sub-3)X, filed May 18, 1981. Applicant: H & W TRUCKING, INC., 108 East Walnut St., Cardington, OH 43315. Representative: E. H. Van Deusen, P.O. Box 97, Dublin, OH 43017. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) broaden the commodity description from truck bodies and truck body parts to "transportation equipment"; (2) eliminate the facilities limitations and expand city to county-wide authority from Merced to Merced County, CA, Atlanta to Fulton, DeKalb, Cobb and Clayton Counties, GA, Urbana to Champaign County, IL, Cardington and Wooster to Morrow and Wayne Counties, OH, and Durant to Bryan County, OK; and (3) remove the restriction against service to AK and HI.

MC 150037 (Sub-3)X, filed May 18, 1981. Applicant: TRANSIT, INC., P.O. Box 81081, A.M.F., Clevelend, OH 44181. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (1) broaden the commodity description from general commodities with exceptions, to "general commodities (except classes A and B explosives);" (2) remove the airport facilities limitations at Cleveland, OH, New York, NY, Newark, NJ, Detroit, MI, Knoxville, TN, Charlotte, NC, Miami, FL, Dallas and Houston, TX, Boston, MA, Hartford, CT, Philadelphia, PA, Baltimore, MD, and the District of Columbia; and (3) remove the restriction requiring prior or subsequent movement by air.

MC 150490 (Sub-2)X, filed May 21, 1981. Applicant: CONN WEST TRUCKING, INC., 4000 East Rd., Lima, OH 45807. Representative: James Duvall, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity descriptions to "machinery, metal products, transportation equipment, and materials, equipment and supplies used in the manufacture, sale and distribution of these commodities" from machinery, engine brakes, and materials and supplies (part 1), generators, engines, and materials and supplies (part 2), engines, generators, radiators, trailers, and materials and supplies (part 3), generators, generators parts, and materials and supplies (part 4), motor vehicle parts, and materials and supplies (part 6), internal combustion engines, engine parts, engines and generators combined, rough casting, and materials, equipment and supplies (part 7), and materials, equipment, supplies, and parts used in the manufacture and distribution of motor vehicles (part 5); (2) eliminate except "AK and HI and commodities in bulk" restrictions; (3) remove the size or weight restriction; and (4) replace cities with county-wide authority as follows: West Hartford and Bridgeport with Hartford and Fairfield Counties, CT; Attleboro with Bristol County, MA; Lima with Allen County, OH; Doylestown with Bucks County, PA; and, Elk Grove Village and Harvey with Cook County, IL.

[FR Doc. 81-16710 Filed 6-4-81; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-48)]

Seaboard Coast Line Railroad Co.—Abandonment—in Jefferson County, FL; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision dated May 27, 1981, the Commission, Review Board Number 2, found that the public convenience and necessity require or permit abandonment by Seaboard Coast Line Railroad Company of a line of railroad extending from MP 772.15 near Drifton to MP 776.69 near Monticello, in Jefferson County, FL, a total distance of 4.54 miles, subject to the conditions for employee protection provided in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to Seaboard Coast Line Railroad Company based on this finding permitting abandonment unless within 15 days from the date of this publication the Commission also finds that:

(1) a financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) it is likely that:

(a) if a subsidy, the assistance would cover the difference between the revenues attributed to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) if a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the issuance of an abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after and offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, an abandonment certificate will be issued. Upon notification to the Commission of the execution of a subsidy or purchase agreement, the Commission shall further postpone the issuance of a certificate for such time as the agreement is in effect. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448, effective October 1, 1980) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–16713 Filed 6–4–81; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-32)]

Southern Pacific Transportation Co. Exemption for Contract Tariff ICC–SP–C–0008

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e) and may file a supplement to its previously-filed contract tariff to become effective on June 18, 1981. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: Southern Pacific Transportation Company (SP) has previously filed contract tariff ICC–SP–0008 on thirty days' notice to become effective on June 18, 1981. The underlying contract provides for the transportation of aggregates for a one-year period. On May 26, 1981, SP filed a petition for exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e) so that it may file a supplement to this contract tariff that will also become effective on June 18, 1981.

Petitioner states that the rate level and escalation provisions which appear in the contract and tariff on file do not correctly represent the agreement reached by the parties. To rectify this mistake, the parties have executed a supplemental agreement. Petitioner requests that the tariff supplement reflecting the parties' actual agreement be permitted to become effective on June 18, 1981, the date originally intended by the parties.

Under 49 U.S.C. 10713(e), contracts must be filed to become effective on not less than 30 nor more than 60 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under its section 10505 exemption authority in appropriate circumstances.

The petition will be granted. SP has already filed a tariff covering the involved transportation service on 30 days' notice. The tariff supplement will only affect the base rate and escalation provisions. Allowing the supplement to become effective on June 18 will not affect other terms of the contract tariff of which interested parties will have had 30 days' notice. In these circumstances, authorization of a provisional exemption is warranted.

SP requests that the tariff supplement be permitted to be filed "on one day's notice effective June 18, 1981." Its petition, however, indicates that an amended agreement has already been executed. SP is advised that the tariff supplement should be filed as soon as possible after service of this decision.

Petitioner has already agreed to be bound by the following conditions:

If the Commission permits the contract to become effective on June 18, 1981, this fact neither shall be construed to mean that this a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding, on its own initiative or on complaint, to review the contract or to disapprove it.

Subject to compliance with the conditions set out above, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. The contract tariff supplement to filed in conformity with our tariff publishing regulations may become effective on June 18, 1981. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Decided: June 1, 1981.

By the Commission, Division 2, Commissioners Gresham, Trantum, and Alexis.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–16709 Filed 6–4–81; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 311]

Motor Carriers; Expedited Procedures for Recovery of Fuel Costs; Decision

Decided: June 2, 1981.

In our recent decisions, an 18.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 18.4-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.5-percent. All owner-operators are to receive compensation at this level.

No change is authorized on the 3.2-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, the 2.1-percent surcharge for United Parcel Service, or the 6.9-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by

delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered:

This decision shall become effective Friday 12:01 a.m. June 5, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix—*Fuel Surcharge*

June 1, 1981

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

June 1, 1981 ..... 132.7¢

	Transportation performed by—			
	Owner-operator[1]	Other[2]	Bus carriers	UPS
	(1)	(2)	(3)	(4)
Average percent: fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	18.4	3.2	6.9	[3]2.9
Percent surcharge allowed	18.5	3.2	6.9	[4]2.1

[1]Apply to all truckload rated traffic.
[2]Including less-than-truckload traffic.
[3]The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increased in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4]The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-16790 Filed 6-4-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exeption of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants withregulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY-5-74

Decided: May 29, 1981.

MC 83539 (Sub-544), filed May 4, 1981. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, Dallas TX 75227. Representative: Thomas E. James, P.O. Box 270535, Dallas, TX 75227, (214) 288-3305. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Rigney & Roe, Inc., of Houston, TX, its divisions and subsidiaries.

MC 99019 (Sub-13), filed May 14, 1981. Applicant: KILLIAN BULK TRANSPORT, INC., 100 Katharine St., Buffalo, NY 14210. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202, (716) 854-5870. Transporting *chemicals and related products*, between points in Erie County, NY, on the one hand, and, on the other, points in OH and PA.

MC 99749 (Sub-8), filed May 14, 1981. Applicant: BOURNE'S TRANS., INC., 1029 Pear St., Brockton, MA 02401. Representative: Jon F. Hollengreen, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, D.C. 20004, (202) 628-4600. Transporting *general commodities* (except classes A and B explosives), between points in CT, ME, MA, NH, RI, and VT.

MC 99808 (Sub-8), filed May 8, 1981. Applicant: C-LINE EXPRESS INC., P.O. Box 540, 525 Silverado Trail, Napa, CA 94558. Representative: George James (same address as applicant), (707) 255-7644. Transporting *pulp, paper and related products*, between San Francisco, Oakland, and Richmond, CA, on the one hand, and, on the other, points in Yolo, Glenn, Colusa, Tehama, and Shasta Counties, CA.

MC 99919 (Sub-11), filed May 15, 1981. Applicant: FREMONT EXPRESS, INC., P.O. Box Q, 620 E. Factory, Fremont, NE 68025. Representative: Scott T. Robertson, P.O. Box 94748, Lincoln, NE 68509, 402-476-8062. Transporting *such commodities* as are used in the manufacture and distribution of fiberglass and fiberglass products, between points in (a) NE on the one hand, and, on the other, Minneapolis-St. Paul, MN; points in Leavenworth, Wyandotte and Johnson Counties, KS; Polk and Warren Counties, IA; Tarrant, Dallas, Ellis, Johnson, Parker, Wise and Denton Counties, TX; (b) Sedgwick County, KS, on the one hand, and, on the other, Minneapolis-St. Paul, MN; points in Platte, Clay, Jackson and Cass Counties, MO; Polk and Warren Counties, IA; and Tarrant, Dallas, Ellis, Johnson, Parker, Wise and Denton Counties, TX. (2) *general commodities* (except classes A and B explosives), between points in Dodge County, NE on the one hand, and, on the other, points in Leavenworth, Wyandotte, Johnson and Sedgwick Counties, KS; Platte, Clay, Jackson and Cass Counties, MO; Denver, Jefferson, Adams, Arapahoe and Douglas Counties, CO; Sebastian,

Critten and Crawford Counties, AR; IL; Polk and Warren Counties, IA; Minneapolis-St. Paul, MN; Montgomery and Philadelphia Counties, PA; Shelby and Warren Counties, TN; DeSoto County, MS; Denton, Collin, Rockwell, Kaufman, Ellis, Tarrant and Dallas Counties, TX; Marathon, Ozauke Counties, WI and Allen County, IN.

MC 101619 (Sub-11), filed April 22, 1981, previously noted in **Federal Register** (republication) issue of May 13, 1981. Applicant: HOVER TRUCKING CO., P.O. Box 758, 1431 So. 11th St., Niles, MI 49120. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 So. Second St., Elkardt, IN 46516, (219) 292–3597. Transporting *general commodities* (except classes A and B explosives), between Chicago, IL, points in Elkhart, Kosciusko, LaGrange, LaPorte, Marshall, Noble, Porter, St. Joseph, and Starke Counties, IN, and points in MI.

Note.—Purpose of republication is to modify the authority as above.

MC 108188 (Sub-16), filed May 18, 1981. Applicant: ROLLO TRUCKING CORP., INC., 295 Broadway, Keyport, NJ 07735. Representative: Fred H. Daly, 2550 M Street NW., Suite 475, Washington, DC 20037, 202–293–3204. Transporting *commodities in bulk*, between points in New York in and east of Warren, Hamilton, Herkimer, Oneida, Onondaga, Cortland, and Tioga Counties; points in PA in and east of Tioga, Lycoming, Clinton, Centre, Junita, Perry, Cumberland, and Adams Counties; and points in NJ, on the one hand, and, on the other, points in NY, NJ, CT, RI, MA, VT, NH, ME, IL, FL, GA, IN, IA, KY, MD, MI, MO, NC, OH, AL, PA, SC, TN, TX, VA, WV and DC.

MC 109448 (Sub-32), filed May 19, 1981. Applicant: PARKER TRANSFER CO., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of home applicances and air-conditioning units between points in Iowa County, IA and Lincoln County, TN, on the one hand, and, on the other, points in the U.S.

MC 113119 (Sub-14), filed May 19, 1981. Applicant: C.S.I. INC., d.b.a., CONTRACT SERVICES, INC., Trewigtown Rd., Colmar, PA 18915. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, 717–344–8030. Transporting *building materials*, between points in Bucks, Montgomery, and Philadelphia Counties, PA, Cattaraugus County, NY, Madison County, TN, Hancock and Breckenridge Counties, KY, and Fayette County, AL, on the one hand, and, on the other, points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundaries of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 121589 (Sub-9), filed May 19, 1981. Applicant: N & W TRANSFER, INC., P.O. Box 188, Nehawka, NE 68413. Representative: James F. Crosby, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114, 402–227–6814. Transporting *waste or scrap materials not identified by industry producting*, between points in CO, SD, NE, KS, OK, MN, IA, MO, WI, IL, MI, OH and IN.

MC 124679 (Sub-137), filed May 8, 1981. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon (same address as applicant), (801) 972–2712. Transporting *furniture and fixtures*, between the facilities of Prima Corporation at points in NC, MI, TX, and MN, on the one hand, and, on the other, points in the U.S.

MC 135989 (Sub-27), filed May 19, 1981. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele St., Denver, Co 80209, (303) 320–6100. Transporting *transportation equipment*, between points in the U.S., under continuing contract(s) with Texoma Axle-Parts Mfg. Co., of Sherman, TX.

MC 135989 (Sub-28), filed May 19, 1981. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele St., Denver, Co 80209, (303) 320–6100. Transporting *transportation equipment*, between points in the U.S., under continuing contract(s) with Mazda Motors of America (Central), Inc., of Compton, CA.

MC 136888 (Sub-15), filed May 13, 1981. Applicant: NORMAN & SON, INC., 7255 Avenue N, Houston, TX 77011. Representative: Timothy Mashburn, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768, (512) 476–6391. Transporting *commodities in bulk*, between points in the U.S.

MC 144189 (Sub-16), filed May 18, 1981. Applicant: CORPORATE TRANSPORT INC., 107 7th North St., Liverpool, NY 13088. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *such commodities* as are dealt in by manufacturers and distributors of paper and paper products, between points in the U.S., under continuing contract(s) with Climax Manufacturing Co., of Castorland, NY.

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Decided: May 29, 1981.

MC 144999 (Sub-8), filed May 4, 1981. Applicant: JEM TRUCKING COMPANY, INC., P.O. Box 217, Wilkesboro, NC 28697. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, 601–355–3543. Transporting *food and related products* between points in the U.S., under continuing contract(s) with Lovette Company of North Wilkesboro, NC.

MC 146628 (Sub-10), filed May 12, 1981. Applicant: HUNT SUPER SERVICE, INC., P.O. Box 270, Bradley, IL 60915. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *food and related products*, between points in the U.S., under continuing contract(s) with Ko-Pak, Inc., of Momence, IL, and (2) *portable earth station*, between points in the U.S., under continuing contract(s) with American Telephone & Telegraph Company of Chicago, IL.

MC 146648 (Sub-3), filed May 5, 1981. Applicant: NIMCO TRUCKING, INC., 308 S. 25th St., Boise, ID 83702. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701, 208–336–5955. Transporting (1) *rubber and plastic products*, between points in the U.S., under continuing contract(s) with Johns-Manville Sales Corporation of San Mateo, CA, and (2) *scrap batteries, scrap metal, and automobile bodies*, between points in the U.S., under continuing contract(s) with Northern Iron and Metals Co., of Boise, ID.

MC 146699 (Sub-4), filed May 14, 1981. Applicant: DeSOTO TRAIL, INC., 282 E. Main St., Franklin, NC 28734. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers S, 3390 Peachtree Road NE., Atlanta, GA 30326, (404) 262–7855. Transporting *such commodities* as are dealt in or used by manufacturers of wire and cable, between points in the U.S., under continuing contract(s) with Intercomp Wire & Cable Division, American Components, Inc., of Hayesville, NC.

MC 147028 (Sub-4), filed May 13, 1981. Applicant: MICHAEL L. GINEVRA d.b.a., MICHAEL L. GINEVRA, TRUCKING, 304 Kings Crown, San Antonio, TX 78233. Representative: Greg

P. Stefflre, 261 South Figueroa, Los Angeles, CA 90012, (213) 485–1081. Transporting *such commodities* as are dealt in or used by the manufacturers and distributors of asphalt and vinyl floor tile, between points in the U.S., under continuing contract(s) with Azrock Industries, Inc., of San Antonio, TX.

MC 147549 (Sub-3), filed May 18, 1981. Applicant: ROADAIR LEASING, INC., 3999 Erie Ave., Cincinnati, OH 45208. Representative: David Earl Tinker, 1000 Connecticut Avenue NW., Suite 1112, Washington, DC 20036, (202) 887–5868. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Super X Drugs Corporation, of Cincinnati, OH, and Consolidated Ceramic Products, Inc., of Blanchester, OH.

MC 149568 (Sub-6), filed May 11, 1981. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Philipp Brothers Chemicals, Inc., of New York, NY.

MC 150509 (Sub-4), filed April 28, 1981. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Union Camp Corporation, of Wayne, NJ.

MC 150509 (Sub-5), filed April 28, 1981. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Carter Wallace, Inc., of Cranbury, NJ.

MC 150509 (Sub-7), filed May 18, 1981. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Robert L. Van Buren, 5600 First Ave., Brooklyn, NY 11220, (212) 492–7332. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Wiki Wiki Corporation, of Carson, CA.

MC 151899 (Sub-4), filed May 7, 1981. Applicant: BLACKHAWK EXPRESS, INC., 89 North Main St., Fort Atkinson, WI 53538. Representative: Anthony E. Young, 20 South LaSalle St., Chicago, IL 60603, (312) 782–8880. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Idlewilde Foods, Inc., of Pomfret Center, CT, and its divisions, subsidiaries and affiliates.

MC 152759, filed May 11, 1981. Applicant: ACTIVE TRUCK LINE, INC., 15666 Slover Ave., Fontana, CA 92335. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211, (213) 655–3573. Transporting (1) *metal products,* between points in San Bernardino and Riverside Counties, CA, Salt Lake and Utah Counties, UT, Larimer County, CO, and Harris County, TX, on the one hand, and, on the other, points in CA, OR, NV, AZ, UT, WA, MT, ID, WY, CO, NM, and TX, (2) *chemicals and related products,* between Los Angeles, CA, points in San Bernardino County, CA, Yellowstone and Cascade Counties, MT, Harris and Tarrant Counties, TX, on the one hand, and, on the other, points in CA, OR, NV, AZ, UT, WA, MT, ID, WY, CO, NM, and TX, and (3) *machinery,* between points in San Bernardino and Sacramento Counties, CA, Maricopa and Pima Counties, AZ, Clark and Carson City Counties, NV, and Salt Lake County, UT, on the one hand, and, on the other, points in CA, OR, NV, AZ, UT, WA, MT, ID, WY, CO, NM, and TX.

MC 153690, filed May 15, 1981. Applicant: HOLLAND TRUCK & TRAILER REPAIR, INC., 1534 East 168th St., South Holland, IL 60473. Representative: Stephen H. Loeb, Suite 2027, 33 North LaSalle St., Chicago, IL 60602, (312) 726–9722. Transporting *wrecked and disabled motor vehicles,* between Chicago, IL, on the one hand, and, on the other, points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MD, MI, MN, MO, MS, NE, NJ, NY, OH, PA, TN, VA, WI, WV, and DC.

MC 155949, filed May 14, 1981. Applicant: DAWMAN S. GAY, JR., Rt 2, Box 344–M, St. Augustine, FL 32084. Representative: W. Guy McKenzie, Jr., P.O. Box 1200, Tallahassee, FL 32302, 904–576–1221. Transporting *passengers and their baggage,* in special and charter operations, beginning and ending at points in St. Johns, Putnman, Duval and Volusia Counties, FL, and extending to points in GA, MS, LA, SC, TN and DC.

MC 155989, filed May 15, 1981. Applicant: NICHOLAS CRNEK, JR., d.b.a. RELIABLE TRUCK LINES, 9920 Reeck Rd., Allen Park, MI 48101. Representative: William B. Elmer, 624 Third St., Traverse City, MI 49684, (616) 941–5313. Transporting *metal products,* between points in the U.S., under continuing contract(s) with Aluma-Systems, Inc., of Downsview, Ontario, Canada.

[FR Doc. 81-16793 Filed 6-4-81; 8:45 am]

BILLING CODE 7035-01-M

Tongue River Railroad Line Construction; Supplemental Scoping Meetings

AGENCY: Interstate Commerce Commission, Office of Policy and Analysis, Energy and Environment Branch.

ACTION: Notice of supplemental scoping meetings.

SUMMARY: By notice published in 45 FR 46494, 7–10–80, the Interstate Commerce Commission (ICC) indicated that it would prepare an Environmental Impact Statement (EIS) dealing with the proposed construction of a rail line along the Tongue River between the proposed Montco mine (south of Ashland) and Miles City in Rosebud and Custer Counties, MT. In a supplemental notice appearing at 46 FR 22274, 4–16–81, the ICC announced that the scope of the EIS would be expanded to address the impacts associated with the construction of a newly proposed spur line to be built along Otter Creek between Ashland and a point eight to ten miles southeast of Ashland. Both railroad lines are designed to provide access to proposed and potential coal mines in Rosebud and Powder River Counties.

Two scoping meetings were held on August 7, 1980 at Miles City, at which public comment on issues to be addressed in the EIS was invited. The purpose of this present notice is to announce the scheduling of two other (supplemental) scoping meetings which are to be held in the Band Room of the Labre Indian School in Ashland, MT at 3:00 P.M. on June 23, 1981 and at the Community Center in Broadus, MT at 7:30 P.M. on June 23. These scoping sessions are being arranged to afford interested members of the public an opportunity (a) to comment on any new environmental impacts that would be occasioned by construction of the Otter Creek Spur and (b) to suggest how the scope of the EIS might be changed in light of the proposal to construct a line along Otter Creek.

FOR FURTHER INFORMATION CONTACT: Ms. Carole Dawkins, Energy and Environment Branch, Room 5380, Interstate Commerce Commission, 12th and Constitution Avenue, NW,

Washington, DC 29423. Telephone: (202) 275-7658.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-16791 Filed 6-4-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 81-13326, appearing on page 25008 in the issue of Monday, May 4, 1981, make the following correction:

On page 25010, fifth line, the word "*Meat*" should have read "*Metal*".

BILLING CODE 1505-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 751-TA-4]

Synthetic L-Methionine From Japan; Institution of Section 751(b) Review Investigation

AGENCY: United States International Trade Commission..

ACTION: Institution of section 751(b) review investigation concerning affirmative determination in Investigation No. AA1921-115, Synthetic Methionine from Japan.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has initiated an investigation pursuant to section 751(b) of the Tariff Act of 1930, 19 U.S.C. 1675(b) (Supp. III 1979), to review its determination in Investigation No. AA1921-115. The purpose of the investigation is to determine whether an industry in the United States would be materially injured, would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, if the antidumping order regarding synthetic methionine from Japan were to be modified or revoked with respect to synthetic 1-methionine provided for in item 425.04 of the Tariff Schedules of the United States.

SUPPLEMENTARY INFORMATION: On May 14, 1973, the Commission determined that an industry in the United States was injured within the meaning of the Antidumping Act, 1921, by reason of imports of synthetic methionine from Japan determined by the Secretary of Treasury to be sold or likely to be sold at less than fair value (hereinafter "LTFV").

On July 3, 1973, the Department of the Treasury issued a finding of dumping, 7 Cust. B. 630 (1973); T.D. 73-188, and published notice thereof in the **Federal Register**, 38 FR 18382.

On December 15, 1980, the Commission received a request to review its affirmative determination in Investigation No. AA1921-115. The request was filed under section 751(b) of the Tariff Act of 1930 by Kyowa Hakko USA, Inc., an importer of synthetic 1-methionine from Japan.

The Commission requested comments from the public regarding the proposed institution of a review investigation in a notice published in the **Federal Register** on April 15, 1981 (46 FR 22087). No comments adverse to institution were received. Accordingly, on the basis of the Kyowa Hakko petition and information obtained by the Commission staff, the Commission on May 28, 1981, voted to institute Investigation No. 751-TA-4. The Commission determined that the petition showed that following changed circumstances sufficient to warrant review: (1) The likelihood that there is no industry in the United States which produces synthetic 1-methionine, and (2) the likelihood that synthetic 1-methionine from Japan is not like any form of synthetic methionine produced in the United States.

The investigation will be conducted in accordance with § 207.45(b) of the Commission's Rules of Practice and Procedure (46 FR 18023) (March 23, 1981). The purpose of this investigation is to determine whether an industry in the United States would be materially injured, would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded if the present antidumping order were to be modified or revoked to exclude synthetic 1-methionine. Modification or revocation of the dumping finding as to synthetic 1-methionine would not affect the Commission's affirmative determination as to other forms of synthetic methionine from Japan.

Dates: Pursuant to section 207.45(b) of the Commission's Rules of Practice and Procedure (46 FR 18023 (March 23, 1981)), the 120-day period for completion of this investigation began on May 28, 1981, the date of institution.

Public Hearing. Any person with an interest in this investigation may request in writing that the Commission hold a public hearing in connection with this investigation. Any such request must be received by the Commission within 14 days of the date of publication of this notice of investigation in the **Federal Register**

Written Submissions.—Any person may submit to the Commission on or before June 19, 1981, written statements of information pertinent to the subject matter of the investigation. A signed original and nineteen true copies of such statements must be submitted in accordance with § 201.8 of the Commission's Rules of Practice and Procedure, 19 CFR 201.8 (1980).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential business data." Confidential submissions must conform with the requirements of § 201.6 of the Rules of Practice and Procedure, 19 CFR 201.6. All written submissions, except confidential business data, will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: John MacHatton, supervisory investigator, Office of Investigations, U.S. International Trade Commission, (202) 523-0439; Warren H. Maruyama, Office of the General Counsel, U.S. International Trade Commission, (202) 523-0143.

By Order of the Commission.

Issued: June 3, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-16721 Filed 6-4-81; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-81-111-C]

Jeddo-Highland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Jeddo-Highland Coal Company, Post Office Box 450, Pittston, Pennsylvania 18640 has filed a petition to modify the application of 30 CFR 77.216-4 (water, sediment or slurry impoundments and impounding structures; reporting requirements; certification) to its Jeddo No. 7 Breaker, Hazleton Shaft Breaker, and Lion Fine Coal Plant, all located in Luzerne County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that annual reports be submitted to the District Manager on the conditions of impoundment structures.

2. As an alternative to filing annual reports, petitioner proposes to:

a. Make no changes or modifications to existing physical conditions of the

structures which will affect their safety or stability;

b. Make regular bi-weekly inspections of these impoundments by qualified personnel;

c. Strictly adhere to all maintenance and inspection required by plans previously submitted and approved by MSHA pursuant to 30 CFR 77.216, et seq.;

d. Take precautions and corrective action, if necessary, in accordance with the approved plans;

e. Make no changes in the operating procedures for maintaining the recommended freeboard, as specified in the approved plans;

f. Monitor and control the amount of water in these systems so at no time will the quantity of water be great enough to create a hazard.

3. Petitioner states that this proposed alternate method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1981. Copies of the petition are available for inspection at that address.

Dated: May 27, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-16809 Filed 6-4-81; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-9000]

Fab-Tec, Inc.; Negative Determination on Reconsideration

On May 1, 1981, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers producing conveyor and material handling equipment at Fab-Tec, Incorporated, Warren, Michigan.

In the application for adminstrative reconsideration, the applicant suggested that the millwrights' activity at Buick Motor Division be considered as an appropriate subdivision of Fab-Tec, Inc. The petitioner alleges that the Department of Labor placed undue reliance on the fact that sales of Fab-Tec, Inc. increased in comparison to prior years while sales of contractual work by Local 1102 members was drastically reduced; that although the Labor Department's statement that average employment of plant employees at Fab-Tec, Inc. was stable is accurate, it is applied to an improper work force, that is, the contractural employment at Buick dropped to almost zero as the next phase of contracted work was not started because of auto sales drop; and that the Labor Department wrongly interpreted the petitioner's allegations, in that the petitioner did not allege employment had decreased at Fab-Tec, Inc., but that employment had decreased at the Buick Motor Divison where Local 1102 members were contracted to maintain production of transmission parts.

Even if the Department were to consider the millwrights working for Fab-Tec at Buick as employees of an appropriate subdivision of Fab-Tec, such workers may be certified only if their separation from employment was caused importantly by a reduced demand for their services from a firm which produces an article and which is related to the service worker's firm by ownership or by a substantial degree of proprietary control, or if the workers are determined to be *de facto* (according to the facts of the case) employees of the producing firm. In addition, the reduction in demand for services must be determined to have originated at a production facility whose workers independently meet the statutory criteria for certification, and that reduction must directly relate to the product adversely affected by increased imports. General Motors cannot be considered to be the petitioning workers' firm. GM cannot be considered as the workers' firm nor can the workers be considered "de facto" employees of GM. Under the circumstances, the petitioning millwrights would not be certifiable.

The Department's original denial was based mainly on the fact that sales of Fab-Tec, Incorporated, increased in 1979 compared to 1978 and during January-September 1980 compared to the same period in 1979. Average employment of Fab-Tec workers remained stable in 1979 compared with 1978 and increased during January-October, 1980 compared with the same period in 1979.

Further, automobiles or auto transmissions cannot be considered as directly competitive with the conveyor or material handling equipment produced at Fab-Tec, Incorporated. Therefore, increased imports of these final articles would not provide a basis for certifying the Fab-Tec workers even if sales or production and employment had declined.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of Fab-Tec, Incorporated, Warren, Michigan.

Signed at Washington, D.C. this 29th day of May 1981.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 81-16805 Filed 6-4-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,329]

Jackson Crankshaft Co.; Negative Determination Regarding Application for Reconsideration

By an application dated April 24, 1981, the United Auto Workers 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 crankshafts at the Jackson Cranskshaft Company, Jackson, Michigan. The determination was published in the **Federal Register** on April 14, 1981 (46 FR 21864).

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 union claims that Jackson Crankshaft Company's major customer shifted its purchases of crankshafts from Jackson to a foreign supplier. The union also contends that workers who were employees of a competitor of Jackson's were certified and that the Jackson workers should receive the same treatment as those certified workers.

The Department's review indicated that the worker petition did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's survey which represented the major portion of the subject firm's 1979 and 1980 sales revealed that the major customers either reduced imports of crankshafts in 1980 compared to 1979 or

that increased imports represented only an insignificant portion of Jackson's sales decline in 1980 compared to 1979.

The Department's certification for workers at the other crankshaft firm was based mainly on that firm's major customer substantially reducing its purchases from it in 1980 while increasing its imports. Although this same customer is also a major customer of Jackson Crankshaft, it only reduced its purchases marginally from Jackson in 1980. Since the decrease in Jackson's sales to this customer was only marginal, the import displacement could not have been an "important" factor in Jackson's net sales decline and in the significant separations of workers. The major part of Jackson Crankshaft's sales decline came from another o.e.m. customer which, at the same time, reduced its import purchases of crankshafts.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 28th day of May 1981.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 81-16806 Filed 6-4-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9531]

Kalamazoo Stamping & Die Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 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. It is determined in this case that all of the requirements have been met.

The investigation was initiated on July 28, 1980 in response to a petition which was filed on behalf of workers at Kalamazoo Stamping & Die Company, Kalamazoo, Michigan. Workers at the plant produce automotive stampings including, primarily, heat shields, motor mounts, support assemblies, vibration dampers, and transmission covers.

U.S. imports of vibration dampers increased both absolutely and relative to domestic production in 1979 compared with 1978 and in 1980 compared with 1979.

U.S. imports of vibration dampers increased both absolutely and relative to domestic production in 1979 compared with 1978 and in 1980 compared with 1979.

U.S. imports of shields increased both absolutely and relative to domestic production in 1979 compared with 1978 and in 1980 compared with 1979.

Preliminary estimates indicate that U.S. imports of mounting brackets for steering columns increased both absolutely and relative to domestic production in Model Year 1980 compared with Model Year 1979.

Preliminary estimates indicate that U.S. imports of pedal mounts increased both absolutely and relative to domestic production in Model Year 1980 compared with Model Year 1979.

The Department conducted a survey of customers which purchased heat shields, motor mounts, support assemblies, vibration dampers or transmission covers, five categories of stamping which, together, accounted for more than half of the subject firm's sales and sales declines during the period under investigation.

Surveyed customers reported that they had decreased purchases of heat shields, support assemblies, vibration dampers, and transmission covers and increased import purchases both absolutely and relative to total purchases for each of the four categories of stampings during the period under investigation.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with heat shields, vibration dampers, support assemblies, and transmission covers produced at Kalamazoo Stamping & Die Company, Kalamazoo, Michigan 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 Kalamazoo Stamping & Die Company, Kalamazoo, Michigan who became totally or partially separated from employment on or after September 15, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of May 1981.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 81-16807 Filed 6-4-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,007

Lawnlite Company, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 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. It is determined in this case that all of the requirements have been met.

The investigation was initiated on August 11, 1980 in response to a petition which was filed by the United Steelworkers of America on behalf of workers at the Portland, Tennessee plant of Lawnlite Company, Incorporated. The workers produce primarily outdoor furniture.

Evidence developed in the course of the investigation revealed that all of the criteria have been met.

U.S. imports of metal outdoor furniture increased absolutely and relative to domestic shipments in 1979 compared to 1978 and in 1980 compared to 1979.

The Department of Labor conducted a survey of the major customers of the Portland, Tennessee plant of Lawnlite Company, Incorporated. The survey revealed that customers which represented a significant portion of the sales decline of the Portland, Tennessee plant of Lawnlite Company, Incorporated increased purchases of imported outdoor furniture during the first seven months of 1980 compared to the first seven months of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with outdoor furniture and ladders produced at the Portland, Tennessee plant of Lawnlite Company, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In

accordance with the provisions of the Act, I make the following certification:

All workers of the Portland, Tennessee plant of Lawnlite Company, Incorporated who became totally or partially separated from employment on or after January 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of May 1981.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 81-16606 Filed 6-4-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8310]

Microdot, Inc., Elicon Corbin Division; Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

On April 1, 1981 the Department issued a certification covering certain workers at the Corbin plant of Microdot, Incorporated (Elicon Corbin Division, Corbin, Kentucky) as eligible to apply for trade adjustment assistance (TA-W-8310). That decision was published in the **Federal Register** on April 10, 1981 (46 FR 21502).

Subsequent to the decision it was determined that there may have been an error in the conduct of the investigation, in particular concerning the identification of the import-impacted product as designated in the decision of April 1.

Consequently, on April 28, 1981 the Office of Trade Adjustment Assistance reopened its investigation in this case. Notice of the Reopening of Investigation was published in the **Federal Register** on May 5, 1981 (46 FR 25164).

Further investigation has revealed that certain products produced by the subject firm and identified in the original investigation as wiring harnesses had been improperly identified. Those products incorrectly identified as wiring harnesses have now been correctly identified as lamp assemblies.

The original determination certified workers engaged in employment related to the production of wiring harnesses as eligible to apply for trade adjustment assistance. Since the company does not produce wiring harnesses, that certification is not valid. The determinations reached with regard to workers producing switches, junction blocks, specialty plastics and non-automotive products remain unchanged. It was determined that these workers did not meet the criteria for certification.

A new investigation was conducted to determine whether workers engaged in employment related to the production of lamp assemblies met the criteria for certification of eligibility to apply for worker adjustment assistance.

In the following determination, without regard to whether any of the other criteria have been met, with respect to workers producing lamp assemblies, the following criterion has not been met.

(3) 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 of Labor surveyed customers which had reduced pruchases of lamp assemblies from Microdot, Incorporated, Elicon Corbin Division. The survey results revealed that the responding customers either did not purchase imported lamp assemblies or that their purchases of imported lamp assemblies were insignificant in relation to their total purchases of lamp assemblies.

Conclusion

After careful review, I determine that all workers of Microdot, Incorporated, Elicon Corbin Division, Corbin, Kentucky are denied eligibility to apply for adjustment assistance benefits under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of May 1981.

Harry J. Gilman,

Supervisory International Economist Office of Foreign Economic Research.

[FR Doc. 81-16609 Filed 6-4-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6462T]

U.S. Steel Corp., Gary Works; Investigation Regarding Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under Section 222 of the Trade Act of 1974 ("the Act") and in accordance with Section 223 of the Act, on February 6, 1980 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers engaged in employment related to the production of coated sheet at the U.S. Steel Corporation's Gary Works, Gary, Indiana. The notice of certification was published in the the **Federal Register** on February 15, 1980 (45 FR 10488).

On the basis of further showing, the Director of the Office of Trade Adjustment Assistance has instituted an investigation directed to the termination of the certification, as provided for in section 223(d) of the Act and 29 CFR 90.17(a).

The purpose of the investigation is to determine whether the total or partial separations of the certified workers of U.S. Steel's Gary Works are no longer attributable to the conditions specified in Section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should no be terminated. *Provided*, that such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 15, 1981.

The record of the certification (TA-W-6462) containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affiars, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of May 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-16610 Filed 6-4-81; 8:45 am]

BILLING CODE 4510-28-M

Van Dresser Corp., et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period May 26-29, 1981.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or porportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) 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.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8044; Van Dresser Corp., Norwalk, OH
TA-W-9352; Loubella Extendables, Inc., Los Angeles, CA
TA-W-9378; K-Lee Dresses, Inc., Hammonton, NJ
TA-W-9394; E.H.M. Knitting Corp., Brooklyn, NY
TA-W-9449; Press-Way, Inc., Warren, MI
TA-W-9515; Rockwell International, Amforge Div., Damen Ave. Plant, Chicago, IL
TA-W-9974, 9975 and 9976; Republic Steel Corp., Central Alloy District, South Plant, Canton, OH, Massillon, OH, and the Enduro Div., Canton, OH
TA-W-9999; Modern Plastics Corp., Benton Harbor, MI
TA-W-9761. Lydall, Inc., Colonial Fiber Div., Rogers Plant, Bar Mills, ME
TA-W-12,296; Con-Air, Inc., Eastlake, OH
TA-W-10,025; Four Star Corp., Cadillac, MI
TA-W-10,346; Fitzsimons Mfg. Co., West Branch Tube Div., West Branch, MI
TA-W-10,490; Motorola, Inc., Automotive Products Div., Arcade, NY
TA-W-11,618; B&P Cedar Products, Inc., Pe Ell, WA
TA-W-11,481; Messenger Cedar Products, Elma, WA
TA-W-10,991; Barjo Plastic Products, Inc., Burton, MI
TA-W-10,034 and 10,595; Hoover Universal, Inc., Georgetown, KY and Adrian, MI
TA-W-10,344; Buffalo Grinding Service, Inc., Buffalo, NY
TA-W-9592; Century Brass Products, General Products Div., Waterbury, CT
TA-W-9603; Master Products Co., Yale, MI
TA-W-9784; International Telephone & Telegraph Corporation, ITT United Plastics Division, Vassar, MI
TA-W-10,005; Kenco Plastics, Inc., Owenboro, KY

TA-W-9956; RCA Corporation, Solid State Division, Findlay, OH

Investigation revealed that criterion (2) has not been met. Sales and production did not decrease during the period under investigation.

TA-W-10,269; St. Regis Paper Co., Libby, MT

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,969; Thunder Bay Mfg. Co., Alpena, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tools and dies for automotive use are negligible.

TA-W-12,628; T&C Coal Co., Cycone, WV

Investigation revealed that criterion (3) has not been met. All coal mined at T&C Coal Co. is exported to Italy.

TA-W-12,330; Alliance Machine Co., Alliance, OH

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of cranes did not increase as required for certification. Further evidence revealed that sales of coke oven equipment increased steadily since production began in 1979.

TA-W-12,295; Ingalls Steel Corp., Washington, DC

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of fabricated structural steel did not increase as required for certification.

TA-W-12,274; Beaver Specialties, Inc., Beaver Dam, WI

Investigation revealed that criterion (3) has not been met. U.S. imports of television and stereo cabinets are negligible.

TA-W-12,513; Bethlehem Mines Corp., Hanover Quarry, Hanover, PA

Investigation revealed that criterion (3) has not been met. None of the workers engaged in basic steelmaking operations at either of the plants receiving limeston from Hanover Quarry are currently certified eligible to apply for adjustment assistance benefits and thus the separations of workers at the Hanover Quarry can not be related to a facility whose workers independently meet the statutory criteria for certification at this time.

TA-W-11,599; Distel Tool & Machine Co., Inc., Warren, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of stamping dies are negligible.

TA-W-11,377—11,407; General Motors Corp., Detroit, MI

Investigation revealed that criterion (3) has not been met. A direct and significant connection cannot be established between layoffs at the parts distribution facilities and production declines at certified GM assembly plants or component parts.

TA-W-11,095; Paw-S Industries, Inc., Sterling Heights, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of industrial patterns and core boxes (including models) and of jigs and fixtures are negligible.

TA-W-10,388; Central Die Sinking Co., Holt, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of forging dies are negligible.

TA-W-10,310; Colonial Rubber Works, Inc., Dyersburg, TN

Investigation revealed that criterion (3) has not been met. With respect to automotive sponge parts, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. With respect to rug underlay and thermoplastics, U.S. imports of the respective basket categories are negligible. With respect to custom mixed rubber compounds, layoffs are attributable to normal business fluctuations.

TA-W-9501; Freightliner Corp., Indianapolis, IN

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of Class 8 heavy trucks did not increase as required for certification.

TA-W-9369; Jumping Jacks Shoes, Inc., Monett, MO

Investigation revealed that criterion (3) has not been met. With respect to children's shoes, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. With respect to women's shoes, the decline is attributable to an ownership transfer in May 1980.

TA-W-8945; Kaiser Steel Corp., Eagle Mountain Mine, Eagle Mountain, CA

Investigation revealed that criterion (3) has not been met. Declines in production at the Eagle Mountain were attributable to reduced demand from Kaiser's Steel Mfg. Div. whose basic steel workers were deemed eligible to apply for adjustment assistance.

TA-W-8630; Lighthouse Footwear, Inc., Skowhegan, ME

Investigation revealed that criterion (3) has not been met. A survey of customers which reduced Spring 1980 orders to Lighthouse revealed that most respondents reduced purchases of imported shoes during the period January–June 1980 compared with the same period in 1979.

TA-W-11,422; NAP Consumer Electronics Corporation, Batavia, NY

Investigation revealed that criterion (3) has not been met. Imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-11,660; Mari-anne Bag Corporation, New Windsor, NY

A certification was issued covering all workers of the firm separated on or after January 27, 1980.

TA-W-9043; Bossert Mfg. Corp., Utica, NY

A certification was issued covering all workers of the firm engaged in employment related to the production of camshaft bracket assemblies separated on or after August 1, 1979. With respect to workers engaged in employment related to the production of other stampings, the investigation revealed that criterion (3) has not been met.

TA-W-10,177; Asheville Mica Co., Newport News, VA

A certification was issued covering all workers of the firm separated on or after August 1, 1979.

TA-W-10,855; Rockwell International, Kenton, OH

A certification was issued covering all workers of the firm engaged in employment related to the production of trailer axles separated on or after November 1, 1979.

With respect to axle housing, hubs and drums the investigations revealed that criterion (3) has not been met. A survey of the firm's customers revealed that increased imports did not contribute importantly to employment declines at the firm.

TA-W-9531; Kalamazoo Stamping & Die Co., Kalamazoo, MI

A certification was issued covering all workers of the firm separated on or after September 15, 1979.

TA-W-10,007; Lawnlite Co., Inc., Portland, TN

A certification was issued covering all workers of the firm separated on or after January 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period May 26–29, 1981. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-16811 Filed 6-4-81; 8:45 am]

BILLING CODE 4510-28-M

LIBRARY OF CONGRESS

Copyright Office

Policy Decision Regarding Immediate Cancellation of Registration in Uncollectible Check Cases

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Policy Decision.

Cancellation of Copyright Registration Where Check Received in Payment of Statutory Fee Is Returned as Uncollectible

1. Background

Section 708 of the Copyright Act, title 17 of the United States Code, prescribes a schedule of fees that must be remitted to the Copyright Office in payment of registration and other services rendered to the public under the Act. Section 408 of the Act provides that application to register a claim to copyright may be made "by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708."

The Copyright Office examines claims to copyright and issues certificates of registration in accordance with section 410(a). Registration is ordinarily completed before any check received in payment of the statutory registration fee would be returned as uncollectible. Unfortunately, in a certain percentage of cases, the check remitted in payment of the registration fee is later returned to the Copyright Office marked "insufficient funds." Registration has been made already, but the required statutory fee has not been paid.

Until now, it has been the practice of the Copyright Office to correspond with the remitter of the check and request payment of the fee. It has also been the practice of the Office to write several letters repeating this request, if the fee is not paid. Finally, if the fee is not paid after several letters have been sent, the Copyright Office then cancels the registration.

2. Policy Decision

The Copyright Office has reconsidered its practice of engaging in extensive correspondence to request payment of the proper statutory fee, which the statute specifies must be paid to obtain a valid registration of a claim to copyright. The administrative cost of this extensive correspondence, which is frequently unsuccessful, exceeds the moneys recovered.

Effective immediately, the Copyright Office has adopted the following procedure in processing uncollectible check cases:

When a check received in payment of the registration fee is returned to the Copyright Office marked "insufficient funds" or is otherwise marked uncollectible, the Copyright Office will take immediate steps to cancel any registration for which the dishonored check was submitted; the Office will write one letter to the remitter notifying the person or entity that the check was returned to us as uncollectible, that we have canceled the registration for which no fee was paid, and that the certificate of registration is null and void and should be returned. When a registration is cancelled, appropriate notations are placed in the original record clearly showing that the registration has been cancelled.

If the applicant wishes to re-apply for registration following cancellation of a registration on the ground of an uncollectible check, it is necessary to submit a new application, a new deposit, and the statutory fee. The Copyright Office reserves the right to require a certified check or money order in appropriate cases.

Dated: May 19, 1981.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 81-16737 Filed 6-4-81; 8:45 am]

BILLING CODE 1410-03-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on June 22 and 23, 1981, at the Roadway Inn, 5615 North Cumberland, Park Ridge, IL. The Subcommittee will discuss matters relating to the development of liquid metal fast breeder reactor safety design criteria. Notice of this meeting was published May 19.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Monday and Tuesday, June 22 and 23, 1981, 8:30 a.m. until the conclusion of business each day.

Safety design bases for the Department of Energy (DOE) conceptual design of an advanced liquid metal fast breeder reactor.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the DOE, their contractors, the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: June 2, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-16798 Filed 6-4-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Joint Subcommittee on Waste Management and Reactor Radiological Effects; Meeting

The ACRS Joint Subcommittee on Waste Management and Reactor Radiological Effects will hold a meeting on June 22 and 23, 1981, in Room 1046, 1717 H Street, N.W., Washington, DC. The Subcommittee will review and discuss the proposed rule on Technical Criteria for Disposal of High-Level Radioactive Wastes in Geological Repositories (10 CFR Part 60) and the NRC Safety Research Program Budget for fiscal year 1983 related to waste management and reactor radiological effects.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The majority of the meeting will be open to public attendance. The Subcommittee will be considering some predecisional budget information associated with the NRC Safety Research Program Budget for fiscal year 1983. In order to perform this review, the ACRS must be able to engage in frank discussion with members of the NRC Staff. Therefore it may be necessary to close portions of this meeting (Sunshine Act Exemption 9(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Monday and Tuesday, June 22 and 23, 1981, 8:30 a.m. until the conclusion of business each day.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant employee, Mr. Garry Young (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT. The Designated Federal Employee for this meeting is Mr. John C. McKinley.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee act, that it may be necessary to close portions of this meeting to public attendance to protect 1978 NRC Authorization Act to review the NRC Research Program and Budget and to report the results of the review to Congress. The authority for such closure is Exemption 9(B) to the Sunshine Act, 5 U.S.C. 552b(c)(9)(B).

Dated: June 2, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-16797 Filed 6-4-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 86 to Facility Operating License No. DPR-57, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling

County, Georgia. The amendment is effective as of the date issuance.

The amendment revises the Technical Specifications to enable operation of the Plant after the Cycle 5 Reload, at licensed power.

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 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 application for amendment dated March 6, 1981, (2) Amendment No. 86 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of May 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-16790 Filed 6-4-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 30 and No. 11 to Facility Operating License Nos. NPF-4 and NPF-7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective on May 29, 1981.

The amendments consist of changes to the Technical Specifications which revise the Administrative Controls, Section 6. The changes reflect corporate and plant reorganizations including the addition of an Assistant Station Manager. A Safety Evaluation and Control group has been established which replaces the System Nuclear Safety and Operating Committee.

The applications for the amendments 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 amendments. Prior public notice of these amendments was not required since these 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 these amendments.

For further details with respect to this action, see (1) the applications for amendments dated July 30, August 28, October 15, 1980 as supplemented August 1, 1980 and February 23, 1981; (2) Amendment No. 30 and No. 11 to Facility Operating Licenses No. NPF-4 and NPF-7, respectively, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 22nd day of May 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-16800 Filed 6-4-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Review of Information Requirements of Department of Agriculture Marketing Orders

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget.

ACTION: Notice of review of Fruit, Vegetable, and Speciality Crop Marketing Order recordkeeping and reporting requirements under the authority of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

SUMMARY: Information is needed on the information collection activities of the 47 fruit, vegetable, and speciality crop marketing orders established by the U.S. Department of Agriculture. The reporting and recordkeeping requirements imposed by orders on the public and industry are subject to review and clearance by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

DATE: Written comments are due to OMB by August 4, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Ellett, Office of Management and Budget, 726 Jackson Place, N.W., Room 3228, NEOB, Washington, D.C. 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

1. Background

Under the authority of the Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) the Secretary of Agriculture has established 47 fruit, vegetable, and specialty crop marketing orders. (These are listed in Appendix A.) These orders usually authorize regulation of the volume and quality of agricultural commodities marketed. Other activities under these orders include the standarization of containers or pack, and the funding of research and market develpment projects.

The 47 marketing orders regulate the marketing of 33 commodities produced in 37 States. A marketing order is a legal instrument which is binding upon handlers of the commodity concerned within the specified production area covered by the order.

Marketing orders regulations affect the marketing of comodities by imposing one or a combination of the following controls: (a) grade and size limitations; or (b) rate-of-flow limitations; or (c) quantity limitations.

Grade and size limitations establish minimum requirements for the quality of the commodity sent to market. Rate-of-

flow marketing orders specify the flow of produce to market, evening out the amount marketed from week-to-week. Quantity controls limit the amount of produce sent to market, and divert excess supply to other uses.

Each marketing order functions through an administrative committee the members of which are appointed by the Secretary of Agriculture. These committees have the authority to require producers, handlers, and other persons to submit reports and maintain records on such matters as the volume of shipments and quantities in storage. Failure to comply with these requirements may result incivil or criminal actions being instituted against handlers.

2. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980 OMB must ensure that paperwork and reporting requirements imposed by the Federal government is minimized.

In particular, the Office of Management and Budget is to: prevent unnecessary duplication of information collection; require Federal agencies to establish their need for information; demonstrate their capacity to use requested information; specify the relationship of information requests to specific responsibilities; and establish that adequate safeguards are maintained to protect materials collected under a pledge of confidentiality. The same statute requires all Federal agencies to secure clearance from the Office of Management and Budget and to refrain from collecting information for which clearance has not been obtained, or has been denied. After December 31, 1981, no member of the public is legally obligated to respond to an information request in OMB approval has not been given.

3. Paperwork and Reporting Requirements for Marketing Orders

The Office of Management and Budget has determined that all information and records required to be submitted or retained under fruit, vegetable, and speciality crop marketing orders must be cleared pursuant to the Paperwork Reduction Act of 1980. Marketing order administrative committees collect information on production, shipments, inventory, exports, and other agricultural activity. Typical of forms used to collect the information are:

- Cumulative Prune Export Shipments (Prune Administrative Committee)
- Texas Citrus Crop Prospects (Texas Valley Citrus Committee)
- Growers Weekly Report Form Fresh Shipments Under Waiver (Stone Fruit (peaches) Marketing Committee)
- Shippers Report (Tokay Marketing Agreement)
- Current Inventory Report (Cranberry Marketing Committee)
- Onion Diversion Report (Idaho-Eastern Oregon Committee)
- Daily Report Sheet Under Waiver of Inspection (Oregon-California Potato Committee)
- Registration of Celery Producers (Florida Celery Committee)
- Report of Shipments and Commitments (Almond Board of California)

4. Information Requested

USDA is in the process of conducting a thorough review of marketing order information collections including a review of the need for each item of information and an examination of Departmental use of these data.

However, in order to provide OMB with additional information on the burdens of marketing orders, comment is solicited from the public and affected handlers.

Information is needed on whether:

(1) Respondents are able to supply information at the time and in the form requested;

(2) Each information requirement is accompanied by an explanation of the intended use of the information;

(3) In the judgment of the respondent, the information required is appropriate and required for the stated purpose;

(4) The information collection imposes unreasonable burdens on small businesses;

(5) Administrative committees consult with respondents on the need for and content of information requirements;

(6) Identical information is solicited by separate means at separate times under same order;

(7) Identical information is solicited by other Department of Agriculture agencies or by other agencies of the Federal Government;

(8) The effect on producers and handlers of removing or reducing information requirements would be positive or negative;

(9) There are alternative means for marketing orders to secure such information as required to discharge their responsibilities.

Information is also needed on the number, content, frequency of completion, cost and maintenance of all recordkeeping and reporting requirements imposed on producers and handlers. It would be helpful to obtain cost information on the basis of hours and dollars expended each year.

5. Comments

Information on the reporting and recordkeeping requirements of market orders should be sent to Charles A. Ellett, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 3228, Washington, D.C. 20503. For further information phone (202) 395-7340.

Jim J. Tozzi,

Deputy Administrator, Office of Information and Regulatory Affairs.

Marketing Orders Established by United States Department of Agriculture

Market Order

1. M.O. 904—Grapefruit Grown in California.
2. M.O. 905—Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida.
3. M.O. 906—Fresh Oranges and Grapefruit Grown in Texas
4. M.O. 907—California-Arizona Navel Oranges.
5. M.O. 908—California-Arizona Valencia Oranges.
6. M.O. 910—Lemons Grown in California and Arizona.
7. M.O. 911—Limes Grown in Florida.
8. M.O. 912—Indian River Grapefruit.
9. M.O. 913—Florida Interior Grapefruit.
10. M.O. 915—Avocados Grown in South Florida.
11. M.O. 916—Fresh Nectarines Grown in California.
12. M.O. 917—Fresh Pears, Plums, and Peaches Grown in California.
13. M.O. 918—Fresh Peaches Grown in Georgia.
14. M.O. 919—Peaches Grown in Mesa County, Colorado.
15. M.O. 921—Fresh Peaches Grown in Designated Counties in Washington.
16. M.O. 922—Apricots Grown in Designated Counties in Washington.
17. M.O. 923—Sweet Cherries Grown in Designated Counties in Washington.
18. M.O. 924—Fresh Prunes Grown in Designated Counties in Washington and Umatilla County, Oregon.
19. M.O. 925—Grapes Grown in Southeastern California.
20. M.O. 926—Tokay Grapes Grown in San Joaquin County, California.
21. M.O. 927—Pears Grown in Oregon, Washington, and California.
22. M.O. 928—Papayas Grown in Hawaii.
23. M.O. 929—Cranberries Grown in Ten Designated States.
24. M.O. 930—Cherries Grown in Eight Designated States.
25. M.O. 931—Oregon-Washington Bartlett Pears.
26. M.O. 932—Olives Grown in California.
27. M.O. 945—Potatoes Grown in Idaho and Malheur County, Oregon.
28. M.O. 946—Irish Potatoes Grown in Washington.
29. M.O. 947—Oregon-Northern California Irish Potatoes.
30. M.O. 948—Irish Potatoes Grown in Colorado.

31. M.O. 950—Irish Potatoes Grown in Maine.
32. M.O. 953—Irish Potatoes Grown in Virginia and North Carolina.
33. M.O. 958—Onions Grown in Idaho and Malheur County, Oregon.
34. M.O. 959—Onions Grown in South Texas.
35. M.O. 965—Tomatoes—Rio Grande Valley of Texas.
36. M.O. 966—Tomatoes Grown in Florida.
37. M.O. 967—Celery Grown in Florida.
38. M.O. 971—Lettuce Grown in South Texas.
39. M.O. 979—Melons Grown in South Texas.
40. M.O. 981—California Almonds.
41. M.O. 982—Oregon and Washington Filberts.
42. M.O. 984—California Walnuts.
43. M.O. 985—Far West Spearmint Oil.
44. M.O. 987—California Dates.
45. M.O. 989—California Raisins.
46. M.O. 991—Washington, Oregon, Idaho and California Hops.
47. M.O. 993—California Dried Prunes.

[FR Doc. 81-16706 Filed 6-4-81; 8:45 am]
BILLING CODE 3110-01-M

Office of Federal Procurement Policy

[OFPP Policy Letter 81-2]

Policy Guidance for the Labor Surplus Area Program

May 29, 1981.

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Policy Letter 81-2.

SUMMARY: By publication in the Federal Register of August 7, 1980, the Office of Federal Procurement Policy set forth for public and Government agency comment a proposed policy letter to clarify certain issues raised in connection with the existing policy guidance on Labor Surplus Area (LSA) set-asides. This Policy Letter reflects the comments received as well as some additional matters.

It provides that:

1. The Administrator of GSA, in consultation with heads of executive agencies, is to establish annual LSA targets based on total estimated dollars to be obligated.

2. Contracts awarded under set-asides pursuant to Public Law 96-302 shall be recorded by departments and agencies in fulfillment of their labor surplus area targets.

3. Contracts awarded under Pub. L. 96-302 for construction and other sit-specific contracts shall also be recorded in fulfillment of labor surplus area targets.

4. Contracts awarded under section 15(j) of the Small Business Act shall, to the extent possible, be recorded as awards against agency or departmental labor surplus area targets if the costs to be incurred by the contractor and its first tier subcontractors on account of manufacturing, production, etc., in labor surplus areas exceed 50% of the contract price.

5. Contracts awarded under section 15(j) to a non-manufacturer shall, to the extent possible, be similarly recorded if the costs to be incurred by the manufacturer and its first-tier subcontractors on account of manufacturing, production, etc., in labor surplus areas exceed 50% of the contract price.

6. GSA should ensure that firms performing in labor surplus areas are so listed in Federal Supply Schedules; agencies placing orders against GSA multiple award schedules are encouraged to use LSA firms to the maximum extent possible. GSA will establish Government-wide targets for agencies using Federal Supply schedules and the Federal Procurement Data System will identify awards of agencies to LSA firms against GSA multiple award schedules.

7. Subcontracts under set-asides to LSA firms by GOCOs shall be counted towards an agency's LSA performance.

8. Non-competitive awards under the 8(a) program, purchases from blind and handicapped workshops, and from Federal Prison Industries shall not be counted towards an agency's LSA performance.

9. Agencies should consider "other appropriate methods" of meeting LSA targets, as indicated in E.O. 12073.

DATE: The changes set forth herein will be effective July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Owen Birnbaum, Deputy Associate Administrator for Regulatory Policies and Practices, 395-3455.

William E. Mathis,
Acting Administrator.

May 29, 1981.

Policy Letter 81-2
To the Heads of Executive Departments and Establishments
Subject: Policy Guidance for the Labor Surplus Area Programs

Government procurement policy should be uniform and consistent in application. This Policy Letter provides uniform clarification of issues raised in connection with existing policy guidance on the labor surplus area program.

1. Target Setting and Performance

a. In accordance with Executive Order 12073 of August 16, 1978, the Administrator of General Services is required to establish annual LSA targets in consultation with the heads of executive agencies. These targets are to be based on total estimated dollars to be *obligated* under LSA set-aside contracts during a fiscal year.

b. (1) Sections 15 (d), (e), and (f) of the Small Business Act (PL 96-302, July 2, 1980) accord priority in awarding of contracts and subcontracts to firms performing in areas of unemployment or underemployment or within labor surplus areas. These sections set forth the following priorities for small business set-aside programs: (i) total set-aside for small business concerns located in a labor surplus area; (ii) total set-aside for small business concerns; (iii) partial set-aside for small business concerns located in a labor surplus area; (iv) partial set-aside for small business concerns; and (v) total set-aside for firms not eligible under the first four priorities, not small business, and performing in labor surplus areas. Contracts awarded under such set-asides shall be recorded by departments and agencies in fulfillment of their labor surplus area targets.

(2) The requirements of Public Law 96-302 apply to construction and other "site-specific" contracts. Such contracts, when awarded under set-asides, shall also be recorded by departments and agencies in fulfillment of their labor surplus area targets.

c. (1) To the extent possible under existing record-keeping procedures, awards made under section 15(j) of the Small Business Act ("small business-small purchase set-asides" as described in OFPP Policy Letter 80-6, July 22, 1980) should also be recorded as labor surplus area awards against an agency or departmental target goal if the costs to be incurred by the contractor and its first tier subcontractors on account of manufacturing, production or appropriate services in labor surplus areas exceed 50 percent of the contract price.

(2) Under said section 15(j) and OFPP Policy Letter 80-6, July 22, 1980, award may be made under a small business-small purchase set-aside to a non-manufacturer furnishing the product of any domestic manufacturer, regardless of size. If the costs incurred by such manufacturer and its first-tier subcontractors on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50 percent of the contract price, the amount of the award should also be recorded, to the extent possible, as a labor surplus area award.

2. GSA Multiple Award Schedule Contracts

a. GSA should ensure that firms performing in labor surplus areas are so listed in Federal Supply Schedules.

b. Agencies are encouraged to use LSA firms to the maximum extent possible when placing orders against GSA multiple award schedule contracts.

c. The Federal Procurement Data System report on LSA contracts will contain a separatge category indentifying all agency orders against GSA multiple award schedules. GSA will establish Government-wide LSA targets for each agency for these schedule contracts, based on past performance and estimated future potential.

d. Each agency will report its individual performance on the basis of actual obligations under these schedules. GSA will

be responsible for monitoring agency performance and encouraging agencies to achieve the schedule targets.

3. GOCO Subcontracting

Subcontracts by Government-owned Contractor Operated (GOCO) facilities shall be counted toward an agency's LSA set-aside performance when these subcontracts are performed substantially in LSA's and are designated as set-asides.

4. Section 8(a) Contracts, Purchases From the Blind and Handicapped, Federal Prison Industries, and Other Single Source Contracts

Section 15(d) of the Small Business Act indicates that LSA set-asides are to be made when there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices. In view of this statutory procedure designed to assist Labor Surplus Areas, agencies shall not count non-competitive 8(a) contracts, purchases from blind and handicapped workshops and purchases from Federal Prison Industries toward their LSA set-aside performance. However, if an agency or the Small Business Asministration is able to set aside a particular product or service for competition among firms in labor surplus areas which are also in the 8(a) program, such contracts may be counted toward LSA set-aside performance.

5. "Other Appropriate Methods" To Meet LSA Procurement Targets

a. Executive Order 12073, August 16, 1978, states in part that the GSA Administrator, in cooperation with the heads of Executive agencies, shall encourage the use of set-asides or "other appropriate methods" to meet LSA procurement targets.

Accordingly, agencies should consider, and be alert to, such other possible methods as are appropriate to their procurement mission. Such agency efforts will assist in meeting the objects of E.O. 12073 and "foster economic development in labor surplus areas."

Effective Date: This Policy Letter is effective July 1, 1981.

Concurrence: This Policy Letter has been concurred in by the Director of OMB.

William E. Mathis,

Acting Administrator.

[FR Doc. 81-16704 Filed 6-4-81; 8:45 am]

BILLING CODE 3110-01-M

[OFPP Policy Letter 80-2; Supplement No. 1]

Regulatory Guidance on Section 211 of Public Law 95-507

May 29, 1981.

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Supplement to OFPP Policy Letter 80-2, April 29, 1980.

SUMMARY: OFPP Policy Letter 80-2, April 29, 1980, published in the **Federal Register** on May 9, 1980 (45 FR 31028) set forth amendments to be made to the Federal Procurement Regulations (FPR), the Defense Acquisition Regulation (DAR) and the National Aeronautics and Space Administration Procurement Regulations (NASAPR).

This supplement to Policy Letter 80-2 resolves certain problems and questions which have arisen in the administration of OFPP Policy Letter 80-2, April 29, 1980.

It provides that:

1. Modifications over $500,000 to a contract already containing a plan do not require a new subcontracting plan, but the modification must contain new separate goals or revised goals.

2. The subcontracting plan for an individual procurement may incorporate an overall "master" plan.

3. An approved commercial products plan remains applicable beyond the fiscal year in whch it is approved, if contract deliveries extend beyond that fiscal year.

4. Contract-by-contract records are not required under a commercial products plan.

5. There is flexibility in determining the extent of required monitoring of subcontactor performance, and agencies may relieve prime contractors of this responsibility when appropriate.

DATE: The provisions of the supplementary Policy Letter will be effective June 30, 1981, but may be followed immediately.

CONTACT: Owen Birnbaum, Deputy Associate Administrator for Regulatory Policies and Practices, 395-3455.

William E. Mathis,

Acting Administrator.

May 29, 1981.

Policy Letter 80-2, Supplement No. 1

To The Heads of Executive Departments and Establishments

Subject: Regulatory Guidance on Section 211 of Public Law 95-507

Government procurement policy should be uniform and consistent in application. The purpose of this supplementary Policy Letter is to provide a uniform resolution to certain problems and questions which have arisen in the administration of OFPP Policy Letter 80-2, April 29, 1980 (45 FR 31028, May 9, 1980).

1. The question has been raised whether it is necessary to obtain a new subcontract plan if a modification over $500,000 ($1 million for construction) is made to a contract already containing a plan. Policy Letter 80-2 indicates that subcontracting plans must be included, pursuant to Public Law 95-507, in contracts *and contract modifications* over the statutory thresholds. it also requires that the "contracting officer promptly negotiate appropriate revisions to agreed subcontracting percentage and dollar goals if any subsequent amendments to the contract will have a major impact on the original planned volume or type of contracting effort."

It is not necessary for the contracting officer to obtain a new subcontract plan if a modification over $500,000 ($1 million for construction) is made to a contract already containing a plan. The modification may incorporate the existing plan by reference. However, the modification must either contain separate goals for the new effort or revise the original goals.

2. Another question has been raised as to whether the terms of an overall or "master" company subcontracting plan may be incorporated by reference into a specific plan submitted for a given contract over the statutory thresholds. This is acceptable provided: (1) the master plan contains all the elements required by the statute; (2) subcontract goals for small and small disadvantaged firms are specifically set forth in each contract or modification over the statutory thresholds; (3) any changes to the plan deemed necessary and required by the contracting officer in areas other than goals are specifically set forth in the contract or modifications; (4) the contracting officer has copies of the entire plan; and (5) the resident Procurement Center Representative (PCR) of the Small Business Administration has had an opportunity to comment on the master plan.

3. A third question relates to the applicability of an approved commercial products plan beyond the fiscal year in which it is approved. Policy Letter 80-2 states that:

"If a commercial product is offered the required subcontracting plan may relate to the company's production generally (both for commercial and non-commercial products) rather than solely to the item being procured under the government contract. In such cases, the contractor shall be required to submit one company-wide annual plan to be reviewed for approval by the first agency with which it enters into a prime contract (which requires a subcontracting plan) during the fiscal year, or by another agency satisfactory to the contracting officer."

The approved plan shall apply to all deliveries made under contracts entered into during the contractor's fiscal year, even through those deliveries are made in a succeeding fiscal year. The contractor shall submit a new plan to the first agency with which it enters into a contract (over the statutory threshold) during a succeeding fiscal year. The new plan shall apply to all deliveries made under contracts entered into during the succeeding fiscal year, no matter when those deliveries are made.

4. Also with respect to commercial products plans, there is a question whether the contractor is required to keep "contract-by-contract" records pursuant to paragraphs 3f (3) and (6) of the Small Business and Small Disadvantaged Business Subcontracting Plan (Negotiated) and (Advertised) clauses. Such contract-by-contract records would be incompatible with the concept and purpose of an annual company-wide plan, and are not required.

Accordingly, OFPP Policy Letter 80-2 is amended by adding the following sentence at the end of paragraphs 3f(3) and 3(f)(6) of both the Negotiated and Advertised clauses: "This

requirement does not apply to a plan submitted pursuant to par. 6, hereof."

5. Paragraph 3d of the clause entitled "Small Business and Small Disadvantaged Business Subcontracting Plan (Negotiated)", as set forth in Policy Letter 80-2, provides for flowdown of the subcontracting plan requirements to all non-small business subcontractors which receive subcontracts over the applicable thresholds. Further, the prime contractor is required to describe its "procedures for the review, approval, and monitoring for compliance with such plans."

This requirement has raised questions of what is meant by monitoring and whether, in some cases, the prime contractor should be relieved of this responsibility.

If interpreted literally to require each prime contractor to monitor its subcontractors' compliance, by plant visits and examinations of records, this could result in situations such as: (1) several contractors monitoring the same subcontractor, to review essentially the same information, which would at a minimum be disruptive and redundant; (2) the prime contractor being monitored by one or more of the subcontractors which it is monitoring, where the prime/sub relationships are reversed; and (3) problems concerning access to records, particularly when the prime contractor and the subcontractor are competitors. This disruption, duplication and additional unnecessary cost do not appear to be justified or necessary. In many instances, particularly where a subcontractor is also performing Government prime contracts, the Government already has a representative either on the scene or available who is monitoring the firm's performance as a prime contractor. The Government representative, in such cases, should be familiar with the firm's overall plan for subcontracting with small and small disadvantaged businesses, and therefore in the best position to determine whether the firm is meeting its goals either as a prime contractor or as a subcontractor. Accordingly, departments and agencies may, in their regulations, notwithstanding the last sentence of the aforesaid paragraph 3d, relieve the prime contractor from this obligation when they deem it appropriate. An agency's decision to relieve a contractor from its obligation to monitor for compliance should take into consideration an existing Government presence at the subcontractor's plant and whether the monitoring can be accomplished most economically and efficiently through Government or prime contractor activity.

Whether monitoring is done by the prime contractor or by the Government, the degree of monitoring will vary depending on the circumstances. Such factors as access to records, subcontract dollar amount, the subcontractor's past performance in meeting goals, and many others must be considered in reviewing the procedures for monitoring compliance.

While there is some flexibility, as indicated by the foregoing discussion, with respect to monitoring for compliance, prime contractors are *not* relieved of their obligation to review and approve their subcontractor's plans.

Effective date: This supplementary Policy Letter is effective June 30, 1981.

Concurrence: This supplementary Policy Letter has been concurred in by the Director of the Office of Management and Budget.

William E. Mathis,

Acting Administrator.

[FR Doc. 81-16705 Filed 6-4-81; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice of delay in publication date of listing of current Schedule A, B and C excepted service appointing authorities.

SUMMARY: In final regulations published April 3, 1981, which decodified individual schedule A, B and C appointing authorities, OPM announced its intention to publish an annual notice of all such authorities, current as of June 30, in the **Federal Register**. Because of the time required to prepare the consolidated notice for publication, the first annual notice will instead be prepared as of August 31, 1981, and will be published in early September. Thereafter, the consolidated annual notice of Schedule A, B and C authorities will be published as of June 30 of each year.

FOR FURTHER INFORMATION CONTACT: William Bohling, Noncompetitive Staffing and College Relations Branch, Staffing Services, (202) 632-6000.

SUPPLEMENTARY INFORMATION: OPM maintains continuing information on the status of all Schedule A, B and C excepted appointing authorities. Interested parties needing information about specified authorities may obtain such information by contacting the Noncompetitive Staffing and College Relations Branch, Room 6A12, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415, or by calling (202) 632-6000.

Office of Personnel Management.

Beverly McCain Jones,

Issuance System Manager.

[FR Doc. 81-16701 Filed 6-4-81; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular Public Debt Series—No. 16-81]

Series E-1986; Interest Rate

May 29, 1981.

The Secretary announced on May 28, 1981, that the interest rate on the notes designated Series E-1986, described in Department Circular—Public Debt Series—No. 16-81 dated May 21, 1981, will be 13⅞ percent. Interest on the notes will be payable at the rate of 13⅞ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-16688 Filed 6-4-81; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 108
Friday, June 5, 1981

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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Civil Aeronautics Board	1
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1

CIVIL AERONAUTICS BOARD.

[M-317 Amdt. 1, June 1, 1981]

Notice of addition of item

TIME AND DATE: 10 a.m., June 4, 1981.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 13a. Draft final rule to eliminate from Part 241 the provision that service segment data shall not be released to the public until reports for a specific reporting period have been received from all reporting carriers and processed by the Board. (OC) (Memo 553).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-889-81 Filed 6-3-81; 3:28 pm]

BILLING CODE 6320-01-M

2

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: June 9, 1981, 9 a.m.-5 p.m.; June 10, 1:30-5 p.m.; June 11, 9 a.m.-4 p.m.

PLACE: Room 512, 1121 Vermont Avenue, NW., Washington, DC.

STATUS: Open to public.

MATTERS TO BE CONSIDERED: June 9:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Review of Voting Rights Act Study
IV. Review of Budget Impact Statement

June 10:

V. Review of Union Study II
VI. Approval of Euro-Ethnic Proposal
VII. Memorandum re Proposed Revocation of Title IX Provision

June 11:

VIII. Review of "Civil Rights Issues in the Combined Federal Campaign"
IX. State Advisory Commitee Re-charters
A. California
B. Delaware
C. North Carolina
D. Wyoming
X. Transmittal of South Dakota Advisory Committee Report Entitled "Native American Participation in South Dakota's Political System"
XI. Transmittal of Oklahoma Advisory Committee Report entitled "Affirmative Action in Employment in Oklahoma"
XII. Civil Rights Developments in the Eastern Region
XIII. Staff Director's Report
A. Status of Funds
B. Personnel Report
C. Office Directors' Reports

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera or Barbara Brooks, Press and Communications Division, (202) 254-6697.

[S-885-81 Filed 6-3-81; 11:56 am]

BILLING CODE 6335-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

A special closed commission meeting, Tuesday, June 2, 1981.

The Commission will hold a Special Closed Meeting on the subject listed below on Tuesday, June 2, 1981, at 2 p.m., in Room 856, 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Broadcast—1—Commission briefing on Region 2 and 9 kHz matters. Commission staff will brief the Commission on Region and 9 kHz matters in preparation for Congressional hearings to be held June 4 and June 11, 1981.

The prompt and orderly conduct of Commission business requires that less than 7-day notice be given consideration of this item.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: June 2, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-883-81 Filed 6-3-81; 8:59 am]

BILLING CODE 6712-01-M

4

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, June 10, 1981.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request by the General Accounting Office for Board comment on a draft report concerning bank holding company inspections.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: June 2, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-886-81 Filed 6-3-81; 1:57 pm]

BILLING CODE 6210-01-M

5

FOREIGN CLAIMS SETTLEMENT COMMISSION.

[FCSC Meeting Notice No. 5-81]

Announcement in regard to Commission meetings and hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Wednesday, June 17, 1981 at 10:30 a.m.
Consideration of decisions involving claims of American Citizens against the People's Republic of China and Claims for Vietnam Prisoner of War Compensation

Subject matter listed above not disposed of at the scheduled meeting.

may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. Request for information, or advance notice of intention to observe a meeting, may be directed to Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. 20579

Dated at Washington, D.C. on June 1, 1981.

Judith H. Lock,

Administrative Officer.

[S-887-81 Filed 6-3-81; 2:16 pm]

BILLING CODE 4410-01-M

6

NUCLEAR REGULATORY COMMISSION.

DATES: Tuesday, June 9 and Wednesday, June 10, 1981.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: *Tuesday, June 9:*

10 a.m.

1. Briefing on McGuire Operating License (approximately 1 hour, public meeting)
2. Discussion of McGuire Operating License (closed meeting)

2 p.m.

1. Discussion of Revised Licensing Procedures (public meeting)

Wednesday, June 10:

2 p.m.

1. Briefing on Comments on EPA-Proposed Guidance for Occupational Exposures (public meeting)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202) 634–1410.

June 2, 1981.

Walter Magee,

Office of the Secretary.

[S-888-81 Filed 6-3-81; 2:49 pm]

BILLING CODE 7590-01-M

7

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 8, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, June 9, 1981, at 10:00 a.m. and on Thursday, June 11, 1981, following a 10:00 a.m. open meeting. An open meeting will be held on Thursday, June 11, 1981, at 10:00 a.m.

The Commissioners, their legal assistancts, 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)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis, Evans, Friedman and Thomas determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 9, 1981, at 10:00 a.m., will be:

Formal orders of investigation
Settlements of administrative proceedings of an enforcement nature
Chapter X proceeding
Formal order of investigation and access to investigative files by Federal, state, or self-regulatory authorities
Freedom of Information Act appeals
Regulatory matters bearing enforcement implications
Settlement of injunctive action
Institution of administrative proceedings of an enforcement nature
Institution of injunctive action
Litigation matter
Proposed order in administrative proceeding of an enforcement nature

The subject matter of the closed meeting scheduled for Thursday, June 11, 1981, following the 10:00 a.m. open meeting, will be:

Institution of injunctive actions
Administrative proceeding of an enforcement nature

The subject matter of the open meeting scheduled for Thursday, June 11, 1981, at 10:00 a.m., will be:

1. Consideration of whether to propose for comment a release which would make the regional stock exchanges subject to Securities Exchange Act Rule 11b–1, regarding the regulation of specialists, with respect to any security which is listed on any such exchange and which is not listed on either the American or New York Stock Exchange. For further information, please contact Michael A. Cline at (202) 272–2402.

2. Consideration of whether to grant the request of Kutak Rock & Huie for a waiver of imputed disqualification pursuant to Rule 8(e) of the Commission's Conduct Regulation. For further information, please contact Myrna Siegel at (202) 272–2430.

3. Consideration of whether to withdraw a proposed amendment to Rule 3c–2 under the Investment Company Act of 1940. For further information, please contact Marsha Gilman at (202) 272–3036.

4. Consideration of whether to grant the application of Heizer Corporation, ("Heizer"), a business development company within the meaning of Section 2(a)(48) of the Investment Company Act of 1940 ("Act"), requesting an order pursuant to Section 6(c) of the Act granting an exemption from Section 57(a)(4) of the Act and Rule 17d–1 thereunder to the extent necessary to permit Heizer to provide for its officers and employees a Simplified Employee Pension Plan qualified under Section 408(k) of the Internal Revenue Code of 1954. For further information, please contact Barbara Fraser at (202) 272–3017.

5. Consideration of whether to authorize the publication of a release announcing amendments to Rule 242 of the Securities Act of 1933 which permit certain issuers engaged in mining operations to rely on that Rule in the offer and sale of their securities. For further information, please contact Daniel Abdun-Nabi at (202) 272–2644.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Arthur C. Delibert at (202) 272–2467.

June 2, 1981.

[S-884-81 Filed 6-3-81; 11:03 am]

BILLING CODE 8010-01-M

federal register

Friday
June 5, 1981

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

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 on 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. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract 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 Determination Decision.

New General Wage Determination Decisions

None.

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.

Colorado: CO80-5140	Oct. 24, 1980.
Iowa: IA81-4021	Apr. 19, 1981.
Louisiana: LA81-4024	May 1, 1981.
Maryland: MD81-3026	Apr. 24, 1981.
New York: NY81-3018	Mar. 27, 1981.
Oklahoma: OK80-4008	Jan. 5, 1980.
Michigan: MI80-2065	Aug. 15, 1980.
Pennsylvania:	
PA79-3020	July 20, 1979.
PA80-3025	Apr. 11, 1980.
PA80-3026	Apr. 11, 1980.
PA80-3027	Apr. 18, 1980.
PA80-3028	Apr. 11, 1980.
PA80-3029	Apr. 25, 1980.
PA80-3030	May 30, 1980.
PA80-3031	Aug. 29, 1980.
PA80-3032	May 30, 1980.
PA80-3037	May 2, 1980.
PA80-3038	May 23, 1980.
PA80-3043	July 7, 1980.
PA80-3044	July 25, 1980.
PA80-3056	Sept. 12, 1980.
PA80-3060	Oct. 10, 1980.
PA80-3075	Dec. 5, 1980.
Texas:	
TX80-4098	Dec. 5, 1980.
TX81-4006	Jan. 6, 1981.
TX81-4007	Jan. 6, 1981.
TX81-4015	Apr. 3, 1981.
TX81-4030	May 8, 1981.
TX81-4032	May 8, 1981.
Washington: WA81-5107	Apr. 3, 1981.
Wisconsin: WI80-2013	Apr. 2, 1980.

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: FL80-1075 (FL81-1240)	June 20, 1980.
Georgia: GA79-1058 (GA81-1241)	Mar. 30, 1979.
Idaho: ID80-5146 (ID81-5125)	Dec. 12, 1980.
Maryland: DC80-3040 (DC81-3040)	May 16, 1980.
Mississippi: MS81-1154 (MS81-1239)	Jan. 6, 1981.
New York:	
NY79-3030 (NY81-3036)	Aug. 31, 1979.
NY79-3036 (NY81-3034)	Dec. 21, 1979.
NY80-3035 (NY81-3033)	Apr. 25, 1980.
South Carolina: SC79-1128 (SC81-1242)	Sept. 14, 1979.

Texas: TX80-4076 (TX81-4037)	Oct. 10, 1980.
TX80-4097 (TX81-4036)	Dec 5, 1980.
TX81-4026 (TX81-4038)	May 1, 1981.
Virginia: DC80-3040 (DC81-3040)	May 16, 1980.
Washington, D.C. DC80-3040 (DC81-3040).	May 16, 1980.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C., this 29th day of May 1981.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 1

DECISION NO. CO80-5140 - Mod. #5
(45 FR 70691 - October 24, 1980)
Las Animas, Otero, and Pueblo Counties, Colorado

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Zone 1: 0-12 miles from Post Office					
Electricians	$13.99	$1.00	3%+1.00		1½%
Cable Splicers	15.39	1.00	3%+1.00		1½%
Zone 2: 12-20 miles from Post Office:					
Electricians	14.82	1.00	3%+1.00		1½%
Cable Splicers	16.22	1.00	3%+1.00		1½%
Zone 3: 20-32 miles from Post Office:					
Electricians	15.37	1.00	3%+1.00		1½%
Cable Splicers	16.77	1.00	3%+1.00		1½%
Zone 4: 32-50 miles from Post Office:					
Electricians	16.06	1.00	3%+1.00		1½%
Cable Splicers	17.46	1.00	3%+1.00		1½%
Zone 5: Over 50 miles from Post Office:					
Electricians	16.99	1.00	3%+1.00		1½%
Cable Splicers	18.39	1.00	3%+1.00		1½%
Electrical contracts under $20,000.00 in Zones 4 and 5	10.75	1.00	3%+1.00		1½%
Sprinkler Fitters	15.31	.95	1.40		.08

DECISION #IA81-4021 MOD. #2
46 FR 21560 April 19, 1981
STATEWIDE (Except Scott County) IOWA

CHANGE:					
ZONE 1:					
POWER EQUIPMENT OPERATORS:					
Group 1	$10.14	.50	.50		.10
Group 2	10.14	.50	.50		.10
Group 3	9.75	.50	.50		.10
Group 4	9.34	.50	.50		.10

Modification Page 2

DECISION NO. LA81-4024 - MOD. #1
(46 FR 24820 - May 1, 1981)
Statewide Louisiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Cement masons - Zone 7	$10.85	.60			
Electricians:					
Zone 2 - Electricians	14.00	.60	3%		.02
Cable splicers	14.50	.60	3%		.02

DECISION NO. MD81-3026 - MOD. #1
(46 FR 23382 - April 24, 1981)
Counties of Anne Arundel (excluding the D. C. Training School), Baltimore, Baltimore City, Maryland and for Heavy Construction Projects in Harford and Howard Counties, Maryland

CHANGE:					
ELEVATOR CONSTRUCTORS					
Mechanics	13.60	1.345	.95	a+b	.035
Helper	9.52	1.345	.95	a+b	.035
Probationary Helpers	6.80				
PAINTERS:					
Brush, roller, spackling, taping and wallcovering	11.20	1.10	.70		.09
Steel, spray, swinging stages, boatswain chair, sand and waterblasting, steam cleaning, and epoxies	11.95	1.10	.70		.09
Ames tool-bazooka	12.20	1.10	.70		.09
SPRINKLER FITTERS:					
Harford & Howard Counties and the remainder of Anne Arundel and Baltimore Counties	14.88	.95	1.40		.08

DECISION NO. NY81-3018 - Mod. #1
(46 FR 19174 - March 27, 1981)
Albany, Rensselaer, Saratoga & Schenectady Counties, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
SCHEDULES #1, #2, & #3 (ZONE II), & #4					
CLASS D	11.87	.70	1.00	a	.025
CEMENT MASONS (Heavy & Highway)					
SCHEDULES #1, #2, #3 & #4	11.65	.70	1.00		
LABORERS (Heavy & Highway)					
SCHEDULE #1 (ZONE II) &					
SCHEDULE #2 (ZONE I)					
CLASS A	9.69	1.20	1.00	e	.15
CLASS B	9.89	1.20	1.00	e	.15
CLASS C	10.09	1.20	1.00	e	.15
CLASS D	10.29	1.20	1.00	e	.15
SCHEDULE #3 (ZONE II) &					
SCHEDULE #4					
CLASS A	9.84	.90	1.20		.10
CLASS B	10.04	.90	1.20		.10
CLASS C	10.24	.90	1.20		.10
CLASS D	10.44	.90	1.20		.10
MARBLE					
SCHEDULES #1, #2, #3 & #4	12.45	.70	1.00		
POWER EQUIPMENT OPERATORS (Heavy & Highway)					
SCHEDULES #1, #2 & #3					
GROUP 1	13.09	1.25	1.45	e	.15
GROUP 2	12.65	1.25	1.45	e	.15
GROUP 3	11.41	1.25	1.45	e	.15
GROUP 4	10.31	1.25	1.45	e	.15
SCHEDULE #4					
GROUP 1	13.09	1.25	1.45	e	.15
GROUP 2	12.65	1.25	1.45	e	.15
GROUP 3	11.41	1.25	1.45	e	.15
GROUP 4	10.31	1.25	1.45	e	.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OK80-4008 - Mod. #2					
45 FR 1375-January 5, 1980					
Comanche County, Oklahoma					
CHANGE:					
Painters	$8.05		.20	.70	.05
DECISION #MI80-2065 Mod #3					
(45 FR 54623 August 15, 1980)					
Allegan, Berrien, Calhoun, Clinton, Eaton, Ingham, Jackson & Kalamazoo Counties, Michigan					
ADD:					
ROOFERS:					
Berrien County:					
Composition, Damp, Waterproof	$12.75	.60	.50		.03
Slate, Tile & Asbestos	13.27	.60	.50		.03

DECISION NO. PA79-3020 -
MOD. #5
(44 FR 42880 - July 20, 1979)
Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pennsylvania

DECISION NO. PA80-3025 -
MOD. #8
(45 FR 25015 - April 11, 1980)
Adams & York Counties, Pennsylvania

DECISION NO. PA80-3026 -
MOD. #7
(45 FR 25017 - April 11, 1980)
Lehigh County, Pennsylvania

DECISION NO. PA80-3027 -
MOD. #8
(45 FR 26654 - April 18, 1980)
Schuylkill County, Pennsylvania

DECISION NO. PA80-3028 -
MOD. #7
(45 FR 25019 - April 11, 1980)
Berks County, Pennsylvania

DECISION NO. PA80-3029 -
MOD. #8
(45 FR 28069 - April 25, 1980)
Lebanon County, Pennsylvania

DECISION NO. PA80-3030 -
MOD. #6
(45 FR 36764 - May 30, 1980)
Luzerne County, Pennsylvania

DECISION NO. PA80-3031 -
MOD. #5
(45 FR 59747 - August 29, 1980)
Bradford, Tioga, Union Counties, Pennsylvania

DECISION NO. PA80-3032 -
MOD. #7
(45 FR 36767 - May 30, 1980)
Columbia, Montour & Snyder Counties, Pennsylvania

DECISION NO. PA80-3037 -
MOD. #7
(45 FR 29522 - May 2, 1980)
Sullivan County, Pennsylvania

DECISION NO. PA80-3038 -
MOD. #6
(45 FR 35148 - May 23, 1980)
Lancaster County, Pennsylvania

DECISION NO. PA80-3043 -
MOD. #7
(45 FR 45849 - July 7, 1980)
Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County, Pennsylvania

DECISION NO. PA80-3044 -
MOD. #6
(45 FR 49839 - July 25, 1980)
Northumberland County, Pennsylvania

DECISION NO. PA80-3056 -
MOD. #4
(45 FR 60748 - September 12, 1980)
Lackawanna, Susquehanna, Wayne and Wyoming Counties, Pennsylvania

DECISION NO. PA80-3060 -
MOD. #4
(45 FR 67531 - October 10, 1980)
Lycoming County, Pennsylvania

DECISION NO. PA80-3075 -
MOD. #3
(45 FR 80638 - December 5, 1980)
Northampton County, Pennsylvania

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY CARPENTERS/PILEDRIVERMEN	11.02	.70	.90		
LABORERS: (HEAVY AND HIGHWAY)					
Asphalts, tampers, concrete pitmen, puddlers & rubbers, Highway guard rail, right of way and property line fence, Highway slab reinforcing placers, laborers, landscape, planters, seeders and arborists, magazine tenders, railroad trackmen & signalmen, leaser beam (pipe laying, paving machine)	9.71	.70	.30		
Pneumatic and electric tool op. jackhammers, paving breakers, concrete saws, whacker vibrators, sheet hammers, steward, chain saws, pipelayers, asphalt rake, lute or screed men, concrete block layers	9.91	.70	.30		
Caisson-open air below 8 feet, cofferdam open air-below 8 feet where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, form setters (road) wagon drill diamond point drill, gunite nozzle operators	10.26	.70	.30		
Blasters	10.49	.70	.30		
Reinforcing steel placers bonding, aligning and securing and burning and welding in conjunction with reinforcing steel	10.55	.70	.30		
Concrete surfaces	10.93	.70	.30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Free Air Tunnels and Rock Shafts					
Outside laborers in conjunction tunnels & rock shafts	10.35	.70	.30		
Chuck tenders, muckers, nippers, miners, & drillers helpers, inside laborers	10.64	.70	.30		
Miners, drillers, blasters, pneumatic shield operators lining, spotting & timers workmen, reinforcing steel placer, bonding, aligning and securing and concrete surfacers	11.12	.70	.30		
POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION					
Group 1	12.67	10%	10.3%		1.3%
Group 2	11.83	10%	10.3%		1.3%
Group 3	11.32	10%	10.3%		1.3%
Group 4	10.88	10%	10.3%		1.3%
Group 5	10.33	10%	10.3%		1.3%
Group 6	12.92	10%	10.3%		1.3%
Group 6-A	13.17	10%	10.3%		1.3%
Group 6-B	13.42	10%	10.3%		1.3%

Group 1: Pile drivers or engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, pavers 21E and over, gradalls, all front end loaders, 4 cu. yds. and over, tandem scrapers, pippin type backhoes, Boat Captains, Batch plant with mixer, drill self contained (drillmaster type), CMI autograde, machines similar to above.

Group 2: Conveyor loader (EUC type), scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, bulldozers and tractors, asphalt plant engineers, rollers (high grade finishing), all loaders under 4 cu. yds., mechanic-welders, motor patrols, machines similar to above

Group 3: Welding machine, well points, compressors, pumps beaters, farm tractors, form line graders, fine grade machine, ditch witch type trencher, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman - (for power equipment) conveyors loaders other than EUC type, conveyors, machines similar to above.

Group 4: Fireman

Group 5: Oilers and deck hands

Group 6: On all machines with booms (including jibs, masts, leads, etc.) 100 ft and over

Group 6-A: 150 ft. and over

Group 6-B: 200 ft. and over

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY TRUCK DRIVERS:					
CLASS I					
Helper, stake body truck (single axle), dumpster	11.07				
Class II					
Dump trucks, tandem & batch trucks, semi-trailer, agitator mixer trucks, ready mix and dumpcrete type vehicles, asphalt distributor when used for transportation					
stake body truck (tandem)	11.14				
Class III					
Euclid type, off-highway equipment back or belly dump truck and double hitched equipment, straddle (ross) carrier, lowbed trailers	11.63				
BUILDING & HEAVY CONSTRUCTION: POWER EQUIPMENT OPERATOR: Excluding the following Counties; Lackawanna, Susquehanna, Wyoming, Monroe, Pike, Wayne & Luzerne					
GROUP 1	14.27	10%	10.3%	a	1.3%
GROUP 2	13.98	10%	10.3%	a	1.3%
GROUP 3	13.11	10%	10.3%	a	1.3%
GROUP 4	12.34	10%	10.3%	a	1.3%
GROUP 5	11.87	10%	10.3%	a	1.3%
GROUP 6	10.96	10%	10.3%	a	1.3%
GROUP 7	14.52	10%	10.3%	a	1.3%
GROUP 7-A	14.77	10%	10.3%	a	1.3%
GROUP 7-B	15.01	10%	10.3%	a	1.3%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helocopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over, machine similar to the above.

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4098 - MOD. #3 (45 FR 80643 - December 5, 1980) Bowie County, Texas					
CHANGE:					
Line construction:					
Linemen	$14.45		3%		1/2%
Cable splicers	14.88		3%		1/2%
Hole digger op., heavy equipment ops. (or pole cat equivalent); powdermen	13.15		3%		1/2%
Line truck driver (winch op.)	11.85		3%		1/2%
Jackhammer man	10.84		3%		1/2%
Groundman	9.68		3%		1/2%
Truck driver (flat bed, ton & half & under)	10.26		3%		1/2%
DECISION NO. TX81-4006 - MOD. #2 (46 FR 1547 - January 6, 1981) Brazos County, Texas					
CHANGE:					
Pipefitters	15.20	.95	.80		.06
DECISION NO. TX81-4007 - MOD. #3 (46 FR 1548 - January 6, 1981) Ector & Midland Cos., Texas					
CHANGE:					
Ironworkers:					
Structural, ornamental & reinforcing	11.70	.55	1.70		.10
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	11.825	.55	1.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX81-4015 - MOD. #3 (46 FR 20448 - April 3, 1981) Jefferson & Orange Cos., Texas					
CHANGE:					
Roofers:					
Composition	$12.71	.57	.50	.35	.06
Slate & tile	13.46	.57	.50	.35	.06
Kettlemen	11.83	.57	.50	.35	.06
DECISION NO. TX81-4030 - MOD. #1 (46 FR 25984 - May 8, 1981) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
CHANGE:					
Electricians:					
Zone 1 - Electricians	13.38	.60	3%+.50		1/2%
Cable splicers	14.72	.60	3%+.50		1/2%
Zone 2 - Electricians	13.10	.60	3%		1/10%
Cable splicers	13.35	.60	3%		1/10%
Ironworkers - Zone 2	11.825	.55	1.70		.10
Line construction:					
Zone 1:					
Lineman; operators	13.10	.60	3%		1/2%
Cable splicers	13.35	.60	3%		1/2%
Groundman	70%JR	.60	3%		1/2%
Zone 2:					
Linemen	13.38	.60	3%+.50		1/2%
Cable splicers	14.72	.60	3%+.50		1/2%
Groundmen	8.84	.60	3%+.50		1/2%
Operator-hole digger, line truck	10.29	.60	3%+.50		1/2%
Flat bed truck driver	7.76	.60	3%+.50		1/2%
ADD:					
Roofers	8.00				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX81-4032 - MOD. #2 (46 FR 25981 - May 8, 1981) Galveston & Harris Cos., Texas					
CHANGE:					
Pipefitters	$15.20	.95	.80		.06
Roofers:					
Composition	12.71	.57	.50	.35	.06
Slate & tile	13.46	.57	.50	.35	.06
Kettlemen	11.83	.57	.50	.35	.06
DECISION NO. WA81-5107 - Mod #6 (46 FR 20452 - April 3, 1981) Statewide Washington					
ADD:					
LINE CONSTRUCTION:					
(Fringe Benefits only)					
Group 7		.45	3%+1.10	.10	1/2%
CHANGE:					
ELECTRICIANS:					
Area 4:					
Electricians	$19.62	.98	3%+1.80		.10
Cable Splicers	21.58	.98	3%+1.80		.10
Area 6:					
Electricians	18.50	.90	3%+2.00	5%	.02
Cable Splicers	20.35	.90	3%+2.00	5%	.02
Area 8:					
Electricians	19.55	.90	3%+ .45		.04
Cable Splicers	21.51	.90	3%+ .45		.04
PLASTERERS:					
Area 2	16.23	1.00	2.00		.12
ROOFERS:					
Area 4:					
Roofers; Waterproofers	15.13	.95	1.37		.10
Slate and Tile Roofers	15.33	.95	1.37		.10
SHEET METAL WORKERS:					
Area 2	20.12	3%+.79	.94		.14
Area 5	19.29	3%+.88	1.68		.14
Area 6	18.80	3%+.88	1.68		.14
LABORERS (AREA 2)					
Group 1A	9.27	1.10	1.40		.08
Group 1B	14.30	1.10	1.40		.08
Group 2	14.64	1.10	1.40		.08
Group 3	14.78	1.10	1.40		.08
Group 4	14.88	1.10	1.40		.08

DECISION NO. WA81-5107 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS (AREA 1)					
BUILDING CONSTRUCTION					
All Counties and portions of Counties East of the 120th Meridian (Except DOE Hanford Site in Benton and Franklin Counties)					
Group 1	13.07	1.12	1.30		.10
Group 2	13.32	1.12	1.30		.10
Group 3	13.57	1.12	1.30		.10
Group 4	13.82	1.12	1.30		.10
LABORERS (AREA 2)					
Group 1A	9.27	1.10	1.40		.08
Group 1B	14.30	1.10	1.40		.08
Group 2	14.64	1.10	1.40		.08
Group 3	14.78	1.10	1.40		.08
Group 4	14.88	1.10	1.40		.08
POWER EQUIPMENT OPERATORS (AREA 2)					
All Counties and portions of Counties West of the 120th Meridian (Except those enumerated in Area 3)					
Group 1	18.12	1.20	1.75		.16
Group 2	17.62	1.20	1.75		.16
Group 3	17.18	1.20	1.75		.16
Group 4	16.82	1.20	1.75		.16
Group 5	16.52	1.20	1.75		.16
Group 6	14.72	1.20	1.75		.16

DECISION NO. WA81-5107 (Cont'd)

CHANGE:

CEMENT MASONS (AREA 1)

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
Group 1	$14.55	15.70	16.15	16.85	17.50
Group 2	15.05	16.20	16.65	17.35	18.00
Group 3	15.55	16.70	17.15	17.85	18.50
FRINGE BENEFITS:					
Health & Welfare	1.00				
Pension	1.75				
Appr. Training	.15				

LABORERS (AREA 1) HEAVY & HIGHWAY CONSTRUCTION
All Counties and portions of Counties East of the 120th Meridian except DOE Hanford Site in Benton and Franklin Counties

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
Group 1	13.07	14.22	14.67	15.37	16.02
Group 2	13.32	14.47	14.92	15.62	16.27
Group 3	13.57	14.72	15.17	15.87	16.52
Group 4	13.82	14.97	15.42	16.12	16.77
FRINGE BENEFITS:					
Health & Welfare	1.12				
Pension	1.30				
Appr. Training	.10				

POWER EQUIPMENT OPERATORS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian except DOE Hanford Site in Benton and Franklin Counties

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
Group 1	13.10	14.25	14.70	15.40	16.05
Group 2	13.40	14.55	15.00	15.70	16.35
Group 3	13.95	15.10	15.55	16.25	16.90
Group 4	14.10	15.25	15.70	16.40	17.05
Group 5	14.25	15.40	15.85	16.55	17.20
Group 6	14.50	15.65	16.10	16.80	17.45
Group 7	14.75	15.90	16.35	17.05	17.70
Group 8	15.75	16.90	17.35	18.05	18.70
FRINGE BENEFITS:					
Health & Welfare	1.30				
Pension	2.00				
Appr. Training	.10				

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DECISION NO. WA81-5107 (Cont'd)

CHANGE:

TRUCK DRIVERS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian except DOE Hanford Site in Benton & Franklin Counties

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
Group 1	$14.52	15.67	16.12	16.82	17.47
Group 2	14.56	15.71	16.16	16.87	17.51
Group 3	14.62	15.77	16.22	16.92	17.57
Group 4	14.71	15.86	16.31	17.01	17.66
Group 5	14.92	16.07	16.52	17.22	17.87
Group 6	14.96	16.11	16.56	17.26	17.91
Group 7	15.02	16.17	16.62	17.32	17.97
Group 8	15.06	16.21	16.66	17.36	18.01
Group 9	15.17	16.32	16.77	17.47	18.12
Group 10	15.21	16.36	16.81	17.51	18.16
Group 11	15.52	16.67	17.12	17.77	18.47
Group 12	15.66	16.81	17.26	17.96	18.61
Group 13	15.82	16.97	17.42	18.12	18.77
Group 14	15.96	17.11	17.56	18.26	18.91

FRINGE BENEFITS:
Health & Welfare 1.34
Pension 1.47
Appr. Training .09

DECISION NO. WI80-2013 - MOD. #5

(45 FR 32382 - April 2, 1980)
Milwaukee, Ozaukee, Washington, Waukesha Cos., Wisconsin

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$14.13	1.60	1.35	.51	.12
Millwrights	14.94	1.60	1.35	.51	.12
Piledrivermen	15.02	1.60	1.35	.51	
Electricians	15.49	1.20	3%+.68	10%	2%

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Duval
DECISION NUMBER: FL81-1240 DATE: Date of Publication
Supersedes Decision No. FL80-1075 dated June 20, 1980 in 45 FR 41831
DESCRIPTION OF WORK: Building Construction (does not include single family homes or apartments of four stories or less)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	12.93	.65	1.10		.08
Boilermakers	12.90	1.375	1.20		.04
Bricklayers	11.65	.55	.50		.06
Carpenters & Piledrivermen	11.32	.72	.80		.06
Cement Masons	10.31	.45	.40		.01
Electricians					
Wiremen	12.15	.60	3% +.81	.81	.07
Cable Splicer	12.50	.60	3% +.81	.81	.07
Elevator Constructors					
Mechanics	11.29	1.195	.95	a & b	.035
Helper	7.90	1.195	.95	a & b	.035
Probationary Helper	5.645				
Ironworkers	11.65	.70	.90		.03
Laborers					
Gunnite Workers, Mechanical Tool Operators, Power Buggy Operators, & Pipelayers	7.42	.30	.25		
Unskilled	7.22	.30	.25		
Linemen					
Linemen	12.00	.45	3% +1.00	.70	.10
Cable Splicer	12.20	.45	3% +1.00	.70	.10
Heavy Equipment Operator	10.60	.45	3% + .85	.64	.10
Winch Truck Operator	8.41	.45	3% + .68	.51	.10
Groundmen	5.86	.45	3% + .47	.35	.10
Millwrights	11.64	.72	.80		.05
Painters	9.95	.70	.60		
Plasterers	9.00	.40	.30		
Plumbers	12.75	.70	.80		.10
Roofers					
Roofers	10.86	.50	.25		.025
Kettlemen	8.15	.50	.25		.025
Sheet Metal Workers	11.50	3% +.91	.96		.12
Sprinkler Fitters	12.65	.85	1.20		.13
Welders - Rate for craft					

FL81-1240 cont.

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group I	12.18	.55	.50		.06
Group II	11.00	.55	.50		.06
Group III	8.80	.55	.50		.06

GROUP I - Crane or derrick operator, clam shell operator, dragline operator, piledriver operator including Auger & Boring Machine operator for drilling in piling, backhoe operator, hydra crane operator, grade all operator, shovel operator, patrol operator, cable ways operator, tug boat captain (150 H.P. or more), multi-bowl operator (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cubic yard scrapers), side boom cat operator, multi-drum hoist operator for rigging work, mechanic (heavy equipment), tower crane operator (stationary, climbing, and traveling), gantry crane operator, locomotive crane operator, bridge crane operator (over 20 ton capacity), concrete pump with boom (mobile) operator, high lift or fork lift operator (10' or higher).
GROUP II - Bulldozer operator, bridge crane operator (20 tons & under), highlift or forklift operator (less than 10'), straddle buggy operator, hoist operator (other than rigging work) including winch truck operator where winch truck is not mobile and used as a hoist, trenching machine operator (ladder & wheel type) over 6' cut and over 24'' in width, concrete paver operator, scraper operator, front end loader operator, fireman-floating equipment, mobile winch truck operator, self propelled sub-grader operator, asphalt paving machine operator, lubricating engineer (mobile plant), pavement breaker operator,
GROUP III - Tractor operated sweeper operator, trenching machine operator (ladder & wheel type) maximum cut 6' and maximum width 24'', fireman, self propelled roller operators, wellpoint pump operator & supervise installation (one operator for 3 pumps, not including standby units, within 300 ft. radius), asphalt distributor operator, water truck driver, motor boat operator, oiler, pumpman (other than wellpoint) up to and including pumps within 300 ft. radius, conveyor operators (motor operated), welding machine operator (3 or more combustion type), pulver mixer operator, compressor operator (from 1 up to and including 3 compressors) within 300 ft. radius, self propelled sweeper operator, combination pump, compressor & combustion type welding machine operator, (any group of 3 units) with 300 ft. radius, concrete mixer operator, concrete pump operator, tractor, tractor operator, street sweeping machine operator

FOOTNOTES:
a. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day
b. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 8% for more employee who has worked in business more than 5 years.
Unlisted Classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))

SUPERSEDEAS DECISION

STATE: GEORGIA — COUNTIES: CAMDEN, GLYNN, & McINTOSH
DECISION NUMBER: GA81-1241 — DATE: DATE OF PUBLICATION
Supersedes Decision Number GA79-1058, dated March 30, 1979, in 44 FR 19110.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes single family homes and 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	$ 7.25				
BRICKLAYERS	8.67				
CARPENTERS	6.00				
CEMENT MASONS	6.50				
DRYWALL FINISHERS	6.85				
DRYWALL HANGERS	7.28				
ELECTRICIANS	7.00				
INSULATION INSTALLERS	4.97				
IRONWORKERS	7.00				
LABORERS:					
Unskilled	4.00				
Asphalt rakers	4.25				
Plasterer tenders	4.39				
Mason tenders	4.75				
Pipe layers	4.81				
PAINTERS	6.45				
PLASTERERS	7.40				
PLUMBERS & PIPEFITTERS	7.30				
ROOFERS	6.77				
SHEET METAL WORKERS	6.64				
SOFT FLOOR LAYERS	6.50				
TILE SETTERS	6.50				
TRUCK DRIVERS	4.66				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.58				
Bulldozer	5.25				
Front end loader	5.00				
Motor grader	6.00				
Roller	4.58				
Spreader - screed	5.25				
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).					

SUPERSEDEAS DECISION

STATE: Idaho COUNTIES: Statewide
DECISION NUMBER: ID81-5125 DATE: Date of Publication
Supersedes Decision No. ID80-5146 dated December 12, 1980, in 45 FR 81960
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:*					
Area 1	$16.84	.85	$1.45		.04
Area 2	14.36	.77	1.52		
BOILERMAKERS:*					
Area 1	16.01	1.30	1.25	1.00	.04
Area 2	14.71	1.30	1.25	1.00	.04
BRICKLAYERS; Stonemasons:*					
Area 1	15.00		1.00		
Area 2	15.38	.80	1.00		.05
Area 3	14.19	1.00	1.10		.05
Area 4	12.25	.90	1.00		
Area 5	13.90	.90	.60		
Area 6	12.95	.90	.75		
CARPENTERS:*					
Area 1:					
Carpenters	14.04	.96	1.20		.10
Floor Finisher; Floor Layer; Floor Sander Operator; Sawfiler; Shinglers; Stationary Power Saw Operators, and Operators of other stationary power wood-working tools; Pile-drivermen	14.19	.96	1.20		.10
Carpenters working burned, charred, creosoted or similarly treated materials; Boom Man	14.29	.96	1.20		.10
Millwrights and Machine Erectors	14.54	.96	1.20		.10
Piledriver (creosoted material)	14.44	.96	1.20		.10

*See AREA Descriptions - Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:* (Cont'd)					
Area 2:					
Zone 1:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator	$12.10	$1.25	$1.30	$1.00	.20
Saw Filer; Stationary Machine Operator; Pile-drivermen; Bridgeman and Wharf Builders; Automatic Pile Threader	12.27	1.25	1.30	1.00	.20
Millwrights and Machine Erector; Piledriverman's Boom Man	12.39	1.25	1.30	1.00	.20
Zone 2:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator	13.60	1.25	1.30	1.00	.20
Saw Filer; Stationary Machine Operator; Pile-driverman; Bridgeman and Wharf Builders; Automatic Pile Threader	13.77	1.25	1.30	1.00	.20
Millwrights and Machine Erector; Piledriverman's Boom Man	13.89	1.25	1.30	1.00	.20
Zone 3:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator	13.85	1.25	1.30	1.00	.20
Saw Filer; Stationary Machine Operator; Pile-driverman; Bridgeman and Wharf Builders; Automatic Pile Threader	14.02	1.25	1.30	1.00	.20
Millwrights and Machine Erector; Piledriverman's Boom Man	14.14	1.25	1.30	1.00	.20

*See AREA Descriptions - Page 3
*ZONE Descriptions - following Truck Drivers' Classifications

AREA DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of a line bisecting Idaho County); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties and Idaho County (south of a line bisecting Idaho County)

BOILERMAKERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining counties

BRICKLAYERS; Stonemasons:
Area 1: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties
Area 2: Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 4: Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls Counties
Area 5: Bingham County (north of City of Blackfoot); Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton Counties
Area 6: Bannock and Bear Lake Counties; Bingham County (south of the City of Blackfoot); Caribou, Franklin, Oneida, and Power Counties

CARPENTERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the northern boundary of Township #29 North); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties and Idaho County (south of the 46th Parallel)

CEMENT MASONS* (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	$14.55	$15.70	$16.15	$16.85	$17.50
2	15.05	16.20	16.65	17.35	18.00
3	15.55	16.70	17.15	17.85	18.50

FRINGE BENEFITS:	
Health and Welfare	$ 1.00
Pension	1.75
Apprenticeship Training	0.15

Group 1: Rodding, Tamping, Floating, Troweling, Patching, Stoning, Rubbing, Sack Rubbing; All exposed aggregate finishing; Setting of Screeds, Screed Forms, curb and gutter and sidewalk forms; Preparation of all concrete for caulking of the joints and the caulking of expansion joints; Preparation of concrete for the application of hardeners, sealers and curing compounds and their application; Grouting and dry packing of machine base; Removal of Snap Ties and She-bolts prior to patching of concrete

Group 2: Power Troweling Machine Operator; Troweling of magnesite, torganal or material with epoxy bases or oxichloride base; All power Grinders, Bushing Hammer, Chipping Gun; Gunnite Nozzleman; All Sandblasting for architectural finishes and exposing of aggregate for finish; Concrete sawing and cutting for expansion joints and scoring for decorative pattern; Operating of Clary-type Floats, Longitudinal Floats, Rodding Machines, and Belting Machines; Scarifiers

Group 3: Grinding, Bushing or Chipping of toxic materials or high-density concrete; Operating of power tools on a scaffold

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

CEMENT MASONS* (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

GROUPS	ZONE 1	ZONE 2	ZONE 3
1	$11.64	$13.14	$13.39
2	11.84	13.34	13.59

FRINGE BENEFITS:

Health and Welfare	$ 1.04
Pensions	1.00
Vacation	1.50
Apprenticeship Training	0.25

Group 1: Cement Mason (including but not limited to hand chipping and patching; All types grouting and painting of all concrete construction; Screed setting including screed pins; Dry packing of all concrete including Embeco; Plugging and filling all voids, etc., concrete construction; Waterproofing of concrete with thoroseal or similar materials)

Group 2: Cement Mason (magnesite, terrazzo and mastic composition, two component epoxies); Clary and similar type screed operator; Jackson Vibrator and similar type Screed Operator; Sandblasting of concrete for architectural finishes only; Power Chipping and Bush-hammer; All color concrete work; Power Trowel Operator; Power Grinder Operator; Gunite and composition floor layer)

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:*					
Area 1:					
Electricians	$17.85	.95	3%+.40		.02
Cable Splicers	18.25	.95	3%+.40		.02
Area 2:					
Electricians	13.90	.75	3%+1.00		1%
Cable Splicers	15.29	.75	3%+1.00		1%
Area 3:					
Electricians; Technicians	14.25	.75	3%+1.00		1%
Cable Splicers	15.68	.75	3%+1.00		1%
ELEVATOR CONSTRUCTORS:*					
Area 1:					
Elevator Constructors	16.835	1.195	.95	a	.035
Helpers	11.78	1.195	.95	a	.035
Probationary Helpers	8.42				
Area 2:					
Elevator Constructors	12.91	1.195	.95	a	.035
Helpers	9.04	1.195	.95	a	.035
Probationary Helpers	6.455				
GLAZIERS:*					
Area 1	11.84	.69	.80		
Area 2	12.51	.42	.70	4%	.02
Area 3	12.81	.49	.30		
Area 4	10.05	.42	.10	b	
IRONWORKERS:*					
Ornamental; Reinforcing;					
Structural:					
Area 1	15.66	.93	1.90		.10
Area 2	15.35	.93	1.90		.10
Area 3	13.19	.90	1.45		.02
MARBLE SETTERS:*					
Area 1	15.00		1.00		
Area 2	15.38	.80	1.00		.05
Area 3	14.19	1.00	1.10		.05
Area 4	12.25	.90	1.00		
Area 5	13.90	.90	.60		
Area 6	11.25	.90	.75		

*See AREA Descriptions - Page 7

AREA DESCRIPTIONS

ELECTRICIANS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 3: Remaining Counties

ELEVATOR CONSTRUCTORS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties, except Adams, Lemhi, Valley, and Washington Counties

GLAZIERS:
Area 1: Benewah and Clearwater Counties; Idaho County (the north part, from a line running east and west through the north limits of Elk City); Latah, Lewis, and Nez Perce Counties
Area 2: Bonner, Boundary, Kootenai, and Shoshone Counties
Area 3: Ada; Adams, Boise, Canyon, Elmore, and Gem Counties; Gooding County (the west part, from a line running north and south through the eastern limits of the City of Bliss); Idaho County (the south part from a line running east and west through the north limits of Elk City); Owyhee, Payette, Valley and Washington Counties
Area 4: Remaining Counties and Gooding County (the wast part, from a line running north and south through the eastern limits of the City of Bliss)

IRONWORKERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Those portions of Adams, Idaho, Valley, and Washington Counties located south of the 46th Parallel and north of the Weiser-Gibbonsville Line
Area 3: Remaining Counties and those portions of Adams, Idaho, Valley and Washington Counties located south of the Weiser-Gibbonsville Line

MARBLE SETTERS:
Area 1: Benewah, Bonner, Boundary, Kootenai, and Shosbone Counties
Area 2: Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 4: Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls Counties
Area 5: Bingham County (north of the City of Blackfoot); Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton Counties
Area 6: Bannock and Bear Lake Counties; Bingham County (south of the City of Blackfoot); Caribou, Franklin, Oneida, and Power Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Area 1:					
Brush	$13.43	.69	$ 1.10		.02
Spray; Steel; Steam Cleaning; Rollers (over 9" or 10" handle);					
Finish Drywall Taper	13.93	.69	1.10		.02
Swing Stage, over 30 ft. high	14.13	.69	1.10		.02
Bitumastic; Sand Blast; Bridge; Towers; Stacks;					
Steeples; Tanks on Legs	14.23	.69	1.10		.02
Tapers	13.28	.69	1.10		.02
Area 2:					
Painters and Tapers	11.37	.63	.50		
Area 3:					
Painters and Tapers	12.37	.63	.50		
Area 4:					
Work within 28 ft. of the surface:					
Painters and Tapers	11.74	.69	.50		1%
Spray	12.50	.69	.50		1%
Sand Blasting; Steel	12.45	.69	.50		1%
Work over 28 ft. in height, or downhole more than 28 feet:					
Painters and Tapers	12.74	.69	.50		1%
Spray	13.50	.69	.50		1%
Sand Blasting; Steel	13.45	.69	.50		1%
PLASTERERS:*					
Area 1	12.61	.95	1.50		.15
Area 2	10.71	1.04	.85	1.25	.20
PLASTERERS' TENDERS:*					
Area 1	12.35	.97	1.10		.10
PLUMBERS:*					
Area 1	18.98	.90	1.45		.12
Area 2	14.67	1.24	2.40		.10

*See AREA Descriptions - Page 9

AREA DESCRIPTIONS

PAINTERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (the north part, from a line running east and west through the north limits of Elk City); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada, Adams, Boise, and Canyon Counties; Elmore County (except Mt. Home AFB); Gem County; Gooding County (the west part, from a line running north and south through the eastern limits of the City of Bliss); Idaho County (the south part, from a line running east and west through the north limits of Elk City); Owyhee, Payette, Valley, and Washington Counties
Area 3: Elmore County (Mt. Home AFB)
Area 4: Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, and Fremont Counties; Gooding County (the east part, from a line running north and south through the eastern limits of the City of Bliss); Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, and Twin Falls Counties

PLASTERERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties

PLASTERERS' TENDERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

PLUMBERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties (excluding Idaho and Lewis Counties)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:*					
Area 1	$13.06	.85	1.45		.10
Area 2:					
Roofers; Kettlemen	13.00	.85	.30		
Roofers working with coal tar and pitch products	15.00	.85	.30		
Area 3	11.83	.85	.50		
SHEET METAL WORKERS:*					
Area 1	16.74	3%+.73	1.50		.20
Area 2	13.71	.73	.96		.21
Area 3	12.63	.95	.69		.10
SOFT FLOOR LAYERS:*					
Area 1	10.41	.47	1.00		
Area 2	12.39	.69	.60		
Area 3	8.26	.49	.10		.10
SPRINKLER FITTERS	15.84	.95	1.40		.08
TERRAZZO WORKERS and TILE SETTERS:*					
Area 1	15.00		1.00		
Area 2	13.50	.80	2.00		
Area 3	14.19	1.00	1.10		.05
Area 4	12.25	.90	1.00		
Area 5	13.90	.90	.60		
Area 6	11.25	.90	.75		
WELDERS: Receive the rate prescribed for craft performing operation to which welding is incidental.					

*See AREA Descriptions - Page 11

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for 5 years' service, 6% of basic hourly rate for 6 months' to 5 years' service, as Vacation Pay Credit. Seven Paid Holidays: A thru G.
b. All employees who have been employed for a period of one year shall have 2 weeks' vacation with pay, also seven Paid Holidays: A, B, C, E, F, G, plus Veterans' Day

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving; G-Christmas Day

AREA DESCRIPTIONS

ROOFERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, and Gem Counties; Idaho County (south of the 46th Parallel); Lemhi, Owyhee, Payette, Valley, and Washington Counties
Area 3: Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power, and Teton Counties

SHEET METAL WORKERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada, Adams, Blaine, Boise, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Idaho, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, Valley, and Washington Counties
Area 3: Remaining Counties

SOFT FLOOR LAYERS:
Area 1: Clearwater County; Idaho County (the north part from a line running east and west through the north limits of Elk City); Latah, Lewis, and Nez Perce Counties
Area 2: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, and Gem Counties; Gooding County (the west part, from a line running north and south through the eastern limits of the City of Bliss); Idaho County (the south part, from a line running east and west through the north limits of Elk City); Owyhee, Payette, Valley, and Washington Counties

TERRAZZO WORKERS and TILE SETTERS:
Area 1: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties
Area 2: Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 4: Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls Counties
Area 5: Bingham County (north of the City of Blackfoot); Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton Counties
Area 6: Bannock and Bear Lake Counties; Bingham County (south of the City of Blackfoot); Caribou, Franklin, Oneida, and Power Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (AREA 1): Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties:					
Building Construction:					
Group 1	$13.07	$1.12	$1.30		.10
Group 2	13.32	1.12	1.30		.10
Group 3	13.57	1.12	1.30		.10
Group 4	13.82	1.12	1.30		.10

Heavy and Highway Construction

Groups	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$13.07	$14.22	$14.67	$15.37	$16.02
2	13.32	14.47	14.92	15.62	16.27
3	13.57	14.72	15.17	15.87	16.52
4	13.82	14.97	15.42	16.12	16.77

FRINGE BENEFITS:

Health and Welfare	$1.12
Pensions	1.30
Apprenticeship Training	0.10

*See ZONE Descritpions - following TRUCK DRIVERS' Classifications

LABORERS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Building, Heavy and Highway Construction

Group 1: Brush Hog Feeder; Carpenter Tender; Cement Handler; Concrete Crewman (includes stripping of forms, hand operating jacks on slip form construction, application of concrete curing Compounds, Pumpcrete Machine, Signaling, handling the Nozzle of Squeezecrete or similar machine - 6 inches and smaller); Concrete Signalman; Crusher Feeder; Demolition (includes clean-up, burning, loading, wrecking and salvage of all material); Dumpman; Fence Erector (includes guard rails, guide and reference posts, sign posts and right-of-way markers); Form Cleaning Machine Feeder, Stacker; General Laborer; Grout Machine Header Tender; Bullgang, Concrete Crewman, Dumpman and Pumpcrete Crewman, including distributing pipe, assembly and dismantle, and Nipper; Nipper; Riprap Man; Sandblast Tailhoseman; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural mover (includes separating foundation, preparation, cribbing, shoring, jacking and unloading of structures); Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Track Laborer (RR); Truck Loader; Well-point Man; Window Cleaner

Group 2: Asphalt Raker; Asphalt Roller, walking; Cement Finisher Tender; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Driller Tender (when required to move and position machine); Form Setter, paving; Grade Checker using level; Jackhammer Operator; Brakeman, Finisher, Vibrator and Form Setter; Nozzleman (includes squeeze and flow-crete nozzle); Nozzleman, water, air or steam; Pavement Breaker, under 90 lbs.; Pipelayer, corrugated metal culvert; Pipelayer, multi-section; Pot Tender; Powderman Tender; Power Buggy Operator; Power Tool Operator, gas, electric, pneumatic; Railroad equipment, power-driven, except dual mobile power Spiker or Puller; Railroad power Spiker or Puller, dual mobile; Rodder and Spreader; Tamper (includes operation of Barco, Essex and similar tampers); Trencher, Shawnee; Tugger Operator; Wagon Drills; Water Pipe Liner; Wheelbarrow, power-driven

Group 3: Air Track Drill; Brush Machine (includes horizontal construction joint clean-up brush machine, power-propelled); Caisson Worker, free air; Chain Saw Operator and Faller; Concrete Stack (includes laborers whenworking on free-standing concrete stacks for smoke or fume control above 40 ft. high); Gunite (includes operation of machine and nozzle); High Scaler; Hod Carrier; Laser Beam Operator (includes Grade Checkers and Elevation control); Miner, Nozzleman for concrete, and Laser Beam Operator on tunnels; Monitor Operator, air track or similar mounting; Mortar Mixer; Nozzleman (includes Jet Blasting Nozzleman, over 1200 lbs., Jet Blast Machine, power-propelled, Sandblast Nozzle); Pavement Breaker, 90 lbs. and over; Pipelayer (includes working Topman, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, Value or Meter Installer, Tamper); Pipewrapper; Vibrators, all

Group 4: Drills with dual masts; Raise and Shaft Miner, Laser Beam Operator on raises and shafts; Powderman (receives, $0.25 additional per hour); Welder, electric, manual or automatic

LABORERS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Groups	Zone 1	Zone 2	Zone 3
1	$ 9.36	$10.86	$11.11
2	9.46	10.96	11.21
3	9.56	11.06	11.31
4	9.66	11.16	11.41
5	9.71	11.21	11.46
6	9.96	11.46	11.71
7	10.21	11.71	11.96
	Underground Work:		
8	9.51	11.01	11.26
9	9.66	11.16	11.41
10	9.96	11.46	11.71

FRINGE BENEFITS:	
Health and Welfare	$ 0.90
Pensions	1.49
Vacation	0.60
Apprenticeship Training	0.15

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

LABORERS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 1: General Laborers; Sloper, clearing and grading; Form Stripper; Concrete Crew; Concrete Curing Crew; Carpenter Tender; Asphalt Laborer; Hopper Tender; Heater Tender; Stake Jumper; Choker Setter; Spreader and Weighman; Power Wheelbarrow; Scouring Concrete; Rip Rap Man (hand placed); Fence Erector and Installer, manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers); Crusher Tender; Cribbing and Shoring (in open ditches); Machinery and parts Cleaner; Leverman, manual or mechanical; Demolition, salvage; Landscaper; Tool Room Man

Group 2: Chuck Tender; Driller Tender; Air Tampers; Gunite Nozzleman Tender; Pipewrapper; Tar Pot Tender; Concrete Sawyer; Signalman, handling cement; Dumpman; Steam Nozzleman; Air and water Nozzleman (Green Cutter, concrete); Vibrator (less than 4"); Pumpcrete and Grout Pump Crew; Hydraulic Monitor

Group 3: Pipelayer, including sewer, drainage, sprinkler systems and water lines; Free Air Caisson; Jackhammer; Paving Breaker; Powderman Tender; Asphalt Raker; Gasoline powered Tamper; Electric Ballast Tamper; Sand Blasting; Form Setter, airport paving; Gunman (Gunite); Manhole Setter; Hand guided machines, such as Roto Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc.; Form Setter (highway, curb and gutter); Vibrator (4" and over); Timber Faller and Bucker; Metal Pan Installer

Goup 4: Hod Carrier; Mason Tender; Plaster Tender; Mason Tender (concrete); Terrazzo-Tile Tender

Group 5: Highscaler; Wagon Drill; Grade Checker; Gunite Nozzleman

Group 6: Diamond Drills; Drillers on Drills with Manufacturers' rating 3" or over

Group 7: Powderman

Group 8: Reboundman; Chucktender; Nipper; Dumpman; Vibrator (less than 4"); Brakeman; Mucker; Bullgang

Group 9: Form setter and Mover

Group 10: Miners; Machinemen; Timbermen; Steelmen; Drill Doctors; Spaders and Tuggers; Spilling and/or Caisson Workers; Vibrator (over 4")

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS: (AREA 1): Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Cable Splicers; Leadman Pole Sprayer	$17.71	.45	3%+1.70	.10	1/2%
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	16.00	.45	3%+1.70	.10	1/2%
Tree Trimmer	14.44	.45	3%+1.70	.10	1/2%
Line Equipment Man	13.78	.45	3%+1.10	.10	1/2%
Head Groundman (Chipper): Head Groundman; Powderman; Jackhammer Man	12.05	.45	3%+1.10	.10	1/2%
Groundman	11.32	.45	3%+1.10	.10	1/2%
(AREA 2): Remaining Counties:					
Lineman	14.42	.45	3%+.75		1%
Line Equipment Mechanic: Base Shop	12.73	.45	3%+.75		1%
Right-of-way	13.63	.45	3%+.75		1%
Line Equipment Serviceman	12.73	.45	3%+.75		1%
Line Equipment Operator	12.95	.45	3%+.75		1%
Groundman	10.58	.45	3%+.75		1%
Cable Splicer	15.92	.45	3%+.75		1%

ZONE PAY for AREA 1 ONLY:
Each classification will receive the base rate plus ZONE A-$1.25, Zone B-$2.00, Zone C-$2.75, Zone $-$4.00

BASE ZONE - 0 to 3 miles from geographical center of towns listed below.
ZONE A - 3 to 20 miles radius from geographical center of towns listed below
ZONE B - 20 to 35 miles radius from geographical center of towns listed below
ZONE C - 35 to 50 miles radius from geographical center of towns listed below
ZONE D - in excess of 50 miles from geographical center of towns listed below

Spokane, Coeur d'Alene, Kellogg, Orofino, Sand Point, Lewiston

POWER EQUIPMENT OPERATORS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Groups	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$ 13.10	$ 14.25	$ 14.70	$ 15.40	$16.05
2	13.40	14.55	15.00	15.70	16.35
3	13.95	15.10	15.55	16.25	16.90
4	14.10	15.25	15.70	16.40	17.05
5	14.25	15.40	15.85	16.55	17.20
6	14.50	15.65	16.10	16.80	17.45
7	14.75	15.90	16.35	17.05	17.70
8	15.75	16.90	17.35	18.05	18.70

FRINGE BENEFITS:

Health and Welfare	$ 1.30
Pension	2.00
Apprenticeship Training	0.10

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 1: Bit Grinders; Bolt Threading Machine; Compressors (under 2,000 CFM, gas, diesel or electric power); Crusher Feeder (mechanical); Deckhand; Driller's Tender; Fireman and Heater Tender; Grade Checker; Tender, Mechanic or Welder, H.D.; Hydro-seeder, Mulcher, Nozzleman; Oiler; Oiler and Cable Tender, Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar or compacting vibrator) except when pulled by Dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator, Fireman or Pugmixer (asphalt); Bagley or stationary Scraper; Belt Finishing Machine; Blower Operator (cement); Cement Hog; Compressor (2,000 CFM or over, 2 or more, gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker, Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drum; Loader (Bucket Elevators and Conveyors); Longitudinal Float; Mixer (portable, concrete); Pavement Breaker (Hydra-hammer and similar); Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad power Tamper Operator (self-propelled); Railroad Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job only); Tractor (farm type R/T with attachments, except Backhoe); Tugger Operator

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Batch Plant and Wet Mix Operator, single unit (concrete); Belt-crete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Bending Machine; Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (pipeline); Deck Engineer; Elevating Belt-type Loader (Euclid, Barber Greene or similar); Elevating Grader type Loader (Dumor, Adams or similar); Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Locomotive Engineer; Mixermobile; Mucking Machine; Post Hole Auger or Punch; Pump (Grout or Jet); Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (to D-6 or equivalent and Traxcavator); Traverse Finishing Machine; Turnhead Operator

Group 4: Blade Operator (Motor Patrol and attachments); Concrete Pumps (Squeeze-crete, Flow-crete, Pump-crete, Whitman and similar); Drills (Churn, Core, Calyx or Diamond); Equipment Serviceman, greaser and oiler; Hoist (2 or more drums or Tower Hoist); Loaders (Overhead and Front End, under 4 yds. R/T); Pave or Curb Extruders (asphalt or concrete); Refrigeration Plant Engineers (under 1,000 tons); Rubber-tired Skidders (R/T with or without attachments); Screed Operator; Surface Heater and Planer Machine; Trenching Machines (under 7 ft. depty capacity); Turnhead (with re-screening); Vacuum Drill (Reverse Circulation Drill, under 8 in. bit)

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 5: Backhoe (under 1 yd.); Cranes (25 tons and under); Derricks and Stifflegs (under 65 tons); Drilling equipment (8 inch bit and over) (Robbins, Reverse Circulation and similar); Hoe Ram; Piledriving Engineers; Paving (dual drum); Railroad Track Liner Operator (self-propelled); Refrigeration Plant Engineer (1,000 tons and over); Signalman (Whirleys, Highline, Hammerheads or similar)

Group 6: Asphalt Plant Operator; Automatic Sub-grader (Ditches and Trimmers)(Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoes (1 yd. to 3 yds.); Batch Plant (over 4 units); Batch and Wet Mix Operator (multiple units, 2 and including 4); Blade (finish and bluetop)(Automatic, CMI, ABC and similar when used as automatic); Boat Operator; Boom Cats (side); Cableway Controller (dispatcher); Clamshell Operator (under 3 yds.); Concrete Slip Form Paver; Cranes (over 25 tons, including 45 tons); Crusher, Grizzle and Screening Plant Operator; Draglines (under 3 yds.); Drill Doctor; H.D. Mechanic; H.D. Welder; Loader Operator (Front-end and Overhead, 4 yds. including 8 yds.); Multiple Dozer units with single blade; Quad-track or similar equipment; Rollerman (finishing pavement); Rubber-tired Scrapers (one motor with one scraper, under 40 yds.); Rubber-tired Scrapers, multi-engine power with one scraper (Euclid, TS 24 and similar); Rubber-tired Scraper, one motor with one scraper (40 yds. and over); Rubber-tired Scraper, multiple-engine power with one scraper (Euclid, TS 24 and similar); Push Pull or Help Mate in use; Rubber-tired Scraper, multiple engines with two scrapers; Shovels (under 3 yds.); Tractors (D-6 and equivalent and over); Trenching Machines (7 ft. depth and over)

Group 7: Backhoe (3 yds. and over); Cableway Operators; Clamshell Operator (3 yds. and over); Cranes (over 45 tons, to 85 tons); Derricks and Stifflegs (65 tons and over); Draglines (3 yds. and over); Elevating Belt (Holland type); Loader (360 degrees revolving Koehring Scooper or similar); Loaders (Overhead and Front-end, over 8 yds. to 10 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yards and over); Whirleys and Hammerheads, all

Group 8: Cranes (85 tons and over, and all climbing, rail and tower); Loaders (Overhead and Front-end, 10 yds. and over); Helicopter Pilot

POWER EQUIPMENT OPERATORS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Groups	Zone 1	Zone 2	Zone 3
1	$11.26	$12.76	$13.01
2	11.42	12.92	13.17
3	11.79	13.29	13.54
4	12.10	13.60	13.85
5	12.27	13.77	14.02
6	12.45	13.95	14.20
7	12.81	14.31	14.56
8	13.04	14.54	14.79
9	13.27	14.77	15.02
10	13.51	15.01	15.26
FRINGE BENEFITS:			
Health and Welfare	$ 1.18		
Pensions	1.22		
Apprenticeship Tr.	0.10		

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 1: Brakemen; Crusher Plant Feeder (mechanical); Deckhand; Drill Tenders; Grade Checkers; Heater Tender; Land Plane; Pumpman

Group 2: Air Compressor; Asphalt Refrigeration Plant Operator; Bell Boy; Bit Grinder; Blower Operator (cement); Bolt Threader Machine Operator; Broom; Cement Hog; Concrete Mixer; Concrete Saw, multiple cut; Discing - harrowing or mulching (regardless of motive power); Distributor Leverman; Drill Steel Threader machine Operator; Fireman - all; Heavy Duty Mechanic Tender or Welder Tender; Hoist - single drum; Hydraulic Monitor Operator, Skid-mounted; Oiler (single piece of equipment); Pugmixer, Box or Screed Operator; Spray Curing Machine; Tractor, rubber-tired farm-type using attachments

Group 3: A-Frame Truck (Hydra Lift, Swedish Cranes, Ross Carrier, Hyster on construction jobs); Battery Tunnel Locomotive; Belt Finishing Machine; Cable Tenders (underground); Chip Spreader Machine (self-propelled); Hoist, 2 or more drums or Tower Hoist; Hydralift - Fork Lift and similar (when hoisting); Oiler (underground); Power Loader (Bucket Elevator, Conveyors); Road Roller (regardless of motive power)

Group 4: Boring Machine (earth or rock) (Quarry Master, Joy) (tractor mounted); Drills: Churn, Core, Calyx or Diamond; Front End and Overhead Loaders and similar Machines (up to and including 4 yds.) (rubber-tired); Grout Pump; Hydra-hammer; Locomotive Engineer; Longitudinal Float Machine; Mixermobile; Spreader Machine; Tractor, rubber-tired, using Backhoe; Transverse Finishing Machine, Trenching Machine, Waggoner Compactor and similar; Asphalt Spreaders

Group 5: Concrete Plant Operator; Concrete Road Paver (dual); Elevating Grader Operator; Euclid Elevating Loader; Generator Plant Operator, mechanic (diesel, electric); Post Hole Auger or Punch Operator; Power Shovels and Draglines, under 1 yard; Pump-crete; Refrigeration Plant Operator; Road Roller (finishing high-type pavement); Service Oiler; Skidder, rubber-tired; Subgrader; Multiple station Beltline Operator (Teton Dam Project only)

POWER EQUIPMENT OPERATORS (AREA 2) (Cont'd)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 6: Asphalt Pavers, self-propelled; Asphalt Plant Operator; Blade Operator (motor patrol); Concrete Slip Form Paver; Cranes, up to and including 50 tons; Crusher Plant Operator; Derrick Operator; Drilling Equipment (Bit under 8 inches) (Robbins Reverse Circulation and similar); Front End and Overhead Loaders and similar Machines (over 4 yds. to and including 7 yds.); Koehring Scooper; Heavy Duty Mechanic or Welder; Mucking Machine (underground); Multi-batch Concrete Plant Operator; Piledriver Engineer; Power Shovels and Draglines (1 yd. to and including 3½ yds.); Tractor, Crawler type, including all attachments; Refrigeration Plant Operator (over 1,000 tons); Trimmer Machine Operator; Tournapulls, Euclid and similar, to and including 40 yards

Group 7: Cableway Operator; Continuous Excavator (Barber Greene WL-50); Cranes, over 50 tons; Dredges; Drilling Equipment (Bit 8 inches and over) (Robbins Reverse Circulation and similar); Fine Grader, CMI or equivalent; Front End and Overhead Loaders and similar Machines (over 7 yds.); Power Shovels and Draglines (over 3½ yds.); Quad type Tractors with all attachments; Tournapulls, Euclid and similar, over 40 yds. to and including 50 yds.; Multiple Scraper Units; Tower Crane Operator

Group 8: Tournapulls, Euclid and similar, over 50 yards to and including 75 yards

Group 9: Tournapulls, Euclid and similar, over 75 yards to and including 100 yards

Group 10: Tournapulls, Euclid and similar, over 100 yards

TRUCK DRIVERS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Groups	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$14.52	$15.67	$16.12	$16.82	$17.47
2	14.56	15.71	16.16	16.87	17.51
3	14.62	15.77	16.22	16.92	17.57
4	14.71	15.86	16.31	17.01	17.66
5	14.92	16.07	16.52	17.22	17.87
6	14.96	16.11	16.56	17.26	17.91
7	15.02	16.17	16.62	17.32	17.97
8	15.06	16.21	16.66	17.36	18.01
9	15.17	16.32	16.77	17.47	18.12
10	15.21	16.36	16.81	17.51	18.16
11	15.52	16.67	17.12	17.77	18.47
12	15.66	16.81	17.26	17.96	18.61
13	15.82	16.97	17.42	18.12	18.77
14	15.96	17.11	17.56	18.26	18.91

FRINGE BENEFITS:

Health and Welfare	$ 1.34
Pension	1.47
Apprenticeship Training	0.09

*See ZONE Descriptions - following TRUCK DRIVERS'

*See ZONE Descriptions

TRUCK DRIVERS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 1: Fish Truck; Flat Bed Truck, single rear axle; Fork Lift, 3,000 lbs. and under; Swamper; Leveeperson loading trucks at bunkers; Pickup hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber-tired pulling Trailer or similar equipment); Water Tank Truck 1,800 gallons and under

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross, Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yards and under); Trucks, side, end and bottom dump (under 6 yds.); Water Tank Truck (1,801 to 4,000 gallons)

Group 4: Auto Crane - 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. and under); Flaherty Spreader, Box Driver, Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (road, Bootperson, Leverperson Tender); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck (4,001 to 6,000 gallons); Wrecker and Tow Trucks

Group 5: Burner, Cutter and Welder; Oil Distributor Driver (road, Bootperson, Leverperson); Service Greaser; Tireperson No. 2; Trucks, side, end and bottom dump (over 6 yds. to 12 yds.)

Group 6: A-Frame; Water Tank Truck (6,001 to 8,000 gallons)

Group 7: Dumptor (over 6 yds.); Semi-truck and Trailer, 50 tons and under Lowboy; Transit Mixers and Trucks hauling concrete (6 yds. to and including 10 yds.); Trucks, side, end and bottom dump (over 12 yds. to and including 20 yds.)

TRUCK DRIVERS (AREA 1) (Cont'd)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 8: Low Boy (over 50 tons); Tractor with steer trailer; Truck-mounted Crane (with load-bearing surface, either mounted or pulled); Water Tank Truck (8,001 to 10,000 gallons)

Group 9: Flaherty Spreader Box Driver; Flowboys; Fork Lift, 16,000 lbs. and over; Semi-end Dumps; Transit Mixers and Trucks hauling concrete (over 10 yds. to and including 15 yds.); Trucks, side, end and bottom dump (over 20 yds. to and including 30 yds.); Water Tank Trucks (10,001 to 12,000 gallons)

Group 10: Mechanic, field

Group 11: Tournarocker, D. W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, whichever is greater; Transit Mixers and Trucks hauling concrete (over 15 yds. to and including 20 yds.); Trucks, side, end and bottom dump (over 30 yds. to and including 40 yds.); Water Tank Truck (12,001 to 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yds.); Trucks, side, end and bottom dump (over 40 yds. to and including 50 yds.)

Group 13: Truck, side, end and bottom dump (over 50 yds. to and including 100 yds.)

Group 14: Trucks, side, end and bottom dump (over 100 yds.); Helicopter Pilot hauling employees or material

TRUCK DRIVERS (AREA 2)
Remaining Counties and Idaho County(south of the 46th Parallel)

Groups	Zone 1	Zone 2	Zone 3
1	$11.38	$12.88	$13.13
2	11.44	12.94	13.19
3	11.50	13.00	13.25
4	11.56	13.06	13.31
5	11.61	13.11	13.36
6	11.87	13.37	13.62
7	11.93	13.43	13.68
8	11.99	13.49	13.74
9	12.10	13.60	13.85
10	12.16	13.66	13.91
11	12.22	13.72	13.97
12	12.28	13.78	14.03
13:			
Class A	11.76	13.26	13.51
Class B	11.97	13.47	13.72
Class C	12.10	13.60	13.85
Class D	12.28	13.78	14.03
Class E	12.39	13.89	14.14
Class F	12.51	14.01	14.26
Class G	12.79	14.29	14.54
Class H	13.02	14.52	14.77
Class I	13.25	14.75	15.00
14	12.67	14.17	14.42

FRINGE BENEFITS:	
Health and Welfare	$ 1.15
Pension	1.40
Vacation	0.90
Apprenticeship Training	0.25

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 1: Leverman loading at Bunkers; Pilot Car or Escort Driver

Group 2: Flat Bed, 2 axle and Pickup hauling materials; Water Tank Truck (1,800 gallons and under); Fork Lift (3,000 and under)

Group 3: Flat Bed, 3 axle; Fuel Truck (1,000 gallons and under); Greaser; Tireman; Serviceman; Buggymobile; Man Haul (Shuttle truck or bus)

Group 4: Transit Mix Truck, 3 yds. and under; Truck Tenders; Slurry or Concrete Pumping Truck

Group 5: Flat Bed using power takeoff; Water Tank Truck (over 1,800 to 4,000 gallons); Semi-trailer, Low Boy, up to 96,000 lbs. GVW; Bulk Cement Tanker, up to 96,000 lbs. GVW; Fork Lift, over 3,000 lbs. (Bull Lift, Hydro Lift); Ross Hyster and similar straddle equipment; "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift)

Group 6: Transit Mix Truck, over 3 yds. to 6 yds.

Group 7: Water Tank Truck, over 4,000 gallons; Fuel Truck, over 1,000 gallons

Group 8: Transit Mix Truck, over 6 yds. to 8 yds.; Dumptors

Group 9: Distributor or Spreader Truck; Field Tireman, Serviceman; Snow Plow (truck mounted); Transit Mix Truck, over 8 yds. to 10 yds.

Group 10: Low Boy, 96,000 lbs. GVW and over; Bulk Cement Tanker, 96,000 lbs. GVW and over

Group 11: Transit Mix Truck, over 10 yds.

TRUCK DRIVERS (AREA 2) (Cont'd)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 12: Turnarocker and similar equipment

Group 14: Truck, side, end and bottom dump:
Class A: 6 yards and under
Class B: Over 6 yards - including 14 yards
Class C: Over 14 yards - including 20 yards
Class D: Over 20 yards - including 30 yards
Class E: Over 30 yards - including 40 yards
Class F: Over 40 yards - including 50 yards
Class G: Over 50 yards - including 75 yards
Class H: Over 75 yards - including 100 yards
Class I: Over 100 yards

Group 14: Truck Mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

ZONE DESCRIPTIONS
For CEMENT MASONS, LABORERS (Heavy and Highway Construction), POWER EQUIPMENT OPERATORS, and TRUCK DRIVERS

AREA 1

Zone 1: Area within a 15 mile radius from the center of the Cities listed below

Zone 2: Area within 15-30 mile radius from the center of the Cities listed below

Zone 3: Area within 30-45 mile radius from the center of the Cities listed below

Zone 4: Area within 45-90 mile radius from the center of the Cities listed below

Zone 5: Area over 90 mile radius from the center of Cities listed below

Spokane Coeur d'Alene Lewiston

ZONE DESCRIPTIONS
For CARPENTERS, CEMENT MASONS, LABORERS, POWER EQUIPMENT OPERATORS and TRUCK DRIVERS

AREA 2

Zone 1: That area within the State of Idaho located within 20 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Pocatello to a point approximately 1 mile south of the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 2: That area within the State of Idaho located over 20 miles and within 50 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 3: The remaining area of that portion of the State of Idaho south of Parallel 46 (the Washington-Oregon State Line extended eastward to Montana) that is not included in Zone 1 or Zone 2 as described above.

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: Attala, Choctaw, Chickasaw, Clay, Noxubee, Oktibbeha, Webster, Lowndes, Monroe, and Winston

DECISION NUMBER: MS81-1239 DATE: Date of Publication
Supersedes Decision No.: MS81-1134, January 6, 1981, 46 FR 1525
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$6.62				
BRICKLAYERS	7.50				
CARPENTERS	5.75				
CEMENT MASONS	5.75				
DRYWALL FINISHERS	5.42				
DRYWALL HANGERS	5.98				
ELECTRICIANS	5.00				
IRONWORKERS, Reinforcing	4.50				
INSULATORS	5.83				
LABORERS	3.72				
PAINTERS, Brush	4.82				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.25				
Bulldozer	4.50				
Tractor	5.00				
PLUMBERS & PIPEFITTERS	6.83				
ROOFERS	5.00				
SHEET METAL WORKERS	5.16				
SOFT FLOOR LAYERS	5.20				
TRUCK DRIVERS	3.72				
WELDERS - receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: STEUBEN
DECISION NO. NY81-3038 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY79-3030 dated August 31, 1979 in 44 FR 51481
DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.07	1.40	.90		.01
BOILERMAKERS	13.70	1.275	1.775		.03
BRICKLAYERS, CEMENT MASONS, MARBLE MASONS, PLASTERERS, TILE & TERRAZZO WORKERS	11.65		1.00		
CARPENTERS					
Twps. of Prattsburg & Pulteney, Village of Hammondsport, Pleasant Valley to Rheims, Village of Tyrone to Watkins Glen					
Carpenters	12.51	.95	1.45		.005
Millwrights & Piledrivers	12.61	.95	1.45		.005
Carpenters & Piledrivers, (Heavy & Highway)	11.71	.95	1.45		.005
Twps. of Troupsburg, Hartsville, Fremont, Wayland, Jasper, Hornellsville, Avoca, Cohocton, Bath, Canisteo, Howard, Dansville, Wheeler, Cameron, Greenwood, & West Union					
Carpenters & Soft Floor Layers	11.20	.80	1.35	a	.02
Millwrights & Piledrivers	11.45	.80	1.35	a	.02
Carpenters, (Heavy & Highway)	11.21	.90	1.46	b	.025
Diver Tender	11.70	.80	1.35		.02
Remainder of County					
Carpenters & Soft Floor Layers	10.51	.60	1.35		.02
Millwrights & Piledrivers	10.76	.60	1.35		.02
Carpenters & Piledrivers, (Heavy & Highway)	11.51	.60	1.46	b	.025
CEMENT MASONS, (Heavy & Highway)	12.30		1.00		
ELECTRICIANS	13.80	1.00	3%+1.00	c	.05
GLAZIERS	9.97	.45	.65		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS					
Twps. of Atlantic and South Dansville					
Structural, Ornamental, Reinforcing, Machinery Movers, Riggers, Rodmen, Fence Erectors & Stone					
Derrickmen	13.05	1.00	1.05		.10
Sheeters	13.30	1.00	1.05		.10
Sheeters, Bucker-up	13.175	1.00	1.05		.10
Remeinder of County					
Structural, Ornamental, Reinforcing, Riggers, Rodmen, Machinery Movers, Fence Erectors & Stone					
Derrickmen	12.55	.85	1.05		.05
Sheeters	12.80	.85	1.05		.05
Sheeters, Bucker-up	12.80	.85	1.05		.05
LABORERS, (Building)	9.97	.60	.45		
PAINTERS					
Twps. of Cameron, Thurston, Bradford, Campbell, Erwin, Lindley, Hornby, Corning City Caton, Addison & Rathbone					
Brush	10.05	.55	.60		
Swing Scaffold and Chair, Power Grinder with Respirator	10.55	.55	.60		
Sandblasting-Steamcleaning, Acid or High Pressure					
Structural Steel Steeple Jack over 100'	10.25	.55	.60		
Spray	10.90	.55	.60		
Toothpick Stagein over 25' & Structural Scaffold in excess of 39'	10.30	.55	.60		
Spray Epoxy and Bridges	11.30	.55	.60		
Paper and Vinyl Hangers	10.40	.55	.60		
Epoxy-Brush or Roll	10.60	.55	.60		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
Remainder of County					
Brush	12.205	1.375	.40		.11
Swing Stage, Sandblasting, Spray, Scaffold Work, Bosun Chair and Epoxy or Similar	12.455	1.375	.40		.11
35' from road level	13.87	1.375	.40		.11
PLUMBERS & STEAMFITTERS					
Twps. of Avoca, Canisteo, Cohocton, Dansville, Fremont, West Union, Greenwood, Hartsville, Hornellsville, Howard, Wheeler, Jaspar, Prattsburg, Pulteney, Troupsburg, Wayland, Woodhull, Cameron, Rathbone & Tuscarora	14.30	2.485	1.22		.20
Remainder of County	12.40	.60	1.05		.15
ROOFERS	11.00	.99	1.19		
SHEET METAL WORKERS	13.66	3%+.60	.80		.12
SPRINKLER FITTERS	14.52	.85	1.20		.08

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTES:

a. Two hours off with pay on Election Day

b. Paid Holidays: Independence Day and Labor Day

c. Employee shall work 4 hours and receive 8 hours pay on Christmas Eve

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HEAVY AND HIGHWAY CONSTRUCTION					
CLASS A	10.44	.75	.50	a	
CLASS B	10.64	.75	.50	a	
CLASS C	10.84	.75	.50	a	
CLASS D	11.04	.75	.50	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortor mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or crew op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distrubution Work					
Journeyman Lineman & Technician	11.60	1.40	3%+1.00	a	
Cable Splicer	15.35	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.44	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.28	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.70	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.25	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.925	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.26	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.94	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.95	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.555	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.16	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.46	1.40	3%+1.00	a	

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe type Cable Installations Maintenance Jobs or Projects					
Journeyman Lineman	13.95	1.40	3%+1.00	a	
Certified Lineman Welder	14.65	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Equipment Operator	13.95	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Groundman Truck Drivers	11.16	1.40	3%+1.00	a	
Groundman	10.46	1.40	3%+1.00	a	

FOOTNOTE:
a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I:					
A	12.09	.80	.50	a	.10
B	12.37	.80	.50	a	.10
C	12.64	.80	.50	a	.10
D	12.92	.80	.50	a	.10
E	13.47	.80	.50	a	.10
F	14.03	.80	.50	a	.10
G	14.57	.80	.50	a	.10
H	15.13	.80	.50	a	.10
GROUP II	12.09	.80	.50	a	.10
GROUP III	11.90	.80	.50	a	.10
GROUP IV	10.76	.80	.50	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F; providing employee works the working day immediately preceding the holiday, or on the scheduled work day immediately following the holiday.

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:

GROUP I - Cranes:
A - 121 ft. & under
B - Between 121 - 151 ft.
C - Between 151 - 201 ft.
D - Between 201 - 251 ft.
E - Between 251 - 301 ft.
F - Between 301 - 351 ft.
G - Between 351 - 401 ft.
H - Between 401 - 451 ft.

GROUP II - Air tugger, backhoe, clamshell, dragline, shovel and similar machines over three eighths (3/8) cu. yd. capacity (factory rating), big generator plant, bridge crane (all types), cableway, caisson auger & similar type machine, climbing and/or tower crane (all kinds and all types), derrick, dredge, forklift (with factory rating of fifteen (15) ft. or more of lift) hoist (on steel erection), mucking machine, Ross Carrier (and similar types), three drum hoist (when all drums are in use)

GROUP III - "A" Frame truck, back filling machine, Barber Green and similar type loader, belt crete and similar type machine, bituminous spreading machine, bulldozer, carry-all type scraper, compressors; four (4) not to exceed 2000 c.f.m. combined capacity, three (3) or less with more than 1200 c.f.m., but not to exceed 200 c.f.m., concrete mixer, concrete pump, core drill, crane-hoe-shovel (3/8 yd. capacity or less), (factory rating), dinky locomotive (all types), elevating type grader, elevator, fine grade machine (all kinds), front end loader, forklift (with factory rating of less than (15) fifteen ft. of lift.), high pressure boiler (over 15 pounds pressure), hoist (1 or 2 drums), Motor grader, maintenance engineer, post hole digger, sheepsfoot roller, side boom, stone crusher, submersible Electric Pump, when used in lieu of well point system, tandem roller, Tournedozer and similar types, tournapull, tower mobile and similar kinds trenching machine, vibratory type roller and similar equipment of all kinds, welder, well drill, well point system

GROUP IV - Any combination (not to exceed three (3) pieces of equipment) pumps, welding machines or mechanical conveyors, (over 12 ft. in length), belt crete generator, compressors - 3 or less not to exceed 1200 c.f.m. combined capacity, Fireman, longitudinal float, mechanical heater, roller (fill and grade), rubber tired tractor, oilers

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION					
GROUP I	13.09	1.25	1.45	a	.15
GROUP II	12.65	1.25	1.45	a	.15
GROUP III	11.41	1.25	1.45	a	.15
GROUP IV	10.31	1.25	1.45	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Paid Holidays: A through F, providing the employee works the day before and the day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

GROUP I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt type loader, truck crane, tunnel shovel

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION (CONT'D)

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), Hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders,locomotive maintenance/ engineer/greaseman/welder, mixer (for stablized base self-monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (ror soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat

GROUP III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point systems, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet - (concrete or pavement grinder), power broom (towed), power beaterman, revinius widener, shell winder, steam cleaner, tractor

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: TOWNSHIP OF WAYLAND					
CLASS 1	9.74	1.10	.90	a	
CLASS 2	9.79	1.10	.90	a	
CLASS 3	9.84	1.10	.90	a	
CLASS 4	9.99	1.10	.90	a	
CLASS 5	10.14	1.10	.90	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:
CLASS 1 - Pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpster, greasers, truck tiremen.

CLASS 2 - Tandems, batch trucks and mechanics.

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loader, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVER: REMAINDER OF COUNTY					
CLASS 1	9.78	1.11	.85	a	
CLASS 2	9.83	1.11	.85	a	
CLASS 3	9.88	1.11	.85	a	
CLASS 4	10.03	1.11	.85	a	
CLASS 5	10.18	1.11	.85	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:
CLASS 1 - Pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and part chaser.

CLASS 2 - Tandems, batch trucks, mechanics and dispatcher.

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ONEIDA
DECISION NO.: NY81-3034 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY79-3036 dated December 21, 1979 in 44 FR 56402
DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories), Heavy & Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.83	.90	.93		.06
BOILERMAKERS	14.63	1.275	10%		.03
BRICKLAYERS, CEMENT MASONS, POINTERS, CAULKERS, CLEANERS, PLASTERERS AND STONE MASONS (Building)	11.85	.70	1.04		
CEMENT MASONS, (Heavy & Highway)	11.61	.70	1.04		
CARPENTERS, (Building)					
Carpenters & Soft Floor Layers	10.97	.70	.65	a	.03
Piledrivermen & Millwrights	11.22	.70	.65	a	.03
CARPENTERS, (Heavy & Highway)	12.015	.80	.75	a	.03
ELECTRICIANS					
Verona and Vienna Twps. west of State Highway 13					
Electricians	15.30	.87	3%+1.10		.08
Cable Splicers	16.40	.87	3%+1.00		.08
Remainder of County					
Electricians	13.55	.80	3%+ .60		.07
Cable Splicers	14.75	.80	3%+ .60		.07
ELEVATOR CONSTRUCTORS	13.025	1.195	.95	b+c	.035
ELEVATOR CONSTRUCTORS' HELPERS	9.12	1.195	.95	b+c	.035
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	6.51				
GLAZIERS					
Twps. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Lee, Rome City, Ava, Western, Floyd, Boonville & Steuben	11.50	.80			.01
IRONWORKERS					
Structural, Ornamental, Reinforcing, Machinery Mover, Rigger, Rodmen, Fence Erector and Stone					
Derrickman	12.17	1.11	1.02		.04
Shooters	12.42	1.11	1.02		.04
Shooters, Bucker-up	12.295	1.11	1.02		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building)					
Twps. of Forestport, Remsen, Trenton, Marcy, Deerfield, Whitestown, New Hartford, Kirkland, Marshall, Paris, Sangerfield, Bridgewater & the City of Utica					
Laborers	9.02	.90	.95	d	
Pipelayers, mortar mixers (hand or machine), motor buggy operator, (walk behind), power high lift	9.17	.90	.95	d	
Blasters, form setters and motor buggy rider type	9.52	.90	.95	d	
Wagon drill operator	9.42	.90	.95	d	
Remainder of County					
Laborers, Common	9.905	.65	.75	e	
All rock drilling equipment	10.35	.65	.75	e	
Blasters	10.505	.65	.75	e	
Vibrator op., chain saw op., gas buggy op., acetylene torch op. on demolition work, pipelayers, scaffold builders, mortar mixer, pavement breaker	10.105	.65	.75	e	
MARBLE SETTERS, TERRAZZO WORKERS & TILE SETTERS	11.85	.70	1.04		
PAINTERS					
Twps. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Rome City, Ava, Western, Floyd, Boonville, and Steuben					
Brush & Roller	11.16	.80	.50	g	
Paperhangers, Vinyl Hanger & Tapers	11.80	.80	.50	g	
Metalizing	13.53	.80	.50	g	
Steel, Working with picks, Bosun Chair, Window Jacks, Swing Stage, Safety Belts, Steeple Jack, Spray, Sandblasting, Steamcleaning, Epoxy, Bridge and Hydroblasting	11.92	.80	.50	g	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd)					
Remainder of County					
Brush	12.44				
Spray	13.04				
Sandblasting	13.44				
Paper and Vinyl Hangers, Epoxy, Steel, Taping, Swing Stage, Bosun Chair and Monkey Suit	12.69				
PLUMBERS AND STEAMFITTERS	13.46	.89	1.36		.05
ROOFERS	13.15	1.00	2.00		
SPRINKLER FITTERS	14.52	.85	1.20		.08

Welders - Recieve rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:

a. Holidays: B and D provided the employee is on the payroll the week before and the week after the holiday.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit

c. Holidays: A through F, and the day after Thanksgiving

d. Holidays: B and D provided the employee works the day immediately before and the day immediately following the holiday

e. Holidays: A through E, plus 2 hours off with pay on Election Day for the purpose of voting, provided the employee works the day before the holiday and the day after the holiday

g. Holidays: C, D, and E.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

Twps. of Florence, Camden, Annsville, Lee, Ava, Boonville, Western, Steuben, Vienna, Rome, Floyd, Westmoreland, Vernon, Augusta and Verona

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HEAVY AND HIGHWAY CONSTRUCTION					
CLASS A	10.54	.75	.75	a	
CLASS B	10.74	.75	.75	a	
CLASS C	10.94	.75	.75	a	
CLASS D	11.14	.75	.75	a	

PAID HOLIDAYS:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, motor mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HEAVY AND HIGHWAY CONSTRUCTION					
Remainder of County:					
CLASS A	8.74	1.50	1.45	a	
CLASS B	9.94	1.50	1.45	a	
CLASS C	9.14	1.50	1.45	a	
CLASS D	9.34	1.50	1.45	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breakers, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distrubution Work					
Journeyman Lineman & Technician	11.60	1.40	3%+1.00	a	
Cable Splicer	15.35	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.44	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.28	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.70	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.25	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.925	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.26	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.94	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.95	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.555	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.16	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.46	1.40	3%+1.00	a	

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe type Cable Installations, Maintenance Jobs or Projects					
Journeyman Lineman	13.95	1.40	3%+1.00	a	
Certified Lineman Welder	14.65	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Equipment Operator	13.95	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Groundman Truck Drivers	11.16	1.40	3%+1.00	a	
Groundman	10.46	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

POWER EQUIPMENT OPERATORS:
Building construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	13.11	1.25	1.25	a	.15
CLASS 2	12.43	1.25	1.25	a	.15
CLASS 3	11.06	1.25	1.25	a	.15
CLASS 4	13.90	1.25	1.25	a	.15
CLASS 5	13.61	1.25	1.25	a	.15
CLASS 6	15.11	1.25	1.25	a	.15
CLASS 7	14.11	1.25	1.25	a	.15

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, providing employee has worked five consecutive working days before and the working day after the holiday.

CLASSIFICATIONS:
CLASS 1 - Air Plako, Asphalt and Blacktop Roller, Automated Concrete Spreader (CMI or equiv.), Automated Fine Grade Machine (CMI), Backhoe, Belt Placer, Blacktop Spreader (such as Barber Greene & Blaw Knox), Blacktop Plant (automated), Blast or Rotary Drill (Truck or cat mounted), Boom Truck, Cableway, Caisson Auger, Carry-all Scraper-Self loading, Central Mix Plant (Automated), Cherry Picker - over five(5) ton capacity, Compressor, Pump, Generator or Welding Machine (when used in a battery of not more than four (4)), Crane, Crusher - Rock, Derrick, Diesel Power Unit, Dragline, Dredge, Dual Drum Paver, Elevating Grader (self-propelled or towed), Elevator Hoist-Two Cage, Excavator-All Purpose-Hydraulically operated, Fork Lift (Factory rating 15 ft. or more), Front End Loader (4 c.y. and over), Gradall, Grader (Power), Head Tower (Saurman or equal), Hoist (2 or 3 Drum), (LCM's) work Boat Operator, Light plants; compressors and generators, Locomotive, Maintenance Engineer, Maintenance Welder, Mine Hoist, Micking Machine or Mole, Overhead Crane - Fixed Permanent, Pile Driver, Quarry Master or Equivalent, Refrigeration Equip.-For Soil Stabilization, Sea Mule, Shovel, Side Boom, Slip Form Paver, Straddle Buggy (Ross Carrier, Lumber Carrier), Tractor Drawn Belt Type Loader (Euclid Loader), Trenching Machine (digging capacity of over 4 ft. depth), Tug Operator (Manned, rented equip. excluded), Tunnel Shovel, Vibro or Sonic Hammer Controls (when not mounted in proximity to the Rig Operator)

CLASS 2 - "A" Frame Truck, Blacktop Plant (non-automatic), Boring Machine, Bulldozer, Cage-Hoist, Carry-All Scraper, Central Mix Plant (non-automated), Cherry Picker - five (5) tons and under, Compressor (500 C.F. and over), Concrete Paver (Single Drum over 16S), Concrete Pump, Core Boring Machine, Drill Rigs - Tractor mounted, Elevator - as a material hoist, Fork Lift (factory rating less than 15 ft.), Front End Loader (under 4 c.y.), Gunite Machine, High Pressure Boiler (15lbs. & over), Hoist (one drum), Hydraulic Breaking Hammer (Drop Hammer), Koman Plant Loader (screening gravel), Maintenance Grease Man, Mixer for stabilized base-self propelled (Seaman Mixer),

POWER EQUIPMENT OPERATORS: Building Construction Cont'd

CLASS 2 (Cont'd) - Monorail Machine, Parapet Concrete or Pavement Grinder, Post Hole Digger (truck or tractor mounted), Power Sweeper (Wayne or similar), Pump 4" and over, Pump-Crete or Squeeze-Crete, Road Widener (front end of Grader or self propelled), Roller, Shell Winder (motorized), Snorkel (overhead arms), Snowblower control man, Trenching Machine (digging capacity of 4 ft. or less), Tugger Hoist, Vibro Tamp, Well Drill, Well Point System (Submersible Pumps when used in lieu of well-point system), Winch (motor driven), Winch Truck Winch Cat

CLASS 3 - Compressor (up to 500 C.F.), Concrete Paver or Mixer (under 16S), Concrete Pavement Spreaders and Finishers (not automated), Conveyor (over 12 ft.), Electric Submersible Pump (4" and over), Farm Tractor with or without accessories, Fine Grade Machine (not automated), Fireman, Form Tamper, Generator (2,500 Watts and over), Grout pump Hydraulic Pump, Mechanical Heaters - More than two (2) Mechanical Heaters or any Mechanical Heater or Heaters whose combined output exceeds 640,000 BTU per hour (manufacturer's rating) plus one self contained heating unit (i.e. Sundog or Air Heat type, New Holland Hay Dryer type excluded), Mulching Machine, Oiler, Parts Man, Post Driver (Truck or Tractor Mounted), Power Driven Welding Machine - 300 amp. and over (other than all electric) one Welding Machine under 300 amp. will not require an engineer unless in a battery, Power Heaterman (hay dryer), Pump (under 4"), Revinous Widener (road widener), Single Light Plant, Steam Cleaner or Jenny, Tractor with or without towed accessories,

CLASS 4 - Master Mechanic

CLASS 5 - Tower Crane, Quad 9 Bulldozer or Multibowl Scraper

CLASS 6 - Crane or Derrick with a boom length over 300 ft. including jib

CLASS 7 - Crane or Derrick with a boom length over 150 ft. including jib

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION					
GROUP I	12.99	1.35	1.45	a	.15
GROUP II	12.55	1.35	1.45	a	.15
GROUP III	11.31	1.35	1.45	a	.15
GROUP IV	10.21	1.35	1.45	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays: A through F, providing the employee works the day before and the day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

GROUP I - Automated concrete spreader (CMI), automatic fine grade, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker, (over 5 tons capacity) concrete pump (8" or over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated)(gradall or similar), fork lift (factor rated 15 ft. and over), front end loader (4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power garder, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver tractor drawn belt-type loader, truck crane, tunnel shovel.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D

GROUP II - Backhoe (tractor mounted, rubber tired), bitumonous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders locomotive, maintenance engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widner, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type of combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), light plants, mulching machine, oiler parapet-concrete or pavement grinder, power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS (Heavy & Highway)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.78	1.11	.85	a	
CLASS 2	9.83	1.11	.85	a	
CLASS 3	9.88	1.11	.85	a	
CLASS 4	10.03	1.11	.85	a	
CLASS 5	10.18	1.11	.85	a	

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: CLASSIFICATIONS

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flat-boy, material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser

CLASS 2
Tandems, batch trucks, mechanics and dispatcher

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributors, trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTIES: BROOME & CHENANGO
DECISION NO.: NY81-3033 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY80-3035 dated April 25, 1980 in 45 FR 28010
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy & Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.83	.90	.93		.06
BOILERMAKERS	14.63	1.275	10%		.03
BRICKLAYERS					
Broome County and Chenango County (Twps. of Tyner, Oxford, Smithville Flats, Brisben, Genegantslet, Green, Coventry, Coventryville, West Bainbridge, North Afton and Afton)					
Bricklayers, Cement Masons, Plasterers, Stone Masons, Tile Setters, Terrazzo Workers, Marble Masons, Pointers, Caulkers & Tuckers					
Work performed on projects over $500,000 total project cost	13.15	.70	.90		.02
Work performed on projects under $500,000 total project cost	8.61	.70	.55		
Cement Masons (Heavy & Highway)	11.75	.70	.90		
Chenango County (Remainder of County)					
Bricklayers, Cement Masons, Plasterers, & Stone Masons					
Total project cost under $250,000	11.21	1.00	.60		.01
Total project cost over $250,000	12.81	1.00	.69		.01
Marble Mason, Tile & Terrazzo Workers	12.41	1.00	.69		.01
Cement Masons (Heavy & Highway)	11.65	1.00	.69		.01
CARPENTERS					
Broome County and Chenango County (Twps. of Afton and the Southwest portion of Greene)					
Carpenters & Soft Floor Layers	10.86	.55	.70		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (Cont'd)					
Millwrights & Piledrivermen (Building)	11.11	.55	.70		
Carpenters & Piledrivermen (Heavy & Highway)	12.32	.55	.70		.025
Chenango County (Remainder of County)					
Carpenters, Dockbuilders, Millwrights, & Piledrivermen	11.20	.80	1.15	.55	.05
ELECTRICIANS					
Chenango County (New Berlin & Sherburne)					
Electricians	13.55	.80	3%+.60		.07
Cable Splicers	14.75	.80	3%+.60		.07
Broome County & Chenango County (Remainder of County)					
Electricians	13.26	.89	3%+.77	.66	.05
Cable Splicers	15.01	.89	3%+.77	.66	.05
ELEVATOR CONSTRUCTORS					
Broome County & Chenango County (except twps. of Columbus, New Berlin & Sherburne)					
Elevator Constructors	11.295	1.195	.95	a+b	.035
Elevator Constructors' Helpers	7.91	1.195	.95	a+b	.035
GLAZIERS	9.97	.45	.65		.03
IRONWORKERS					
Chenango County (Twps. of Smyrna, Sherburne, New Berlin, Columbus, Plymouth, North & Norwich)					
Structural, Ornamental, Reinforcing, Rodmen, Riggers, Machinery Movers & Stone Derrickmen	12.17	1.11	1.02		.04
Sheeter	12.42	1.11	1.02		.04
Sheeter, Bucker-up	12.295	1.11	1.02		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (Cont'd)					
Broome County and Chenango County (Remainder of County)					
Structural, Ornamental, Reinforcing, Rodmen, Riggers, Machinery Movers, Fence Erectpr, & Stone Derrickmen	11.80	.96	1.16		.02
Sheeters	12.05	.96	1.16		.02
Sheeters, Bucker-up	11.925	.96	1.16		.02
LABORERS, (Building)					
Chenango County (Twps. of Columbus, New Berlin, South New Berlin, and Sherburne)					
Total project cost over $500,000					
Unskilled and Flagmen	10.25	.95	1.42		
Mortar Mixer, Plaster Mixer, Power Buggy, Signal Man, Asphalt Worker, Chipping Hammer 12 lbs. or over, Tamp Operator, Vibrator Operator, & Chain Saw Operator	10.40	.95	1.42		
Powderman, Pipelayer, Form and Joint Setter, Concrete Bootman, Gunite, Sandblasting, Epoxy, Wagon Drill, Jackhammer and Air Track Drill	10.51	.95	1.42		
Blasters	10.85	.95	1.42		
Total project cost under $500,000					
Unskilled and Flagmen	8.85	.95	1.30		
Mortar Mixer, Plaster Mixer Power Buggy, Signal Man, Asphalt Worker, Chipping Hammer 12 lbs. or over, Tamp Operator, Vibrator Operator, and Chain Saw Operator	9.00	.95	1.30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building) (Cont'd)					
Powderman, Pipelayer, Form and Joint Setter, Concrete Bootman, Gunite, Sandblasting, Epoxy, Wagon Drill, Jackhammer and Air Track Drill	9.10	.95	1.30		
Blasterers	9.45	.95	1.30		
Broome County and Chenango County (Remainder of County)					
All Classes of Common Laborers & Wreckers, Mason Tenders, Scaffold Builders, Bootmen Working in Concrete, Hod Carriers, Mortar Mixer (Hand or Machine) Asphalt Levelers, Vibrator Operator, Sewer Pipe Layer, Tunnel Laborer, Rockmen & Driller, Powderman, Pheumatic Tool Operators with 3/4" Bits and Over	9.68	.80	.80		
LATHERS					
Total project cost over $500,000	10.805		.25		.01
Total project cost under $500,000	9.16		.25		.01
PAINTERS					
Painters	9.85	.55	.70		
Spray Epoxy	11.10	.55	.70		
Bridges	11.32	.55	.70		
Structural Steel, Spray, Steeple Jack	10.85	.55	.70		
Epoxy	10.10	.55	.70		
Swing Chair, Swing Scaffold, Roll over 10", and Sandblasting	10.35	.55	.70		
PLUMBERS & STEAMFITTERS					
Total project cost over $500,000	12.73	.72	.55	5%+.64	.21
Total project cost under $500,000	9.91	.72	.55	5%+.64	.21

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	9.91	.64	1.20		
SHEET METAL WORKERS					
Brome County	13.66	3%+.60	.80		.12
SPRINKLER FITTERS	14.52	.85	1.20		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).					

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and the Day after Thanksgiving.

b. Employer contributes 8% of basic hourly rate for 5 years or more of service and 6% of basic hourly rate for 6 months to 5 years as Vacation Pay Credit.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distrubution Work					
Journeyman Lineman & Technician	11.60	1.40	3%+1.00	a	
Cable Splicer	15.35	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.44	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.28	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.70	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.25	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.925	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.26	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.94	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.95	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.555	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.16	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.46	1.40	3%+1.00	a	

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe type Cable Installations Maintenance Jobs or Projects					
Journeyman Lineman	13.95	1.40	3%+1.00	a	
Certified Lineman Welder	14.65	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Equipment Operator	13.95	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Groundman Truck Drivers	11.16	1.40	3%+1.00	a	
Groundman	10.46	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day. Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

Chenango County (townships of Sherburne, Columbus, [illegible] New Berlin)

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.67	1.42	.95	a	
CLASS B	9.87	1.42	.95	a	
CLASS C	10.07	1.42	.95	a	
CLASS D	10.27	1.42	.95	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helpers, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generator for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

Broome County and Chenango County (Remainder of County)

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	10.24	.85	.95	a	
CLASS B	10.44	.85	.95	a	
CLASS C	10.64	.85	.95	a	
CLASS D	10.84	.85	.95	a	

Paid Holidays:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

Footnote:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

CLASS DEFINITIONS:
CLASS A - Laborers, drill helpers, flagmen, outboard and hand boats

CLASS B - Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C - All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D - Blasters, form setter, stone or granite curb setters.

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.75	.50	.90	a	.10
CLASS II	9.50	.50	.90	a	.10
CLASS III	9.35	.50	.90	a	.10
CLASS IV	9.00	.50	.90	a	.10
CLASS V	8.20	.50	.90	a	.10
CLASS VI	7.33	.50	.90	a	.10

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS:

CLASS I - Cranes with boom and jib, 175 feet and over

CLASS II - Cranes with boom and jib, 130 feet and over

CLASS III - Cranes with boom and jib, 100 feet and over

CLASS IV - Automatic fine grader, backhoe, cableway, caisson auger, cherry picker (straddle - mobile type), cherry picker (hydralic crane) over 5 ton, not more than (4), crane, derrick, diesel power unit, dragline, excavators (gradall type, hydraulically operated), front end loader (4 cubic yards and over), high speed conveyors (in one line), piledriver, shovel, two and three drum hoist, vibro or sonic hammer controls (when not mounted by rig operator), tower crane

CLASS V - "A" frame truck (when used in setting of installation of material), bulldozer, carry-all scrapper, cherry picker (5 ton or under), compressor (300 cubic feet and over), concrete paver and mixer, (16S and over), concrete pump, core boring machine, machine, crop dryer (when used as heater), dinkey locomotive, elevator cage hoist, fork lift, full time welder on maintenance, front end loader (under 4 cubic yard), grease truck, high pressure boiler, one drum hoist, maintenance engineer, post hole digger, power grader, pumps (4 inch and over), roller, side boom, test boring machine, tractor mounted backhoe, trenching machine, two cage elevator hoist, tugger hoist, vibro tamp, well drill, well point system

CLASS VI - Concrete mixer (under 16S), conveyor, (over 12 foot), firemen, hydraulic pumps, oiler, mechanical heaters (more than two (2) mechanical heaters), power driven welding machine (300 amp. and over, other than all electric - one welding machine under 300 amp. will not require an engineer unless in a battery), pump (under 4 inch), tractor (farm type), steam jenny

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F; (provided an employee works the day before and the day after the holiday).

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	12.99	1.35	1.45	a	.15
GROUP II	12.55	1.35	1.45	a	.15
GROUP III	11.31	1.35	1.45	a	.15
GROUP IV	10.21	1.35	1.45	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, providing the employee works the day before and the day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker, (over 5 tons capacity) concrete pump (8" or over) crane, cranes 5 derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated)(gradall or similar), fork lift (factor rated 15 ft. and over), front end loader (4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power garder, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over),hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive, maintenance engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors(any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (165 and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system). light plants, mulching machine, oiler, parapet-concrete or pavement grinder, power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.78	1.11	.85	a	
CLASS 2	9.83	1.11	.85	a	
CLASS 3	9.88	1.11	.85	a	
CLASS 4	10.03	1.11	.85	a	
CLASS 5	10.18	1.11	.85	a	
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

FOOTNOTE:

a. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1

Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2

Tandems, batch trucks, mechanics and dispatcher.

CLASS 3

Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4

Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5

Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: SOUTH CAROLINA

COUNTIES: LEXINGTON & RICHLAND

DECISION NUMBER: SC81-1242

DATE: DATE OF PUBLICATION

Supersedes Decision Number SC79-1128, dated September 14, 1979, in 44 FR 53661.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 7.00				
ASBESTOS WORKERS	9.00				
BRICKLAYERS	7.12				
CARPENTERS	6.47				
CEMENT MASONS	5.83				
ELECTRICIANS	7.86				
GLAZIERS	7.21				
IRONWORKERS	6.75				
LABORERS	3.78				
PAINTERS	5.43				
PLASTERERS	7.00				
PLUMBERS & PIPEFITTERS	8.70				
ROOFERS	4.95				
SHEET METAL WORKERS	9.72	.30	.48		.04
SOFT FLOOR LAYERS	5.65				
TILE SETTERS	7.57				
TRUCK DRIVERS	4.16				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.52				
Bulldozer	5.00				
Crane	5.75				
Front end loader	6.00				
Paving machine	4.42				
Roller	4.00				
Scraper - pan	4.69				
Screed	4.42				
Spreader	4.42				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: TEXAS

COUNTY: Wichita

DECISION NUMBER: TX81-4037

DATE: Date of Publication

Supersedes Decision No. TX80-4076, dated October 10, 1980 in 45 FR 67535

DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to and including 4 stories). (Use current heavy and highway general wage determination for Paving and utilities Incidental to Building construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS and STONEMASONS	12.30		.60		.05
CARPENTERS:					
Carpenters	12.25	.48	.70		.10
Millwrights	12.75	.48	.70		.10
CEMENT MASONS	10.94				
ELECTRICIANS:					
Electricians	13.10	.60	3%		1/10%
Cable splicers	13.35	.60	3%		1/10%
ELEVATORS CONSTRUCTORS:					
Mechanics	11.14	1.195	.82	a+b	.035
Helpers	70%JR	1.195	.82	a+b	.035
Helpers (Prob.)	50%JR				
IRONWORKERS:					
Structural; Ornamental; Reinforcing	11.70	.55	1.70		.10
Ironworkers on jobs 30 miles or more from the City of Wichita Falls	11.825	.55	1.70		.10
LABORERS:					
Group 1: General Laborer	7.05	.30	.27		
Group 2: Pipelayer (concrete and clay); Power buggy operator; Gunite mixer; Cement work mixer; Power tool operator; Bell hole man (piers)	7.18	.30	.27		
Group 3: Mason tender; Mason mortar mixer; Plasterer tender; Hod carrier; Plasterer mortar mixer; Gunite over 14" thick; Nozzlemen & machine operator	7.30	.30	.27		
Group 4: Powderman, blaster	7.55	.30	.27		
LATHERS	7.65				.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman; Lineman Operator	$13.10	.60	3%		½%
Cable splicers	13.35	.60	3%		½%
Groundman	70%JR	.60	3%		½%
MARBLE SETTERS	8.61				
PAINTERS:					
Brush	7.50				
Spray	8.50				
PLASTERERS	12.25				.01
PLUMBERS and PIPEFITTERS:					
Zone 1 - within 25 miles of Wichita Falls City limits	12.65	.50	1.00		.05
Zone 2 - over 25 miles of Wichita Falls City limits	13.15	.50	1.00		.05
SHEET METAL WORKERS	12.84				.09
TERRAZZO WORKERS	7.50				
TILE SETTERS	6.50				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 6%; over 5 years - 8% of basic houlry rate
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$10.025	.65	.625		.15
Group 2	10.925	.65	.625		.15
Group 3	11.325	.65	.625		.15

Group 1: Oiler - Fireman

Group 2: Air Compressors, Pumps, Welding Machine, 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 cu. ft.; Screening Plants; Crushing Plant; Fork Lifts (short, under 25 ft.); Concrete Pumps (all types); Bobcat type equipment; Ford Tractor or like with any attachments (except blade and mower on rear)

Group 3: Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 ft.); Winch Trucks; Six wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cu. ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 ft. of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-to; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressor and Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Lubbock
DECISION NO: TX81-4036 DATE: Date of Publication
Supersedes Decision No. TX80-4097, dated December 5, 1980 in45 FR 80044.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes & apartments up to and including 4 stories). (Use current heavy and highway general wage determination for Paving & Utilities Incidental to Building

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.50	.80	1.35		.02
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	10.70	.57	.30		.03
CARPENTERS	11.30	.48	.60		.01
CEMENT MASONS	8.15				
ELECTRICIANS:					
Electricians	13.25	.60	3%		1/10%
Cable splicers	13.50	.60	3%		1/10%
IRONWORKERS:					
Structural; Ornamental; Reinforcing	11.70	.55	1.70		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	11.025	.55	1.70		.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	6.96	.30	.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 pumpcrete pipe	7.23	.30	.27		
GROUP 3-Mortar mixers, mason tenders, plasterers tenders, cement finisher tender, lather tender	7.16	.30	.27		
GROUP 4-Wagon drill	7.31	.30	.27		
GROUP 5-Blasters & Powderman	7.56	.30	.27		
LINE CONSTRUCTION:					
Linemen	13.25	.60	3%		1/10%
Operators	80%JR	.60	3%		1/10%
Groundmen	55%JR	.60	3%		1/10%
Flat bed truck driver	70%JR	.60	3%		1/10%
PAINTERS:					
Brush	9.85				
Spray; Sandblasters	10.60				
PLUMBERS & STEAMFITTERS	12.80	.50	.55		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$13.12	.50	.72		.12
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental					
POWER EQUIPMENT OPERATORS					
GROUP 1	10.025	.65	.625		.15
GROUP 2	10.925	.65	.625		.15
GROUP 3	11.325	.65	.625		.15

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)

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; Ey-Ho; Hop-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 Compressors & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise

DECISION NO.: TX81-4038

DATE: Date of Publication

Supersedes Decision No. TX81-4026, dated May 1, 1981 in 46 FR 24801

DESCRIPTION OF WORK Building Projects (does not include single family homes and apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving Incidental to Building Construction in Tarrant Co. and for Paving & Utilities Incidental to Building Construction in remaining Cos.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS:					
ZONE 1 - Collin, Dallas, Ellis, Grayson. Hunt, Kaufman & Rockwall Cos.	12.98	.57	.50		.07
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	12.97	.57	.50		.04
CARPENTERS:					
ZONE 1 - Grayson County:					
Carpenters	12.29	.80	.75		.005
Millwrights	12.69	.80	.75		.005
Piledrivermen	12.79	.80	.75		.005
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos:					
Carpenters	13.14	.80	.80		.08
Millwrights	14.51	.80			.08
CEMENT MASONS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant, & Wise Counties.	13.95	.40	.80		
ZONE 2 - Collin, Dallas, Ellis, Hunt, Kaufman, & Rockwall Counties	13.13	.65	.75		.02
ELECTRICIANS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
Electricians	13.00	.60	7%		1%
Cable splicers	13.25	.60	7%		1%
ZONE 2 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman, & Rockwall Cos.					
Electricians	13.20	.60	7%		1%
Cable splicers	14.52	.60	7%		1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Mechanics	$11.14	1.195	.82	a+b	.035
Helpers	70%JR	1.195	.82	a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	12.41	.40	.75		.025
IRONWORKERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto (excluding northwest corner), Rockwall, Tarrant & Wise (excluding northwest 1/2) Cos.	12.78	.55	1.45		.07
ZONE 2 - Palo Pinto, (northwest corner) & Wise (northwest 1/2) Cos.	11.825	.55	1.70		.10
LABORERS:					
ZONE 1 - Grayson County:					
GROUP 1 - Unskilled labor	7.145	.30	.40		.02
GROUP 2 - Air tool op. jackhammer, vibrator), mason tenders & mortar mixers, pipelayers	7.395	.30	.40		.02
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
GROUP 1	7.83	.30	.40		.02
GROUP 2	7.98	.30	.40		.02
GROUP 3	8.08	.30	.40		.02
GROUP 4	8.23	.30	.40		.02

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - All hand digging dirt work & backfilling; firing of salamanders, loading & unloading of materials to & from hoist or cages; loading & unloading of tools & equipment; wheeling, placing & pouring of concrete; all excavation; handling of lumber, steel, cement; distribution of all materials; miscellaneous job clean-up; wrecking & razing of buildings & all structures; Cleaning & clearing of all debris; handling of broken concrete or other damanged or undamaged materials; removing, moving, handling & greasing of forms, wrecking forms; storing materials to storage place; slip form jacks, scaffold builders, checking materials & tools in & out of receiving lots & sheds tool house men; landscaper; asphalt ironer & raker; waterproofing tender; dumper; spotter; concrete pumpcrete pipe (handling & laying); carpenter tender

GROUP 2 - All power tool & equipment operators (gas, electric or air); cutting torch man; concrete grademan; power buggy operator; wagon drill operator, well driller, drilling rig tender; cement finisher tender; metal pan & steel form men; handling creosoted materials; liquid acids or like materials injurious to health, eyes, skin or clothes; all newly developed equipment which replaces wheelbarrows or buggies previously used by laborers, scale men on batch plants

GROUP 3 - Concrete & clay pipe (handling & laying); mason handler; scaffold builder; mason tender; hod carrier mortar mixers; lather tenders, plaster tenders; water pump operators up to 4 inches; cement masons tenders; mortar mixers; hod carriers; dry mixers; tank cleaning; all pipe doping, treating & wrapping, including all men working with dope, mortar & plaster mixing machines; grout machines, pump crete machines, gunite mixing machine, including placing & cleaning of pipe & conduits used in placing of concrete, handling & placing of gunite materials from stockpile; screening sand, running sand dryer & loading & operating sand blaster, except nozzle, conveying, stocking & handling of all materials for brickmasons, lathers, cement finisher, plasterers; ditch work over 6 ft. & cleaning out drill piers

GROUP 4 - Sand blaster, blaster powderman; gunite worker; gunite nozzleman & terrazzo grinder

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$12.18				.04
LINE CONSTRUCTION:					
Linemen	13.20	.60	7%		1/2%
Cable splicers	14.52	.60	7%		1/2%
Operators	13.86	.60	7%		1/2%
Groundmen	9.24	.60	7%		1/2%
MARBLE, TILE & TERRAZZO WORKERS:					
Collin, Dallas, Denton, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	11.86		.30		
MARBLE & TILE FINISHERS:					
Collin, Dallas, Denton, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	8.99				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
GROUP 1 - Brush	$12.495	.55	.75		.07
GROUP 2 - All wall covering work: paper, fabric sheeting, flexwood, etc.	12.745	.55	.75		.07
GROUP 3 - Ames tools op.	12.62	.55	.75		.07
GROUP 4 - Structural steel, stage work, bosun chair, spray gun, sandblasting & window jacks & fire escapes	12.87	.55	.75		.07
ZONE 2 - Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
GROUP 1	12.10		.30		.12
GROUP 2	12.35		.30		.12
GROUP 3	13.35		.30		.12

GROUP 1 - Brush

GROUP 2 - Spray, wallcovering; pressure roller; sandblasting; structural steel; bosun chair, window jack & window sill; stage, fire escape; steel storage tank; stilts; mittens; ames tools, drywall finishing

GROUP 3 - Steeple jack (radio & TV towers, smoke stacks, chimneys & water towers & similar facilities & flag poles atop buildings located closer to the edge of the building than the height of the pole); toxic material rate (creosote, coal tar products or similar materials injurious to the skin)

PLASTERERS:					
ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	9.44	.45		.50	.03
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties	12.21				.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Collin, Dallas, Ellis, Grayson, Hood, Hunt, Kaufman & Rockwall Counties	$12.76	.43	1.00		.10
ZONE 2 - Denton, Johnson, Palo Pinto, Tarrant & Wise Counties	13.53	.64	1.00		.12
ROOFERS:					
GROUP 1 - Slate & tile	11.775				
GROUP 2 - Composition & built-up roofing, damp-proofing & bituminous waterproofing	11.625				
SHEET METAL WORKERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Rockwall, Tarrant & Wise Counties	12.645	.60	.84		.145
ZONE 2 - Palo Pinto Co.	12.84				.09
SOFT FLOOR LAYERS	10.85	.40	.40		.03
SPRINKLER FITTERS	14.68	.95	1.40		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:

a. 1st 6 months - none; 6 months to 5 years - 6%; over 5 years - 8% basic hourly rate
b. Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day G-Christmas Day

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - Dallas County:					
GROUP 1	$ 7.89	.65	.90		.125
GROUP 2	12.615	.65	.90		.125
GROUP 3	13.015	.65	.90		.125

GROUP 1 - Oilers

GROUP 2 - Air compressor, water pumps, welding machines (2 to 6 machines) & generators; Blade grader; towed; Flex plane Form Grader; Concrete mixer; less than 14 cu. ft.; Pulsometer; Wagon drill operator; Conveyor, Hoist, single drum; Scraper 3 cu. yd. or less; Bob cat with loader

GROUP 3 - Heavy duty mechanic; Asphalt mixer operator on job; Blade grader;, self-propelled; Bull clam; Backfiller; Bulldozer & all cat type tractors; Backhoe; Concrete mixers, over 14 cu. ft.; Crusher operator on job. Concrete batch plant operator; Clam shell; Cranes (all types); Truck mounted or crawler requires oiler including groves (hydrualic) or similar type over 12½ ton capacity; Escalated rate on crane and derricks booms: .01¢ per hour, per foot over 90' including jib; draglines; derricks, power operated (all types); DW-10 caterpillar, S-8 Euclid and similar tractors; Elevating grader, self-propelled; Foundation drilling machines (all); Forklifts, used in handling machinery on construction; Gradeall; Hoist, motor driven 2 drums or more; Locomotive crane; Mixmobile; Paving mixers (all types); Piledriver; Pumpcrete machines; Pneumatic rollers, self-propelled; Shovels, power operated; Scrapers, over 3 cu. yds.; Scoopmobile; Trenching machines, all types; Winch trucks, when pole and winch is used; Water well drilling machines, used on construction; Well point pump; Welding machines (7 to 13 machines)

POWER EQUIPMENT OPERATORS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2 - Collin, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
GROUP 1	$7.765	.65	1.00		.15
GROUP 2	12.49	.65	1.00		.15
GROUP 3	12.89	.65	1.00		.15

GROUP 1 - Oiler-Fireman

GROUP 2 - Air compressors, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon drill; Elevators Building; Form Graders; Hoist, Single drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cu. ft.; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment

GROUP 3 - Ford Tractor or like with any attachments (except blade and mower on rear); Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Forklifts (over 25 ft.); Winch Truck, Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cu. ft. or over; Blade Graders, selfpropelled; Cableways; Cranes-power operated to 100 ft.; Derricks; power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixers (all types); Pile drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressor & Air Tugger; Boilers, two or more fired by one; man; Heavy Duty Mechanic

Unlisted classifications needed for work not included within the scope of the classifcations listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATES: DISTRICT OF COLUMBIA, MARYLAND AND VIRGINIA

COUNTIES: DISTRICT OF COLUMBIA; MARYLAND-MONTGOMERY AND PRINCE GEORGES; AND D.C. TRAINING SCHOOL; VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA, ARLINGTON AND FAIRFAX COUNTIES

DECISION NO.: DC81-3040 DATE: DATE OF PUBLICATION

Supersedes Decision No. DC80-3040, dated May 16, 1980, in 45 FR 32528.

DESCRIPTION OF WORK: Building Construction (Does not include single family homes and apartments up to and including 4 stories) and also excluding the Independent City of Alexandria, Heavy Construction (excluding Water and Sewer Lines), Highway Construction (District of Columbia Only), Water and Sewer Lines (District of Columbia, and Montgomery County, Maryland only)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES: All Counties					
BUILDING CONSTRUCTION: Excluding Alexandria, Virginia					
ASBESTOS WORKERS	14.39	.86	1.57		.03
BOILERMAKERS - BLACKSMITHS	14.275	1.275	1.00		.04
BRICKLAYERS	14.75	1.29	1.00		.15
CARPENTERS	13.42	.80	.70		.05
CARPET LAYERS	8.30	.30			
CEMENT MASONS	12.80	1.205	1.00		.11
DIVERS	23.20	.80	.65		.05
DIVER TENDER	13.61	.80	.70		.05
ELECTRICIANS	13.55	.75	3%+.80		.13
ELEVATOR CONSTRUCTORS	13.095	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS	9.17	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	6.55				
GLAZIERS	12.23	.71	.70		.05
IRONWORKERS:					
Structural, ornamental and chain link fence	13.71	.95	1.25		.07
Reinforcing	12.44	.87	1.15		.07
LABORERS (EXCLUDING, HEAVY CONSTRUCTION)					
Common laborers, landscapers	10.42	.80	.75		.08
Acetylene burners used on wrecking	11.05	.80	.75		.08
Air tool op., scaffold builders, paving breakers, towmasters, buggy mobiles, spaders, mortar men and scootretes	10.60	.80	.75		.08

DECISION NO. DC81-3040

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (EXCLUDING, HEAVY CONSTRUCTION) CONT'D:					
Pipelayers	10.73	.80	.75		.08
Plumbers' laborers	8.50	.60	.45		.05
Powdermen	11.885	.80	.75		.08
Powersaw, well point	10.73	.80	.75		.08
Plasterer tender	11.04	.80	.75		.08
Operators of scootcretes, buggymobile, mixer operator not in conjuction with plastering machine	11.35	.80	.75		.08
Mixer operator in conjunction with plastering machine	11.66	.80	.75		.08
LATHERS	12.21	.80	.65		.05
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen, cable splicers, equipment operators	14.56	.60	3%		.5%
Truck with winch, truck pole or steel handling	8.34	.60	3%		.5%
MARBLE SETTERS	14.30	1.185	.90		.05
MARBLE SETTERS' HELPERS	7.35				
MILLWRIGHTS	14.05	.80	.70		.05
MOTOR REPAIRMAN (Removal and reinstalling of electrical motors)	9.87	.70	3%+.80	h	
PAINTERS (EXCLUDING FAIRFAX CO.)					
Brush, spray, paperhangers, tapers	12.40	.96	1.10		.08
Steel, sandblasting, swing stage, power brushing	12.90	.96	1.10		.08
PAINTERS (FAIRFAX CO.)	7.13				
PILEDRIVERMEN	13.72	.80	.70		.05
PLASTERERS	13.40	.65	.75		.06
PLUMBERS	12.85	1.22	1.20		.27

DECISION NO. DC81-3040

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition	12.21	.74	.50		.10
Slate, tile mopmen, waterproofer, sprayers, sprandrel and ironite	12.81	.74	.50		.10
Material handlers (only to supply materials and to prepare decks for new roofs or repairs)	8.25	.74	.50		.10
SHEET METAL WORKER	14.03	1.49g	1.44		.14
SOFT FLOOR LAYERS (EXCLUDING FAIRFAX CO.)	12.06	.80	.65		.05
SOFT FLOOR LAYERS (FAIRFAX CO.)	6.81				
SPRINKLER FITTERS (EXCLUDING PRINCE GEORGES AND MONTGOMERY COUNTIES)	15.37	.95	1.40		.08
SPRINKLER FITTERS (MONTGOMERY AND PRINCE GEORGES COUNTIES)	14.88	.95	1.40		.08
STEAMFITTERS, REFRIGERATION AND AIR CONDITION MECHANIC	12.99	1.09	1.25		.16
STONE MASONS	14.30	1.185	.90		.05
STONE CUTTERS:					
Fitters and trimmers	12.23		.60	d	
Ornamental carvers	11.49		.60	d	
Figure carvers	11.69		.60	d	
TERRAZZO AND MOSAIC WORKERS	12.81	.80	1.20		.04
TERRAZZO WORKER' HELPERS	9.95	.70	.70		.04
TILE SETTERS	12.81	.80	1.20		.04
TILE SETTERS' HELPERS	9.95	.70	.70		
TRUCK DRIVERS:					
Boom trucks	9.35	.74	.425	e+f	
Small dump, water sprinkler, grease and oil	9.10	.74	.425	e+f	
Flat, pick-up hauling materials, small Euclids, dump over 8 wheels	9.20	.74	.425	e+f	
Trailers, low boys, tractor pulls	9.40	.74	.425	e+f	
Helpers	8.95	.74	.425	e+f	
Carryalls, large Euclids, Euclid water sprinkler, tunnel work under ground	9.50	.74	.425	e+f	
Mechanics	9.25	.74	.425	e+f	

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RIGGERS AND WELDERS - Receive rates prescribed for crafts performing and welding are incidental.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F, plus the Friday after Thanksgiving Day.

b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided an employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday).

d. Holidays: A-D-E-F and Veteran's Day.

e. Holidays: A-D-E and F (provided the employee works the regularly scheduled work days immediately preceeding and following the holiday.

f. One weeks paid vacation providing the employee has worked 3 years and and a minimum of 1450 hours during any calendar year.

g. Employer contributes to Health & Welfare $1.49, in District of Columbia, and $1.62, in all other areas.

h. Employer contributes to employees who have worked six (6) months or more, shall be given two and one-half days vacation or equivalent thereof. All men in the employ of the employer three (3) years or more shall be given two (2) week's vacation with pay or the equivalent thereof. All men in the employ of the employer ten (10) years or more shall be given three (3) weeks vacation with pay or the equivalent thereof.

DECISION NO. DC81-3040

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES):					
GROUP I	10.54	.65	.78		.08
GROUP II	10.72	.65	.78		.08
GROUP III	10.79	.65	.78		.08
GROUP IV	10.85	.65	.78		.08
GROUP V	11.10	.65	.78		.08
GROUP VI	11.35	.65	.78		.08
GROUP VII	11.505	.65	.78		.08
GROUP VIII	12.005	.65	.78		.08

CLASSIFICATIONS

LABORERS:

GROUP I - Carloader, choker setter, concrete crewman, crushed feeder, demolition laborer (including salvaging all material, loading and cleaning up), wrecking, driller tenders, dumpman, flagman, fence erector and installer (including installation and erection of fence, guard rails, median rails, reference posts, guide posts and right-of-way markers), form stripper, general laborers, railroad track laborer, riprap man, scale man, stake jumper, structure mover (includes foundation, separation, preparation, cribbing, shoring, jacking and unloading of structures), water nozzleman, timber bucker and faller, truck loader, water boys

GROUP II - Combined air and water nozzlemen, cement handler, dope pot fireman (nonmechanical), form cleaning machine, mechanical railroad equipment (includes spiker, puller, tie cleaner, tamper pipe wrapper, power driven wheelbarrow, operators of hand derricks, towmasters, scootcretes, buggymobiles and similar equipment), tamper or rammer operator, trestle scaffold builders over one tier high, power tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector (steel or wood), vibrator operator (up to 4'), asphalt cutter, mortar men, shorer and lagger, creosote material handler, corrosice enamel or equal, paving breaker and jackhammer operators

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CLASSIFICATION - CONT'D

GROUP III - Multi-section pipe layer, non-mentallic clay and concrete pipe layer (including caulker, collarman, jointer, rigger and jacker) thermite welder and corrugated metal culvert pipe layer

GROUP IV - Asphalt block pneumatic cutter, asphalt roller, walking chain-saw with attachment, concrete saw (walking), high scalers, jackhammer (using over 6' of steel), vibrator (4' and over), well point installers, air-trac operator

GROUP V - Asphalt screeder, big drills, cut of the hole drills (1⅛ piston or larger) down the hole drills (3½" piston or larger), gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, for setter, demolition torch operator, shotcrete nozzlemen and potman

GROUP VI - Powderman, master for setters

GROUP VII - Brick paver (asphalt block paver, asphalt block saw man, asphalt block grinder; hasting block or similar type)

GROUP VIII - Miners

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LABORERS (HEAVY CONSTRUCTION):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.88$	.65	.78		.08
GROUP II	11.23$	.65	.78		.08
GROUP III	12.06$	.65	.78		.08
GROUP IV	12.38$	.65	.78		.08

CLASSIFICATIONS

TUNNELS, RAISES AND SHAFTS FREE AIR

GROUP I
Brakeman, bull gang, dumper, trackman, concrete man

GROUP II
Chuck tender, powdermen in prime house, form setters and movers, nippers, cableman, hosemen, grout man, bell or signalman, top or bottom vibrator operator, caulkers' tenders

GROUP III
Miners, rodmen, re-bar underground, concrete or gunnite nozzlemen, powderman, timberman and re-timberman, wood steel including liner plate or any other support, material, motorman, caulkers, diamond drill operators, riggers, cement finishers - underground, welders and burners, shield driver, air trac operator, shotcrete nozzleman and potman

GROUP IV
Mucking machine operator (air)

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HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES: BUILDING CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I	13.22	.80	.70		.12
GROUP II	12.93	.80	.70		.12
GROUP III	12.76	.80	.70		.12
GROUP IV	12.56	.80	.70		.12
GROUP V	12.50	.80	.70		.12
GROUP VI	12.48	.80	.70		.12
GROUP VII	12.47	.80	.70		.12
GROUP VIII	12.27	.80	.70		.12
GROUP IX	12.25	.80	.70		.12
GROUP X	12.02	.80	.70		.12
GROUP XI	11.47	.80	.70		.12
GROUP XII	11.27	.80	.70		.12
GROUP XIII	9.15	.80	.70		.12

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP I - 35 ton cranes and above, tower anc climbing cranes

GROUP II - Back hoes, boom-cat, cableways, cranes or derricks, draglines, elevating graders, hoists, multiple concrete conveyors, elevators (permanent), paving micers, pile driving engines, power shovels, tunnel shovels, mucking machines, batch plant, concrete pumps, locomotives (standards, narrow guage), power driven wheel scoops and scrapers (50 cu. yd. struck capacity or above), front end loader above 3½ cu. yd., boom trucks, moles, shields, tunnel mining machines, loaders used as muckers in tunnel mining, gradalls, shotcrete machines and grout pumps with discharge of two inches I.D. pr more, drill rigs

GROUP III - Hydraulic back hoes of less than ½ yd. capacity, mounted on tractors, front end loader above 2-3/4 to 3½ cu. yd.

GROUP IV - Air compressor on steel

GROUP V - Mechanic, mechanic-welder, welder

GROUP VI - Front end loader, highlift, fork lift

GROUP VII - Boilers (skeleton), trenching machines, tug boat, well drilling machines

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POWER EQUIPMENT OPERATORS CLASSIFICATION (CONT'D)

GROUP VIII - Concrete mixer, tunnel motorman

GROUP IX - Power driven wheel scoops and scrapers (below 50 cu. yd. struck capacity), blade graders, motor graders, bulldozers

GROUP X - Rollers, asphalt spreaders, bullfloat finishing machines, concrete finishing machines, concrete spreaders, fine graders

GROUP XI - Air compressors (except steel), welding machines, pumps, generators, space heaters, wellpoints, deepwells, hydraulic pumps

GROUP XII - Firemen

GROUP XIII - Oilers

DECISION NO. DC81-3040

(DISTRICT OF COLUMBIA ONLY)

PAVING AND INCIDENTAL GRADING

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT SHOVELER	8.00	.30	.40		
ASPHALT RAKER	8.21	.30	.40		
ASPHALT TAMPER	8.11	.30	.40		
BRICKLAYERS	14.75	1.29	1.00		.15
CARPENTERS	13.42	.80	.70		.05
CEMENT MASONS	8.48	.30	.40		
CONCRETE SAW OPERATORS	8.21	.30	.40		
CONCRETE SHOVELER	8.11	.30	.40		
FORM SETTER	8.48	.30	.40		
LABORERS:					
Laborers	7.95	.30	.40		
Jackhammer	8.16	.30	.40		
Hand Burner Operator	8.11	.30	.40		
POWER EQUIPMENT OPERATORS:					
Concrete Spreader Operator, Finishing Machine, Roller (rough), Compressor Rubbertired Loader (1-½ cu. yds., or less), Asphalt Plant Mixer	8.21	.30	.40		
Loader Operator Tracks (2-½ cu. yds. or less), Burner Planer, Bulldozer, Mechanic or Welder, Rubber Tired Loader (over 1-½ cu. yds.)	8.43	.30	.40		
Asphalt Spreader, Hydraulic Backhoe (½ cu. yd., or less), Asphalt Plant Engineer, Asphalt Roller Operator, Concrete Breaker (machine)	8.48	.30	.40		
Crane Operator, Concrete Paving Operator	8.64	.30	.40		
Shovel Operator	8.75	.30	.40		
Gradall Operator (1-½ cu. yds. or less), Motor Grader, Operator Tracks over 2-½ cu. yds.	9.44	.30	.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
G-1000 Gradall Operator (over 1½ cu. yds.)	9.71	.30	.40		
Power Broom, Oiler	8.11	.30	.40		
Sand Setter	8.48	.30	.40		
TRUCK DRIVERS:					
Truck Drivers (standard)	7.95	.30	.40		
Tandem	8.07	.30	.40		
Tractor trailer (capable of moving heavy equipment	8.48	.30	.40		

DECISION NO. DC81-3040 (DISTRICT OF COLUMBIA AND MONTGOMERY COUNTY, MARYLAND ONLY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER AND WATER LINES					
BRICKLAYERS	14.75	1.29	1.00		.15
CARPENTERS	13.42	.80	.70		.05
CEMENT MASONS	12.80	1.205	1.00		.11
IRONWORKERS: REINFORCING	12.44	.87	1.15		.07
LABORERS:					
Open Cut:					
Laborers, jackhammer, rammers and spaders	5.78	.33	.25		.03
Timberman, sheeting-men, shoring-men, caulkers pipelayers helpers	5.93	.33	.25		.03
Bottom man	5.83	.33	.25		.03
Wagon drillers, air track drillers	6.13	.33	.25		.03
Pipelayers	6.13	.33	.25		.03
Rock drillers	5.88	.33	.25		.03
Tunnel:					
Brakeman, bull gang, dumper, trackmen, concrete man	6.415	.33	.25		.03
Chuck tender, powder in prime house, form setters and movers, nippers, cablemen, hosemen, grout men, bell or signal men, top or bottom, vibrator operator, caulkers' tenders	6.715	.33	.25		.03
Miners, rodmen, re-bar underground, concrete or gunite nozzlemen, powermen, timbermen and retimberman wood or steel including liner plate or any other support material, motorman, caulkers, diamond drill riggers, cement finishers (underground), welders and burners, shield driver	7.365	.33	.25		.03
Mucking machine operator (air	7.615	.33	.25		.03

DECISION NO. DC81-3040 (DISTRICT OF COLUMBIA AND MONTGOMERY COUNTY, MARYLAND ONLY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER AND WATER LINES CONT'D					
COMPRESSED AIR: (All rates per day)					
Gauge Pressure Pounds / Work Period					
From 1 to 14 / 7 hours	72.74	.33	.25		.03
From 14 to 18 / 6 hours	76.08	.33	.25		.03
From 18 to 22 / 5½ hours	79.41	.33	.25		.03
From 22 to 26 / 5 hours	82.76	.33	.25		.03
From 26 to 32 / 4 hours	86.09	.33	.25		.03
From 32 to 38 / 3 hours	89.44	.33	.25		.03
From 38 to 44 / 2½ hours	92.77	.33	.25		.03
PILEDRIVERMEN	13.72	.80	.70		.05
PLUMBERS	12.85	1.22	1.20		.27
POWER EQUIPMENT OPERATORS:					
Backhoes, cable ways, cranes, draglines power shovels, tunnel shovels, tunnel mucking machines, derricks, 1 cu. yd. and over	9.39	.35	.45		.05
Backhoes, cableways, cranes derricks, dragline, tunnel shovels, tunnel mucking machines up to 1 cu. yd., boom cats, elevating graders, hoists, paving mixers, piledriving engines, batch plants concrete pumps	9.14	.35	.45		.05
Trenching machines (above 8' 3")	8.94	.35	.45		.05
Backhoes (hydraulic, under ½ c.y.)	9.02	.35	.45		.05
Trenching machines (up to 8' 3"), boilers skeleton, well drilling machines	8.84	.35	.45		.05
Air compress, tunnel	8.81	.35	.45		.05
Front end loaders (high lift), bulldozers	8.79	.35	.45		.05

DECISION NO. DC81-3040 (DISTRICT OF COLUMBIA AND MONTGOMERY COUNTY, MARYLAND ONLY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER AND WATER LINES CONT'D					
POWER EQUIPMENT OPERATORS CONT'D					
Concrete mixers, power wheel scoops and scrapers, motorgraders, tunnel motor men, blade graders, tunnel mechanics	8.69	.35	.45		.05
Mechanics	9.02	.35	.45		.05
Bulldozer, hydraulic tampers	8.59	.35	.45		.05
Roller	8.49	.35	.45		.05
Air compressors, pump, welding machine well points	8.415	.35	.45		.05
TRUCK DRIVERS:					
Dump trucks	6.10	.415	a		
Dump trucks over 8 wheels	6.20	.415	a		
Flat trucks	6.20	.415	a		
Trailers	6.45	.415	a		
Fuel and oil trucks	6.10	.415	a		
Euclids	6.60	.415	a		

FOOTNOTE:

a. $10.00 per week when employee has worked 90 days and work three days in any work week.

[FR Doc. 81-16557 Filed 6-4-81; 8:45 am]

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federal register

Friday
June 5, 1981

Part III

Environmental Protection Agency

Dichloromethane, Nitrobenzene and 1,1,1-Trichloroethane; Proposed Test Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 773

[OPTS-47004; TSH-FRL 1809-7]

Dichloromethane, Nitrobenzene and 1, 1, 1-Trichloroethane; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing that manufacturers and processors of dichloromethane, nitrobenzene, and 1,1,1-trichloroethane test these chemicals for health and environmental effects. The Interagency Testing Committee recommended that these chemicals be given priority consideration for testing by EPA. EPA has considered the need to test these chemicals and has made the necessary statutory findings to require testing. The rule would require manufacturers and processors to test these chemicals according to test standards EPA has adopted.

DATES: Please submit written comments on or before August 30, 1981. The comment period for this rule is longer than normal to permit comment on the application of environmental test standards scheduled to be published in July 1981. EPA will hold a public meeting for this rule in Washington, D.C. For further information on arranging to speak at the meeting see section X. of this preamble.

ADDRESSES: Please address your comments to: Document Control Officer, Management Support Division (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Please include the document control number OPTS-47000 on all of your comments.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Industry Assistance Office, (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm 511 East Tower, 401 M St. SW., Washington, DC 20460, Toll-free: (800-424-9065), In Washington, D.C.: (544-1404), Outside the USA: (Operator—202-544-1404).

The support documents referred to in this preamble are available on request from the Industry Assistance Office.

SUPPLEMENTARY INFORMATION:

I. Introduction

This proposal is part of an ongoing EPA program to require testing of chemical substances. This program implements section 4 of the Toxic Substances Control Act (TSCA, Pub. L. 94-469, 90 Stat. 2003, 2601) which reflects the U.S. policy

> that adequate data should be developed with respect to the effect of chemical substances and mixtures on health and the environment and that the development of such data should be the responsibility of those who manufacture and process such chemical substances and mixtures [TSCA section 2(b)(1)].

Section 4 of TSCA authorizes the Administrator of the Environmental Protection Agency (EPA) to require manufacturers (including importers) and processors of identified chemical substances and mixtures to test the chemicals in accordance with applicable EPA test rules [section 4 (a) and (b)]. TSCA requires that each section 4(a) test rule: identify the chemical substances and mixtures for which testing is being required, provide standards for the development of test data, and designate deadlines for the submission of data development in response to the rule [section 4(b)(1)].

In order to require that a chemical be tested, the EPA Administrator must make three findings relating to the chemical's risk or exposure potential, the insufficiency of data available to EPA, and the need to test. These findings are explained in subsequent sections of this preamble.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing. The ITC may designate up to 50 entries at any one time for priority consideration by EPA. At the present time the list contains 45 designations. TSCA requires EPA to respond to such designations within 12 months of the date they are made either by initiating rulemaking under section 4(a) or publishing in the **Federal Register** reasons for not initiating rulemaking.

Today under section 4(a), EPA is proposing health and environmental effects testing requirements for three chemicals: dichloromethane (methylene chloride), 1,1,1-trichloroethane (methyl chloroform), and nitrobenzene. Today's notice constitutes EPA's response to the ITC recommendation that the Agency initiate rulemaking for these three chemicals. These proposed rules, however, do not require testing for all effects recommended by the ITC. This notice and accompanying support documents, which are available from the EPA Industry Assistance Office at the address listed above, explain EPA's basis for believing that the required findings can be made for certain effects and its reasons for not proposing to require testing for other effects recommended for testing by the ITC.

The Agency's first proposed test rule package, published in the **Federal Register** of July 18, 1980 (45 FR 48510), discusses the implementation of section 4 of TSCA and several general issues which are applicable to today's test rule. The issues of particular interest are: the Agency's position on existing or required test standards; the effective period of a rule; testing responsibilities; exemptions; reporting requirements and deadlines for subchronic, reproductive and teratogenicity health effects testing; and the Agency's policy regarding selection of test substances for test rules.

Although comments on these issues are not being solicited today, EPA will consider any comments submitted on these issues insofar as they apply to testing proposed in today's notice.

In response to concern about the time and level of resources required to prepare the first test rule package, and in light of a court decision finding inadequate EPA's reasons for not proposing test rules within 12 months of receiving certain ITC recommendations, the Agency has substantially changed its approach to promulgating test rules. The new approach involves a more restricted literature search and the development of less detailed support documents. Support documents will be written for the sole purpose of setting forth the technical analysis needed to make the statutory findings. They will not attempt to provide a comprehensive assessment of the chemical or a review of all published literature pertaining to that chemical.

A. Explanation of Section 4(a)(1)(A) Findings

Section 4(a) provides the Administrator of EPA two complementary means to require manufacturers and processors to test chemicals that may be hazardous to human health or the environment. The first means for requiring testing is a set of legal findings that is based on information about the potential risk of the chemical [section 4(a)(1)(A) findings]. The second is a set of findings based on information showing substantial production and substantial human exposure or environmental release of the chemical [section 4(a)(1)(B) findings].

Section 4(a)(1)(A) authorizes EPA to require testing of a chemical substance to develop health and environmental data if the Agency finds that:

(1)(A)(i) The manufacture, distribution in commerce, processing, use, or

disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment.

(ii) There are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) Testing of such substance or mixture with respect to such effects is necessary to develop such data.

This discussion summarizes briefly EPA's approach to each of the findings EPA must make before requiring testing under this provision. A more detailed explanation of EPA's rationale for interpretation of the finding is included in EPA's first proposed test rule published in the **Federal Register** of July 18, 1980 (45 FR 48528).

May present an unreasonable risk. EPA uses the term "risk" to include both hazard and exposure potential. Making this finding involves a consideration of several factors, namely, that the chemical (1) may present a hazard, (2) may present a risk, and (3) may present an unreasonable risk.

EPA will consider a variety of factors to suggest the potential health or environmental hazard of a substance. Such factors may include evidence on one adverse effect which may suggest that another adverse effect may occur, knowledge of a chemical's physical and chemical properties, structural relationships to other chemicals with demonstrated adverse effects, data from inconclusive tests, and case history data.

In determining that a chemical may present a risk, EPA must consider both the potential hazard and the potential for human or environmental exposure. However, section 4(a)(1)(A) focuses on those situations in which EPA has a basis for suspecting toxicity, and reflects the fact that a potential for risk may be significant even when exposure is low. Therefore, to make the "may present a risk" finding under section 4(a)(1)(A), it is sufficient for the Agency to show that there is a reasonable likelihood that exposure may arise because of activities associated with the manufacturing, processing, distribution, use or disposal of the chemical. Where monitoring or other specific exposure information is unavailable, the Agency will rely upon reasonable conclusions about exposure potential.

EPA believes that the finding that a substance may present an unreasonable risk contemplates a process of balancing the potential severity of harm from the chemical against the effects of the proposed regulatory action on the availability of benefits of the chemical. It is clear that Congress intended the stringency of this test to vary according to the nature of the action. EPA has proposed pursuing the following policy for the purpose of section 4(a)(1)(A)(i).

> If there is substantial evidence that exposure to a chemical may lead to a serious health effect, including a possible increase in mortality, or adverse environmental effects, and that humans or the environment may be exposed to the chemical, EPA will presume that the activities in question (manufacturing, processing, using, transporting, disposing) "may present an unreasonable risk" unless the rule is likely to result in a significant loss to society of the benefits of the substance. In the latter instances, if EPA's analysis shows that the costs of testing may cause manufacturers or processors to cease or severely restrict their commercial activities, EPA will weigh this potential adverse impact against the benefits of testing before presuming that the chemical may present an unreasonable risk.

See EPA's first proposed test rule published in the **Federal Register** of July 18, 1980, (45 FR 48528), for further discussion of this subject.

Insufficiency of data. The initial step in EPA's approach to this finding is to determine whether studies have been done for the effects under consideration. This effort mainly involves review of existing literature. Next, EPA critically evaluates the design, execution and results of each relevant study to determine whether the study alone, or in combination with others, provides sufficient data to assess the chemical's hazards; that is, does the available information provide the basis for defining the hazard component of a decision whether the chemical does or does not present an unreasonable risk? When this analysis is done in conjunction with the determination that the chemical may present an unreasonable risk, the combined effect of the section 4(a)(1)(A)(i) and 4(a)(1)(A)(ii) findings is the determination that existing information is sufficient to raise the question of potential risk but insufficient to resolve it.

EPA does not require that existing studies meet current EPA test standards in order to be accepted as sufficient. In deciding whether it is necessary to seek further testing for effects for which some data exist, EPA has considered such factors as the benefits of obtaining more data and greater certainty, the likelihood that additional testing would resolve any uncertainties, the cost and economic impact of new testing, the nature of the effects of concern and the likely importance of those effects relative to others already adequately characterized, in defining the needs for control of exposure to the chemical in question. When EPA does conclude that the data are insufficient and more testing is needed, it may be because the studies that have been completed have resulted in equivocal results, or because the existing studies, whether of good or bad quality, do not furnish enough information for EPA to judge the magnitude of risk to populations that are or may be exposed to the chemical or to estimate a level below which the risk can be reduced to a reasonable level.

Necessity for testing. The first aspect of this finding will largely flow from the previous determinations that there are insufficient data and experience to reliably determine or predict the chemical's effects and, where EPA is proceeding under section 4(a)(1) (A), that there is a basis for concern as to the possibility of such risks.

In addition, the Agency must take into consideration ongoing testing of a chemical in determining whether additional testing should be required. In order to do that, EPA examines the protocol and any interim data results of each relevant ongoing study known to the Agency to decide whether the study is likely to produce data which would obviate the need for further testing. The same considerations used by the Agency in evaluating whether there are sufficient data and experience to assess the chemical have been used to evaluate the adequacy of ongoing testing. Where EPA concludes that the ongoing study is likely to meet its needs, there is no need to require additional testing. However, if the final data ultimately generated by the ongoing study do not allow EPA to carry out a reliable risk assessment, EPA at that time will reconsider its decision not to propose a rule for the effect under consideration. Where EPA's review of an ongoing study indicates that serious defects in the design or execution of the study already exist, and are likely to prevent an adequate assessment of the risk upon receipt of the final data, EPA may propose additional testing immediately.

After concluding that there is a need to develop data, EPA must also evaluate whether testing is capable of developing the necessary information. Even if the Agency finds that a chemical may pose a risk from a particular effect, and that there are insufficient data and experience, EPA cannot require a chemical to be tested if no testing methodology exists which would lead to the production of the necessary data, or if, for example, a suitable cohort for an

epidemiology study cannot be identified. The publication of a generic section 4(a) test standard for a particular effect constitutes EPA's finding that tests conducted according to that standard generally are capable of providing the needed data. Alternatively, EPA may propose a chemical-specific standard for a particular effect without addressing the broader question of its application as a "generic" test standard.

B. Explanation of Section 4(a)(1)(B) Findings

Section 4(a)(1)(B) authorizes EPA to require testing of a chemical substance to develop health and environmental data if the Agency finds that:

(1)(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant of substantial human exposure to such substance or mixture;

(ii) There are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted; and

(iii) Testing of such substance or mixture with respect to such effects is necessary to develop such data.

This discussion summarizes EPA's approach to making the first of the three findings listed above. Findings 4(a)(1)(B)(ii) and (iii) are identical to findings 4(a)(1)(A)(ii) and (iii) which were discussed in the previous section.

In contrast to the first finding required by section 4(a)(1)(A) which requires EPA to consider the potential of a chemical to pose an unreasonable risk to human health or the environment, section 4(a)(1)(B)(i) requires EPA to consider only quantity of production and potential exposure or release.

EPA is not proposing generally applicable criteria for making section 4(a)(1)(B)(i) findings in this rulemaking. It is the Agency's view that establishment of strict numerical definitions of substantial production, substantial exposure or release, or significant exposure is neither feasible nor desirable at this stage of implementing section 4 of TSCA. Rather, it is EPA's intention to make judgments on these factors on a case-by-case basis, at least until some additional experience is gained. The Agency seeks public comments on this approach and any suggestions of criteria that might be considered for future rulemaking. As is discussed in the individual chemical sections, it is the Agency's view that all three chemicals in this rulemaking clearly would meet any reasonable definition of substantial production, since they are manufactured in quantities of hundreds of millions of pounds per year. Similarly, large portions of the dichloromethane and 1,1,1-trichloroethane production are employed in dispersive and consumer uses, resulting in substantial environmental release and human exposure. A 4(a)(1)(A) approach was taken with respect to nitrobenzene's human health effects because human exposure to nitrobenzene is more limited than it is to dichloromethane and 1,1,1-trichloroethane; however, a 4(a)(1)(B)(i) finding for nitrobenzene was made for environmental effects testing.

C. Basis for Determination of Testing Requirements When Rule is Based on Section 4(a)(1)(B) Findings

The effects of concern for section 4 test rules based on section 4(a)(1)(A) findings are identified in the course of making the findings that the chemical may present an unreasonable risk to human health or the environment. Because section 4(a)(1)(B) findings are based solely on production and exposure or release, and because the Congress intended that this section be used to require testing of chemicals having extensive production, exposure, and release even in the absence of existing data providing evidence of those chemicals' potential to cause specific effects, EPA must use a different approach to define the effects of concern for chemicals on which substantial production and exposure or release findings are made.

The Agency has considered a variety of effects for which it believes data generally are needed to perform an adequate assessment of chemicals which are found to have substantial production, human exposure, and environmental release. The effects were selected for their potential to cause or increase the likelihood of significant injury to humans or economically important nonhuman species or to significantly disrupt normal environmental processes.

Each of the chemicals in this rule for which substantial production and exposure or release findings are made (health and environmental effects for dichloromethane and 1,1,1-trichloroethane and environmental effects only for nitrobenzene) was then considered with respect to these effects of concern, the chemicals' known and expected patterns of human exposure and environmental release or transport, and available data to identify those effects for which EPA believes findings can be made under section 4(a)(1)(B)(ii). The likely adequacy of any ongoing testing for these effects and the availability of suitable test methods was then considered in determining whether the section 4(a)(1)(B)(iii) finding could be made.

The specific testing being proposed for each chemical and the Agency's reasons for believing that any existing tests for those effects are inadequate are summarized in the subsequent sections of this Preamble and discussed in greater detail in the accompanying Support Documents for this proposed rulemaking. Also discussed are EPA's reasons for not requiring tests for any specific effects of concern identified by the ITC but not included in today's proposals.

The paragraphs below summarize the Agency's reasons for believing that each of the effects for which testing of one or more chemicals is proposed in this rule under section 4(a)(1)(B) is of concern.

1. *Human health effects*—a. *Acute toxicity: oral, dermal, and inhalation.* Acute toxicity data must be available to assess the potential risk of poisoning due to a single exposure to any given chemical. These studies provide data to determine the median lethal dose (LD_{50}) of the chemical substance and permit estimates of the chemical's toxicity relative to that of other substances. They may also provide data to predict a chemical's mechanism of toxicity, to demonstrate its specific toxic effect on target organs and functions, to determine differences in sensitivity to the substance among species, and to compare toxicities associated with different routes of exposure. In addition, acute tests serve as range-finding tests to determine appropriate doses for subchronic tests.

b. *Acute dermal irritation/corrosion.* Data indicating the capacity of a chemical to cause irritation and/or corrosive effects on the skin of laboratory animals permit an evaluation of the possible hazards to humans which may arise from dermal exposure to a substance. This evaluation is used to guide health and safety practices for the handling of a chemical substance.

c. *Acute eye irritation/corrosion.* Data indicating the capacity of a substance to injure the eye and associated mucous membranes help determine the hazard of a chemical substance which accidentally enters the eye, as may occur during handling of the substance.

d. *Skin sensitization.* Data indicating the capacity of a chemical to induce a state of delayed sensitization when it comes in contact with the skin of laboratory animals help determine the hazard of a chemical substance that comes in contact with the skin, such as

may occur during any activity involving handling of the substance.

e. *Chronic toxicity.* Data from chronic toxicity studies indicate what major toxic effects to expect from repeated long-term exposure to the test substance and what target organs or functions may be affected. These data may also provide information on the delayed effects of chemicals that may be due to bioconcentration of test substances or their metabolities. In certain instances, the reversibility of these effects as well as the rate of absorption, metabolism and excretion of the chemicals may also be determined. Chronic toxicity data help determine the hazard of a chemical substance that is repeatedly ingested, inhaled, or absorbed through the skin, such as may occur during any human activity in proximity to vapors of the chemical, during handling of the substance, or when water contaminated with the substance is drunk.

f. *Mutagenicity.* Data from mutagenicity studies may indicate the capacity of a substance to alter (produce mutations) in the genetic materials of a cell either at the gene or chromosome level. Gene or chromosome mutations may result in effects that are transmitted to future generations. Because some chemicals induce only one type of genetic alteration, test sequences for both gene (point) mutations and chromosomal abberrations are needed. Information indicating a mutagenic consequence is used to assess the potential of a chemical substance to alter genetic information. Congress indicated that mutagencity was a health effect of special concern for regulatory action [TSCA section 4(f)].

g. *Reproduction and teratogenic effects.* Data from reproductive and teratogenicity tests show whether a substance may affect whether humans or animals may bear young and, if they do, whether the fetus or young develop normally. From these tests, specific data can be obtained which indicate the effects of the substance on pregnant females and on male and female reproductive organs, general reproductive performance of both sexes, fertilization, implantation, embryonic tissue differentation and organogenesis, prenatal growth and functional maturation, birth, lactation, maternal care of offspring, postnatal growth, and survival fecundity. Information indicating a reproductive or teratogenic consequence is used to assess the ability of a chemical substance to produce birth defects or impair reproductive functions. Congress indicated that birth defects was a health effect of special concern for regulatory action in TSCA section 4(f).

h. *Oncogenicity.* Data from oncogenicity studies indicate whether a substance is likely to produce tumors in test animals as a result of repeated long-term exposure. Existing tests for mutagenicity are not adequate for a full evaluation of oncongenic potential. Short-term tests are not sensitive to all classes of chemicals and may not predict the oncogenic ability of chemicals, particularly those which act through non-genetic mechanism. Thus, long-term, repeated-dose testing in animals must be performed to throughly evaluate whether or not a chemical may be oncogenic. In addition, past experience with oncogenic studies on animals has confirmed their usefulness in predicting the oncogenicity of such chemicals as vinyl chloride, aflatoxin, and asbestos, which are now widely accepted as human oncogens. Congress indicated that cancer was a health effect of special concern for regulatory action [section 4(f)].

i. *Neurotoxicity.* Data from neurotoxicity studies are necessary to provide information on the ability of a substance to produce acute and chronic neurotoxic effects. However, TSCA test standards for neurotoxicity testing have not yet been developed. Therefore, no neurotoxicity testing will be proposed by EPA at this time.

2. *Environmental effects.* For the three chemicals under consideration, the Agency has determined that all major sectors of the environment (i.e., land, freshwater, saltwater, air) are potentially exposed to each chemical; consequently, effects of concern for the environment include toxicity to freshwater, saltwater, and terrestrial organisms.

a. *Aquatic vertebrates: acute and chronic toxicity.* Fish are of significant commerical and recreational importance to humans. Some of the species most sensitive to toxicant are also of high economic importance (e.g., salmon, trout). Data on both saltwater and freshwater aquatic vertebrates are necessary because there are major physiological differences between saltwater and freshwater organisms. Also, data on both warmwater and coldwater fish are necessary because the sensitivity of fish to a given toxicant may depend markedly on the water temperature to which the fish are adapted.

Acute toxicity data on fish must be available to assess the potential risk of poisoning due to short-term exposure, such as might be encountered duriing spills or near wastewater outfalls, and to provide data necessary to select dose levels for long-term (chronic) testing. Early life stage or full life cycle toxicity data must be available to determine potential effects resulting from long-term exposure; the early life stage test covers that portion of the life cycle generally shown to be most sensitive to toxicants and therefore functions adequately as a substitute for a full life cycle test.

b. *Aquatic invertebrates: acute and chronic toxicity.* Many aquatic invertebrates are of significant commercial importance to humans. e.g., shrimp, clams, oyster. In addition, many aquatic invertebrate species serve as a food base for higher trophic level organisms (organisms higher in the food chain), including commercially valuable fish and endangered waterfowl. As with aquatic invertebrates, data on both saltwater and freshwater aquatic invertebrates are necessary because there are major physiological differences between saltwater and freshwater organisms.

Acute toxicity data on aquatic invertebrates are necessary to determine the potential risk of poisoning due to short-term exposure such as might be encountered during spills or near wastewater outfalls, and to provide data necessary to select dose levels for long term (chronic) testing. Data from multigeneration toxicity tests are necessary to assess potential effects of long term exposure.

c. *Aquatic plant toxicity.* Algae (free-floating unicellular plants) and vascular aquatic plant life (e.g., seaweed, duckweed) are at the botton of food webs that support all aquatic vertebrates and much terrestial life. In addition, many vascular aquatic plants provide habitats for fish and invertebrates and can play an important role in nutrient recycling.

Both depletion and stimulation of aquatic plant life can present significant environmental problems. Decreased plant production may result in decreased fish production, while excessive stimulation of plant growth can lead to effects which may decrease production of commercially important fish species and decrease the aesthetic and recreational value of a water body.

Data on both algae and vascular plants are necessary because there are major differences between these organisms with respect to phylogeny, habitat, uptake of chemicals, and physiology. Data on both saltwater and freshwater plant species is necessary because chemical transformations can be very different in the two media, and because there are major physiological differences between saltwater and freshwater organisms.

d. *Birds and mammals: acute and chronic toxicity.* Birds and mammals provide important recreational resources for humans and are vital links in maintaining ecological balance. Also, an increasing number of bird and mammal species are being classified as endangered species.

Data on both birds and mammals are necessary because there are major differences between these organisms with respect to phylogeny, reproduction, and physiology. Acute toxicity data on birds and mammals must be available to assess the potential risk of poisoning due to short-term exposure to a chemical such as might be encountered during spills. The acute oral test on laboratory mammals listed under Human Health Testing (section (1)(a)) is acceptable for assessing the acute hazard of toxicants to wild mammals. The acute test on birds is ordinarily a 5-day dietary test to simulate natural exposure. If the test substance is volatile, a single oral dose test is generally more appropriate because maintaining nominal concentrations in the feed would be difficult in the dietary test. Other toxicity tests must be performed to test for potential effects resulting from long-term exposure. The 90-day subchronic test on laboratory mammals listed under Human Health Testing (section (1)(e)) is acceptable for assessing the chronic hazard of toxicants to wild mammals. Long-term testing on birds must include the reproductive phase of the life cycle because it is generally the most sensitive to toxicants.

e. *Terrestrial plants.* Terrestrial plants are of obvious importance to agriculture and forestry. Also, terrestrial plants are at the botton of the food web that supports most terrestrial life. Terrestrial plants may be exposed to section 4 chemicals through rainfall and contaminated irrigation water.

There are several important plant functions that may be affected by toxicants, including root elongation, seed germination, shoot and leaf growth, and flowering. Impairment of any of these functions may result in death or reduced productivity. Test data must be available to assess potential effects on these functions.

f. *Bioconcentration.* A major potential hazard exists to both the environment and humans from toxicants that concentrate in plant and animal tissues. Organisms that consume plants or other animals with high body burdens of a toxicant may be exposed to concentrations several orders of magnitude above those in the abiotic environment (water, sediment, soil, air). For example, top trophic level carnivorous birds have experienced serious reproductive effects (eggshell thinning) resulting from food chain transport of DDT and other pesticides. Humans are also top level carnivores and therefore may receive very high levels of toxicants that bioconcentrate.

It is also possible that high tissue levels of a toxicant can be rapidly transferred to the same organism's blood stream, resulting in acute or chronic effects. This phenomenon may occur as the animal is rapidly using up its fat reserves, such as occurs when salmon or birds migrate.

For many chemicals, a reasonable prediction of the potential to bioconcentrate can be made by determining the chemical's fat solubility relative to its water solubility. The "octanol/water partition coefficient" is a term used to denote this physicochemical characteristic. It is a measure of solubility in octanol relative to that in water and is usually expressed as the logarithm of the coefficient ("log P_{oct}", "Kow"). The coefficient has been shown to correlate well with indices of bioconcentration determined from actual uptake studies using fish. However, for chemicals that concentrate significantly in tissues other than fat (e.g., muscle), the Log P_{oct} may underestimate actual bioconcentration.

Data are needed on a variety of organisms because bioconcentration potential varies depending on physiological characteristics, feeding behavior, and mode of respiration.

g. *Other effects of concern.* Other effects of concern include toxicity to terrestrial invertebrates, alteration of microorganism functions, and ecosystem effects. No TSCA section 4 test standards are available for these effects and therefore no testing for these effects is being proposed by EPA at this time.

3. *Chemical fate: persistence and transport.* Data are required for environmental persistence and/or transport characteristics that play significant roles in governing chemical fate in compartments of the environment where exposure to humans or other life forms is possible. These data are needed in order to perform a complete assessment of risk posed by a chemical to humans or the environment.

D. Test Standrds

The Agency is developing a series of generic standards for development of test data (TSCA, Pub. L 94–469; 90 Stat. 2006; 15 U.S.C. 2603). These standards will then be available to incorporate in specific chemical testing rules as they are issued under section 4 of TSCA. Previously-issued proposals covered the development of data on chronic health effects and Good Laboratory Practices for health effects, published in the **Federal Register** of May 9, 1979 (44 FR 27334), and also on acute and subchronic toxicity, mutagenic, teratogenic and reproductive effects and metabolism studies published in the **Federal Register** of July 26, 1979 (44 FR 44054). The Agency proposed standards for development of test data on certain physical and chemical characteristics of substances and Good Laboratory Practices related to environmental effects testing published in the **Federal Register** of November 21, 1980 (45 FR 77332). The notice covered testing for Density/Relative Density, Melting Temperature, Vapor Pressure, Octanol/Water Partition Coefficient and Soil Thin Layer Chromatography.

Today's test rule proposes that dichloromethane, nitrobenzene, and 1,1,1-trichloroethane be tested for various environmental effects. Test standards for these effects were scheduled to be published prior to this proposal; however, publication of these standards has been delayed several months and is now scheduled for July 1981. Because of this delay, the comment period for this rule has been extended to August 30 to permit comment on the applicability of the environmental standards to this rule.

The EPA has been a full and regular partner in extensive international consultations and negotiations in the Organisation for Economic Cooperation and Development (OECD) during the development of its chemical testing and other requirements under TSCA. U.S. experts, along with those of other OECD member states, have worked since 1977 to develop agreed chemical testing guidelines and good laboratory practices. The Agency places a high priority on these activities because of benefits both for international chemical trade and for more effective health and environmental protection.

In developing test standards for section 4, EPA will pursue consistency with OECD test guidelines, and a concerted effort will be made to incorporate OECD wording. However, where EPA language provides a substantial improvement or is necessary to comply with a U.S. statutory or judicial requirement, it will be used. Additions to, or deletions from, the OECD Guidelines will be strictly limited and a rationale provided in such cases. Additions will generally be limited to suggested or preferred criteria or to explanatory (rather than required) phrases such that the basic requirements cannot be construed as being different.

E. Testing Being Performed by EPA

EPA will perform initial mutagenicity testing and testing on various environmental effects and chemical fate processes for which TSCA section 4 test standards will not be available in the near future. The environmental effects and chemical fate tests which EPA will perform include acute and chronic toxicity to coldwater saltwater vertebrates, full life cycle tests on terrestrial plants, and tests for chemical persistence.

EPA does not intend to perform such tests routinely because, as TSCA section 2 states, the development of data on the effects of commercial chemicals should be the responsibliity of the manufacturers and processors of those chemicals. EPA is making an exception to this general policy in this case as it did for mutagenicity testing proposed for chloromethane and the chlorinated benzenes in the **Federal Register** of July 18, 1980 (45 FR 48510) because it believes this exception to be in the public interest. This belief rests on these reason: (1) EPA's sponsorship of these tests will contribute to the Agency's development of test standards in these areas; (2) information on these effects is important to the assessment of these chemicals and we believe it is important not to delay testing; and (3) the cost of this testing is relatively low.

In the case of mutagenicity testing, EPA has been unable to develop specific criteria for test sequencing decisions that are suitable for inclusion in section 4 test standards. EPA believes that such criteria are important to insure consistency between various laboratories in their determinations of whether to stop testing or proceed to the next test in the sequence. In addition, EPA has not yet developed test standards to be followed in the gene mutation sequence or the in vivo cytogenetics test for chromosomal aberration. Based on its evaluation of the results of these tests, EPA will decide whether to propose that the final tests of the mutagenicity sequence be performed by industry.

F. Voluntary Testing by Industry

In late February 1981, EPA was approached by representatives of the manufacturers of dichloromethane and 1,1,1-trichloroethane to discuss the possibility of voluntary testing for these substances. This resulted in two meetings (March 16, 1981 and March 25, 1981) to discuss the environmental and health effects testing needs for these two substances. While these meetings were quite productive, and resulted in a useful exchange of ideas and information among the persons in attendance, they have not yet resulted in the development of a voluntary testing program. Should a voluntary testing program be developed for these substances that would satisfy the Agency's need for sufficient data to reasonably predict or determine the effects of the exposure to, or environmental release of these chemcials, EPA will withdraw this proposal insofar as it relates to dichloromethane and 1,1,1-trichloroethane. In addition, these meetings have resulted in the submission of certain health and enviornmental effects testing data by industry that had not previously been submitted to the Agency or evaluated by it. The data submitted to date have been summary in nature and thus could not be adequately evaluated. EPA is attempting to obtain sufficient backup materials relating to these studies to enable it to evaluate their adequacy. Should this evaluation demonstrate that adequate data are available to reasonably predict or determine those effects, EPA will modify this proposal to delete the proposed testing requirements for those effects.

II. Dichloromethane

A. Introduction

Dichloromethane (CH_2Cl_2, methylene chloride, CAS No. 75-09-2) is a clear, colorless, volatile liquid at standard temperature and pressure. Dichloromethane is a high production chemcial (U.S. production in 1979, 634 million pounds). U.S. dichloromethane production in the first 11 months of 1980 showed a sharp decrease, with a production of 537 million pounds projected for the entire year.

Dichloromethane has a variety of uses. Major uses are as a paint-stripping solvent, as a urethane foam-blowing agent, as a vapor-degreasing and dip solvent for metal cleaning and as a solvent for aerosol products.

The manufacturing, processing and use of dichloromethane results in exposure of both workers and consumers. The National Occupational Hazard Survey (NOHS) estimated that approximately 2.5 million persons are exposed to dichloromethane annually in occupational settings. Dichloromethane is also an ingredient in many consumer products: cleaning agent, aerosols, adhesives, paints and paint removers.

The Interagency Testing Committee (ITC) recommended that dichloromethane be tested for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects, and that epidemiology studies be done.

B. Findings

With the exception of subchronic cardiovascular effects, EPA is basing its proposed testing requirements on the authority of section 4(A)(1)(B) of TSCA.

EPA finds that dichloromethane is produced in substantial quantities (634 million pounds/yr), and that its production is expected to increase in the future.

EPA also finds that substantial numbers of persons are exposed to dichloromethane both in occupational settings and as consumers. EPA also finds that there is substantial release to the environment. Of the dichloromethane produced in the U.S., approximately 84% (499 million pounds/yr) is expected to reach the environment.

EPA also finds with respect to he areas listed below that there are insufficient data and experience to determine the effects resulting from the manufacture, processing, distribution in commerce, use, or disposal of dichloromethane, and that testing is necessary to develop such data:

Health effects:
- Acute dermal sensitization
- Reproduction

Environmental effects:

Aquatic vertebrates
- Chronic toxicity

Aquatic invertebrates
- Chronic toxicity

Birds
- Acute toxicity
- Chronic toxicity

Terrestrial plants
- Early seedling growth

Bioconcentration
- Plant uptake/translocation
- Aquatic vertebrate

The proposed testing and reporting requirements for each of these effects are described below. Testing recommended by ITC or identified with an effect of concern, but not proposed above, will be handled as described in the following paragraphs.

EPA is not proposing testing for chemcial fate, acute health effects (except for skin sensitization), chronic effects, teratology, or for certain environmental effects, e.g., acute toxicity to aquatic vertebrates and invertebrates, aquatic invertebrate bioconcentration , toxicity to mammals, seed germination, because it believes that existing information is adequate. EPA will perform testing on some of the environmental effects for which no

standards are available as described in I.E. of this preamble.

Oncogenicity testing of dichloromethane is being performed by the National Cancer Institute (NCI) and the EPA believes that the NCI studies should be sufficient for the Agency's needs; therefore, no additional oncogenicity testing is being proposed at this time.

EPA believes that mutagenicity testing according to a testing sequence would be appropriate, and will perform the initial testing itself because no criteria for progressing from initial tests to higher level tests are available. EPA will propose higher tier tests if needed based on analysis of lower tier results. There are no test standards available for neurobehavioral toxicity so neurobehavioral testing is not proposed at this time. Industry is sponsoring an epidemiology study; therefore, no studies of this type are being proposed at this time.

On the basic of acute toxicity studies in dogs which showed increased arterial pressure and myocardial contractibility and evidence of exposure of large numbers to dichloromethane at levels where effects might occur, EPA finds under section 4(a)(1)(A) that dichloromethane may present an unreasonable risk of adverse cordiovascular effects to humans. EPA also finds that there are insufficient data on the effects to the cardiovascular system of nonacute exposure to dichloromethane and that testing is necessary.

The analysis and findings upon which the above determinations are based are presented in the Dichloromethane Support Document which is available from the Industry Assistance Office.

C. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes section 4(a) findings (manufacturing, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing, distribution, use or disposal. Processors are required to test if the findings are based on processing, distribution, use or disposal.

Because exposure to dichloromethane occurs through several routes, persons who manufacture or process dichloromethane, and those who intend to manufacture or process dichloromethane within the period ending five years beyond the date required for the submission of the last final report of this test rule will be subject to this test rule. Because "manufacture" is defined in section 3(7) of TSCA to include "import," importers of dichloromethane are subject to this rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are required to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) specifically provides that any person required to test may apply to EPA for an exemption from that requirement.

EPA is not proposing to require the submission of equivalence data as a condition for exemptions from the proposed testing. As noted below, EPA is interested in evaluating the effects attributable to dichloromethane itself, and has specified a relatively pure grade substance for testing. Please see EPA's proposed statement of exemption policy for more information published in the **Federal Register** of July 18, 1980 (45 FR 48512).

D. Test Substance

The EPA is proposing that a relatively pure grade of dichloromethane be used as the test substance. The proposed test substance contains no stabilizers. Most commercial grades of dichloromethane contain one or more stabilizers, which may have toxicological effects of their own, making it more difficult to evaluate dichloromethane's toxicity from tests on a technical grade substance. A purity of 99.95% which corresponds to the material used in the NCI bioassay is specified in this rule.

E. Proposed Testing

Because the most common human exposure is expected to be by inhalation of dichloromethane vapors, the route of administration for health effects testing must be by inhalation with the exception of the dermal sensitization study. In the dermal sensitization study the test substance must be injected intradermally because it is highly volatile and would not, therefore, remain on the skin for an adequate period of time if applied topically.

The route of administration for each environmental effects test is specified in the generic test standard for that effect, with exceptions as noted below.

The following are effects of concern discussed in I.C. of this preamble, for which EPA is proposing testing.

1. *Acute effects—dermal sensitization.* The EPA is proposing that an acute dermal sensitization test be conducted in accordance with test standards to be promulgated under 40 CFR 772.112–26. The proposed standard was published in the **Federal Register** of July 26, 1979 (44 FR 44054).

2. *Subchronic cardiovascular toxicity.* Because there is no generic subchronic cardiovascular test standard available at this time, the Agency is proposing a chemical-specific standard for this test rule which includes the performance of five major tests: right and left heart catheterization; electrocardiographic monitoring; cardiac sensitization studies; determination of carboxyhemoglobin and dichloromethane levels in the blood; and histopathology. Since the heart has both electrical and mechanical functions, all of the above-mentioned procedures are deemed necessary to adequately evaluate the effect of dichloromethane on the cardiovascular systems as explained below.

a. *Cardiac catheterization.* The measurements which are normally taken, during a cardiac catheterization provide functional information involving the chambers and great vessels of the heart. Any deviations from normal will identify functional disturbances caused by subchronic dichloromethane exposure.

b. *Electrocardiographic monitoring.* Changes in the electrocardiogram such as the production of ectopic beats or the appearance of more serious arrhythmias, tachycardia, flutter, fibrillation, will provide information on any disturbance of cardiac rhythm and/or of conduction including the potential presence of ischemic damage to the myocardium.

c. *Cardiac sensitization.* If the administration of normally non-arrhythmogenic doses of epinephrine cause a statistically significant number of aberrations in the electrocardiogram following dichloromethane exposure, then this observation suggests that the threshold for the production of arrhythmias may have been lowered. The highest dose of epinephrine which should be used in any sensitization study is that does which produces ectopic beats or more serious arrhythmias such as tachycardia, fibrillation, flutter. This information is essential to evaluate any potential hazard which may exist due to long-term exposure to dichloromethane, not only for those individuals predisposed to cardiovascular disease or other stress condition but to normal individuals as well.

d. *Analysis of dichloromethane and carboxyhemoglobin levels in the blood.* Dichloromethane is capable of being metabolized to carbon monoxide which

readily combines with hemoglobin to produce carboxyhemoglobin. This substance decreases the oxygen-carrying capacity of the blood and can lead to tissue ischemia at high levels. It is, therefore, important to determine if carboxyhemoglobin levels are significantly increased following exposure to dichloromethane and to determine the potential correlation between the levels of carboxyhemoglobin and the dichloromethane concentration in the blood. Given this information, it may be possible to determine whether or not the cardiovascular changes which may arise are due to the formation of carboxyhemoglobin or, rather, are a direct effect of dichloromethane on the heart or nervous system. Histopathologic changes on the specified tissues will be used to demonstrate: (1) that permanent tissue damage has occurred; (2) that the cells have been injured by the toxic influence, but have not yet been permanently damaged; or (3) that physiological changes in the function of the heart have occurred due to dicholormethane exposure but have not produced concurrent cellular injury or death.

The dog is specified as the test animal for the proposed Subchronic Cardiovascular Test Standard for the following reasons: (1) based on results found in the literature, the dog appears to be more sensitive to the cardiovascular effects of dichloromethane than the rodents; (2) the majority of the existing acute cardiovascular toxicity test data has been determined in the dog; (3) being a proven, reliable model, the dog is used extensively in cardiovascular studies; and (4) the use of a large animal will facilitate the performance of the required tests. Either males or females may be employed; however, testing must be carried out on dogs of one sex to reduce any additional variable.

The Agency proposed an initial test dose of 250 ppm. This choice is based on a study in which a single two-hour exposure of dogs to 500 ppm dichloromethane produced changes in myocardial contractility and mean arterial pressure, induced arrhythmias, and increased carboxyhemoglobin levels in the blood (Adams, 1975, The Effects of carbon monoxide and methylene chloride on the canine heart, Ph.D. Thesis, Texas A&M University). The initial 250 ppm dose was chosen because long-term exposure to 500 ppm may lead to excessive toxicity that may jeopardize test animal survival for the entire test period. Negative results obtained with dichloromethane exposure at this level will obviate the need for further testing. Statistically significant results within the parameters designated in the test standard will necessitate repetition of the entire test procedure at one-half the previous exposure concentration. This procedure must be followed until the analysis of the data ceases to express statistical significance. However, in the event that three exposure levels have been tested and statistically significant changes in the designated parameters are still maintained, testing may be terminated at this point. This proposed study is necessary to determine a "no observable effect level" for dichloromethane, with respect to cardiovascular toxicity. If the data permit, a mathematical extrapolation to a "no observable effect level" should be made.

3. *Reproductive toxicity.* The EPA is proposing that a reproductive effects test be done in accordance with test standards to be promulgated under 40 CFR 772.116–3. The proposed standard was published in the **Federal Register** of July 26, 1979 (44 FR 44054).

4. *Aquatic vertebrates—chronic toxicity.* The EPA is proposing early life stage toxicity testing on a coldwater and a warmwater freshwater fish species and on a saltwater fish species in accordance with test standards to be proposed in the **Federal Register** in July, 1981 (see discussion in I.D. of this preamble). The coldwater freshwater species tested must be the rainbow trout (*Salmo gairdneri*) because this species is generally more sensitive to toxicants than the brook trout (*Salvelinus fontinalis*).

5. *Aquatic invertebrates—chronic toxicity.* The EPA is proposing life cycle toxicity testing on a freshwater and saltwater invertebrate in accordance with test standards to be proposed in the **Federal Register** in July, 1981. The freshwater invertebrate test must be flow-through due to the high volatility of dichloromethane. Evaporation of dichloromethane in the static renewal procedure would result in difficulty in maintaining nominal exposure levels.

6. *Birds—acute toxicity.* The EPA is proposing acute toxicity testing on two species of birds in accordance with proposed FIFRA guidelines published in the **Federal Register** of July 10, 1978 (43 FR 29696, § 163.71–1). The FIFRA guidelines for acute avian toxicity are being proposed as test standards specific to this chemical in this rule.

7. *Birds—chronic toxicity.* The EPA is proposing reproductive toxicity testing on two species of birds in accordance with the test standards to be proposed in the **Federal Register** in July, 1981.

Dose level selection is proposed to be made as follows:

High dose (ppm)—0.125 x LD_{50} (in mg/kg) obtained in single oral dose acute toxicity test

Medium dose (ppm)—0.167 x high dose

Low dose (pm)—0.028 x high dose

Also, because dicholormethane is highly volatile, special dietary procedures are proposed.

8. *Terrestrial plants—early seeding growth.* The EPA is proposing early seedling growth testing in accordance with test standards to be proposed in the **Federal Register** in July 1981. EPA proposes that each species must be tested twice, once using the foliar route of exposure and once using the nutrient medium as the route of exposure, because plants may be exposed by either route and toxicity may be significantly dependent upon the route of exposure.

9. *Bioconcentration—plant uptake/translocation.* The EPA is proposing plant uptake/translocation testing in accordance with test standards to be proposed in the **Federal Register** in July, 1981. The most sensitive monocot and the most sensitive dicot observed in the early seedling growth test must be tested because high sensitivity may be the result of high rates of uptake, and bioconcentration potential may differ significantly between monocots and dicots. Testing on more species is recommended but not required. Each species must be tested twice, one using the foliar route of exposure and once using the nutrient medium as the route of exposure, because plants may be exposed by either route.

10. *Bioconcentration—aquatic vertebrate.* The EPA is proposing aquatic vertebrate bioconcentration testing in accordance with test standards to be proposed in the **Federal Register** in July, 1981.

F. Reporting Requirements

For mammalian reproduction testing and subchronic cardiovascular testing, the EPA is proposing that a Study Plan be submitted 90 days before the initiation date of the test and preferably earlier than this deadline. Interim Quarterly Summary Reports are required for the reproductive toxicity test. Interim reports are required for subchronic cardiovascular toxicity at the end of each testing sequence. The proposed deadlines for submission of the Final Reports are 30 months from the date of the final test rule for reproduction testing and 23 months from the date of the final test rule for subchronic cardiovascular testing.

For all other testing proposed for dichloromethane, EPA is proposing that a Study Plan be submitted by the initiation date of the test and preferably earlier than this deadline. No interim reports are required. The proposed deadline for submission of the Final Report is 15 months for bird reproduction testing and the plant uptake/translocation test, and 12 months for all other tests. These deadlines are calculated from the effective date of the final rule. For a discussion of the basis for these frames, see the **Federal Register** of July 18, 1980 (45 FR 48535) and V. of this preamble.

G. Issues for Public Comment—Dichloromethane

1. What procedures will assure maintenance of the desired dose levels of dicholoromethane when administered in the diet for bird feeding studies?

The volatility of dichloromethane (b.p. 40°C) presents some difficulty in providing dosed diets for feeding studies, since the compound may be lost relatively rapidly by evaporation. EPA is proposing a requirement that the time be determined over which 25% loss of dichloromethane from the diet occurs, and that the replacement of treated diet be governed by this information. EPA is suggesting including the use of corn oil as a vehicle to reduce the likelihood of test substance loss. EPA is interested in comments as to the adequacy of these procedures and the availability of alternative procedures to assure that the desired dose levels are achieved.

2. Are the skin sentitization studies performed by Industrial Bio-Test adequate for dichloromethane?

Just before publication of this proposed test rule, Dow Chemical Company sent in two negative studies on the skin-sensitizing capacity of dichloromethane. Both were human studies one of 125 persons of all races, sexes, and a variety of ages. The other study was on 50 persons, also a mixed population. The studies were performed by Industrial Bio-Test on aerosol antiperspirant products. The products in the first test contained 20–21.5% dichloromethane, and were applied twice daily as a spray for 12 weeks. The other experiment used products containing 15% dichloromethane sprayed on patches which were applied for 24 hours, three times a week for three weeks, with a subsequent challenge two weeks later. The Agency invites comment on the use of these studies in fulfillment of the proposed skin-sensitization testing and requests that the following issues be addressed:

(a) the substances tested contained 15–21.5% dichloromethane. Although these compounds represent active products in use, the testing proposed by the EPA requires the use of a relatively pure chemical. Do the low concentrations compromise the value of the studies?

(b) Because the compounds tested were mixtures where dichloromethane was not the major component, there is a possibility that a negative interaction occurred, and that one or more other chemicals in the mixture masked or blocked a positive reaction to the dichloromethane. Is the likelihood of such an effect great enough to cause rejection of the studies' results?

(c) The EPA skin-sensitization test standard requires that a specific amount of chemical be injected intradermally to insure that exposure to a measured amount of the compound occurs. The human studies exposed the subjects in the manner by which they would normally be exposed to the particular products; directly by a spray, or indirectly, by spraying the substance and applying this to the skin. Using these methods the exact amounts applied cannot be determined. Are these drawbacks in methodology serious enough to invalidate the studies' results?

III. Nitrobenzene

A. Introduction

Nitrobenzene ($C_6H_5NO_2$; CAS No 98–95–3), also named nitrobenzol and oil of mirbane (Merck Index, 1976), is a pale yellow, oily liquid at room temperature and pressure with a characteristic bitter almond odor and a sweet taste.

The annual production of nitrobenzene was 575 million pounds in 1978. Nitrobenzene is manufactured by the direct nitration of benzene, using a mixture of nitric and sulfuric acids. Most of the crude product is converted to aniline. About 2.5–3 percent of the nitrobenzene produced each year, amounting to 12.75 million pounds, has various other uses, mostly as a solvent in the production of cellulose ethers and in Friedel-Crafts alkylation reactions, with one percent used (6 million pounds) in the manufacture of dye intermediates, metal polishes, and other solvent uses.

The Interagency Testing Committee recommended that nitrobenzene be tested for carcinogenicity, mutagenicity, and environmental effects.

B. Findings

1. *Health effects findings.* EPA is basing its proposed health effects testing requirement for nitrobenzene on the authority of section 4(a) (1) (A) of TSCA.

i. EPA believes that the manufacture, processing, distribution in commerce, use, and disposal of nitrobenzene may present an unreasonable risk of injury to human health due to reproductive and teratogenic activity, for the following reasons:

a. EPA has found that there are existing data and experience which indicate a potential human health hazard from nitrobenzene with respect to these effects.

b. EPA believes that persons are exposed to nitrobenzene in the workplace, as consumers, and as a result of release of nitrobenzene into the environment.

c. EPA does not believe that the rule will result in a loss to society of the benefits of the substance because the Agency's economic analysis has shown that the impact of test costs is minimal. (The Level I Economic Evaluation, available from the Industry Assistance Office, details the support for this belief.)

ii. Therefore, EPA believes that the activities in question may present an unreasonable risk. EPA also finds that there are insufficient data to predict the teratogenic and reproductive effects of nitrobenzene and that testing of nitrobenzene is necessary to develop such data. Therefore, EPA is proposing testing for structural teratogenic and reproductive effects. The proposed testing and reporting requirements for these effects are summarized in E. of this Preamble.

Health effects testing recommended by ITC or identified as an effect of concern but not proposed above, will be handled as follows:

a. Oncogenicity testing of nitrobenzene is being performed by the National Cancer Institute (NCI) and the EPA believes that NCI studies should be sufficient for the Agency's needs for oncogenicity, subchronic effects, and chronic effects testing; therefore, no additional testing for these effects is being proposed at this time.

b. EPA believes mutagenicity testing according to a testing sequence would be appropriate and will perform the initial tests itself because no criteria for progressing from initial testing to higher level tests are available. EPA will propose higher tier tests if needed based on analyses of lower tier results.

c. The EPA has decided not to proposed epidemiological testing at this

time because a suitable study population has not been identified.

d. Neurotoxicity/behavioral effects testing is not being required because EPA has not yet developed standards for these effects.

2. *Environmental effects findings.* EPA is basing its proposed environmental effects testing requirement on the authority of section 4(a) (1) (B) of TSCA.

i. EPA finds that nitrobenzene is produced in substantial quantities (575 million pounds in 1978).

ii. EPA also finds that there is substantial release to the environment. Of the nitrobenzene produced in the U.S. approximately 12.75 million pounds is expected to reach the atmosphere (1978 figures). A substantial quantity is believed to enter the equatic environment, and rainout would carry part of the atmospheric emission to soil and from there to water.

iii. EPA also finds with respect to the areas listed below, that there are insufficient data and experience to determine the effects resulting from the manufacture, processing, distribution in commerce, use, or disposal of nitrobenzene, and that testing is necessary to develop such data:

Aquatic Vertebrates
  Acute toxicity
  Chronic toxicity
Aquatic Invertibrates
  Chronic toxicity
Birds
  Acute toxicity
  Chronic toxicity
Terrestrial plants
  Root elongation/seed germination
  Early seedling growth
Bioconcentration
  Plant uptake/translocation
Chemical fate
  Soil adsorption

The proposed testing and reporting requirements for each of these effects are described in III.E. of this preamble.

EPA is not proposing testing on acute toxicity to aquatic invertebrates, aquatic plants, and mammals because data for these effects are sufficient. EPA will perform testing on some enviromental effects for which no standards are available as described in I.E. of this preamble.

The analysis and findings upon which the above determinations are based are presented in the Nitrobenzene Support Document which is available from the Industry Assistance Office.

C. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing, distribution, use, or disposal. Processors are required to test if the findings are based on processing, distribution, use, or disposal.

Because both health risk and exposure result from the manufacture, processing, and use of nitrobenzene, all persons who manufacture or intend to manufacture nitrobenzene, and who process or intend to process it within the period ending five years beyond the date required for the submission of the last Final Report will be subject to this test rule. Because "manufacture" is defined in section 3(7) of TSCA to include "import," importers of nitrobenzene are subject to this rule.

Every person subject to this rule does not have to individually conduct testing because TSCA contains provisions to avoid duplicative testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are required to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) specifically provides that any person required to test may apply to EPA for an exemption from that requirement.

EPA is not proposing to require the submission of equivalence data as a condition for exemptions from the proposed testing because EPA is requiring the testing of a technical grade of nitrobenzene that the Agency believes is representative of all grades currently being manufactured. Please see EPA's proposed statement of exemption policy for more information published in the **Federal Register** of July 18, 1980 (45 FR 48512).

D. Test Substance

The test substance will be nitrobenzene of at least 99.9 percent purity. This purity has been chosen because it is a widely-available representative technical grade and has been specified by the NCI for use in their testing.

E. Proposed Testing

The route of administration for health effects should correspond to the usual route of exposure to humans: inhalation. The route of administration for each environmental effects test is specified in the generic test standard for that effect with exceptions as noted below.

1. *Structural teratogenic effects.* EPA is proposing that a structural teratogenicity study be conducted in accordance with the structural teratogenicity test standard to be promulgated under 40 CFR 772.116-2. The proposed standard was published in the **Federal Register** of July 26, 1979 (44 FR 44054). Although the test standard allows for a choice of two species among four (hamster, rabbit, mouse, rat), the rat and a choice of one other species are proposed for this rule because the rat has been demonstrated to be sensitive to nitrobenzene in teratogenic tests.

2. *Reproductive effects.* EPA is proposing that a two-generation reproductive effects study of nitrobenzene in one rodent species be conducted in accordance with test standards to be promulgated under 40 CFR 772.116-3. The proposed standard was published in the **Federal Register** of July 26, 1979 (44 FR 44054).

3. *Aquatic vertebrates—acute toxicity.* The EPA is proposing acute toxicity testing on a coldwater species of freshwater fish in accordance with the test standards to be proposed in the **Federal Register** in July 1981. (See I.D. of this preamble for further discussion.) The static procedure is proposed because nitrobenzene degradation products are suspected of being a major factor in toxicity. The flow-through procedure would not allow degradation products to build up in the test vessel.

4. *Aquatic vertebrates—chronic toxicity.* The EPA is proposing early life stage toxicity testing on a coldwater and warmwater freshwater fish species and on a saltwater fish species in accordance with the test standards to be proposed in the **Federal Register** in July 1981. The coldwater freshwater species tested must be the rainbow trout (*Salmo gairdneri*) because this species is generally more sensitive to toxicants than the brook trout (*Salvelinus fontinalis*).

5. *Aquatic invertebrates—chronic toxicity.* The EPA is proposing life cycle toxicity testing on a freshwater and saltwater invertebrate in accordance with the test standards to be proposed in the **Federal Register** in July 1981. The freshwater invertebrate test must be static renewal because nitrobenzene degradation products are suspected of being a major factor in toxicity. The flow-through procedure would not allow degradation products to build up in the test vessel.

6. *Birds—acute toxicity.* The EPA is proposing acute toxicity testing on two species of birds in accordance with the proposed FIFRA guidelines published under 163.71-1 in the **Federal Register** of July 10, 1978 (43 FR 29696). The FIFRA guidelines for acute toxicity are being proposed as test standards specific to the chemicals in this rule. An acute oral

LD_{16} must be calculated or extrapolated to provide the basis for dose selection in the bird chronic toxicity test.

7. *Birds—chronic toxicity.* The EPA is proposing chronic toxicity testing on species of birds in accordance with the test standard to be proposed in the **Federal Register** in July 1981. Dose level selection must be as follows:

High dose ppm—0.125 x LD_{16} (in mg/kg) obtained in acute bird toxicity test.
Medium dose (ppm)—0.167 x high dose.
Low dose (ppm)—0.028 x high dose.

8. *Terrestrial plants—root elongation/seed germination.* The EPA is proposing root elongation/seed germination testing in accordance with the test standard to be proposed in the **Federal Register** in July 1981.

9. *Terrestrial plants—early seedling growth.* The EPA is proposing early seedling growth testing in accordance with the test standard to be proposed in the **Federal Register** in July 1981. Each species must be tested twice, once using the foliar route of exposure and once using the nutrient medium as the route of exposure, because plants may be exposed by either route.

10. *Bioconcentration—plant uptake/translocation.* The EPA is proposing plant uptake/translocation testing in accordance with the test standard to be proposed in the **Federal Register** in July 1981. The most sensitive monocot and the most sensitive dicot observed in the early seedling growth test must be tested because high sensitivity may be the result of high rates of uptake, and bioconcentration potential may differ significantly between monocots and dicots. Testing on more species is recommended but not required. Each species must be tested twice, once using the foliar route of exposure and once using the nutrient medium as the route of exposure, because plants may be exposed by either route.

11. *Soil adsorption.* EPA is proposing soil adsorption testing according to the test standard to be promulgated under 40 CFR 772.122–5. The proposed standard was published in the **Federal Register** of November 21, 1980 (45 FR 77352).

F. Reporting Requirements

Proposed reporting requirements for teratogenic effects are as follows. A Study Plan shall be submitted to EPA no later than the initiation of the teratogenic effects testing. No Interim Summary Reports will be required. The Final Report shall be submitted to EPA no later than 12 months after the effective date of this rule.

Proposed reporting requirements for reproductive effects are as follows. A study Plan shall be submitted to EPA at least 90 days prior to the start of reproductive effects testing. Interim Quarterly Summary Reports shall be submitted to EPA beginning with the initiation of testing and ending with submission of the Final Report. The Final Report shall be submitted to EPA no later than 30 months after the effective date of this rule.

For all other testing proposed for nitrobenzene, EPA is proposing that a Study Plan be submitted by the initiation date of the test and preferably earlier. The deadline for submission of the Final Report is 15 months for bird reproduction testing and the plant uptake/translocation test, and 12 months for all other tests. These deadlines are calculated from the effective date of the final rule.

G. Major Issues for Comment

1. Should the Agency consider testing by dermal application?

In the health effects tests required, the route of administration is specified as inhalation. Nitrobenzene is rapidly absorbed through both the lungs and the skin. In studies of exposure of humans to vapor, more than twice as much was absorbed by inhalation as through the skin. It is suggested that dermal contact is a great hazard in industry and probably the most significant route of exposure for the general population, via products containing nitrobenzene as a solvent. Thus, there is reason to consider dermal application as the route of administration for testing. But since there is rapid absorption through the lungs, and the vapor pressure of nitribenzene is high, constant lung absorption is probable in any exposure situation, regardless of whether the worker makes skin contact with the liquid or vapor. It was this consideration that led EPA to propose inhalation as the route of administration.

IV. 1,1,1-TRICHLOROETHANE

A. Introduction

1,1,1-Trichloroethane, also known as methyl chloroform, is a colorless, nonflammable volatile liquid. Approximately 716 million pounds of 1,1,1-trichloroethane were produced in the United States in 1979, of which about 30 million pounds were exported. Imports of the chemical were essentially negligible. About 60 percent of the domestic production is obtained from vinyl chloride, about 30 percent is obtained from vinylidene chloride, and the remainder is produced by thermal chlorination of ethane.

Because 1,1,1-trichloroethane is an excellent solvent for greases, oils, tars, waxes and a wide range of other organic materials, its major use is in the metal cleaning industry, primarily in cold cleaning and vapor degreasing processes. An estimated 422 million pounds of 1,1,1-trichloroethane were consumed in these processes in 1979. It is also used in commercial and consumer products such as aerosols, adhesives, textiles, paints, inks, drain cleaners, film cleaners, spot removers, pharmaceuticals and leather tanners.

The Interagency Testing Committee (ITC) recommended that 1,1,1-trichloroethane be tested for carcinogenicity, mutagenicity, teratogenicity, and chronic effects (with specific attention to neurological, cardiovascular and renal systems) and that an epidemiology study be done.

B. Findings

The EPA is basing its proposed testing requirements on the authority of section 4(a)(1)(B) of TSCA.

EPA finds that 1,1,1-trichloroethane is produced in substantial quantities.

EPA also finds that substantial numbers of persons are exposed to 1,1,1-trichloroethane both in occupational settings involving manufacture, processing, and use of the chemical, and as consumers.

EPA also finds substantial release to the environment. Of the 1,1,1-trichloroethane produced in the United States in 1978, 75 percent was estimated to have been released into the environment. Measurable amounts of 1,1,1-trichloroethane have been reported in the atmosphere, soil, rainwater, marine and fresh surface waters, and groundwater. Residues of 1,1,1-trichloroethane have been measured in the tissues of aquatic and terrestrial plants and animals.

EPA also finds with respect to the following areas that there are insufficient data and experience to determine effects of the manufacture, processing, distribution in commerce, use, or disposal of 1,1,1-trichloroethane and that testing is necessary to develop such data:

Health Effects:
  Structural teratogenicity
Environmental Effects:
Aquatic vertebrates
  Acute toxicity
  Chronic toxicity
Aquatic invertebrates
  Chronic toxicity
Birds
  Chronic toxicity
Terrestrial plants
  Root elongation/seed germination
  Early seedling growth
Bioconcentration
  Plant uptake/translocation

The proposed testing and reporting requirements for each of these effects are described below.

Testing recommended by ITC or identified as an effect of concern but not proposed above, will be handled as described in the following paragraphs.

EPA is not proposing testing for acute health effects, reproductive effects, chemical fate or for certain environmental effects (acute toxicity to aquatic invertebrates, toxicity to mammals, acute bird toxicity, toxicity to algae, and aquatic vertebrate and invertebrate bioconcentration) because it believes that existing information is adequate. EPA will perform testing on some environmental effects for which no standards are available as described in I.E. of this preamble.

Oncogenicity testing of 1,1,1-trichloroethane is being performed by the National Cancer Institute (NCI) and the EPA believes that NCI studies should be sufficient for the Agency's needs; therefore, no oncogenicity testing is being proposed at this time.

EPA believes that mutagenicity testing according to a testing sequence would be appropriate, and will perform the initial testing itself because no criteria for progressing from initial test to higher level tests are available. EPA will propose higher tier tests if needed based on analysis of lower tier results.

The EPA has decided not to propose epidemiological testing at this time because a suitable study population has not been identified. No chronic effects testing is being proposed because the EPA is awaiting results of an ongoing NTP study which may provide sufficient data for the Agency's needs. The analysis and findings upon which the above determinations are based are presented in the 1,1,1-Trichloroethane Support Document which is available from the Industry Assistance Office.

C. Persons Required To Test

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing, distribution, use, or disposal. Processors are required to test if the findings are based on processing, distribution, use, or disposal.

Because of the potential for exposure of industrial workers, consumers and the environment during the manufacture, processing, use and disposal of 1,1,1-trichloroethane, the EPA is proposing to require that persons who manufacture or process 1,1,1-trichloroethane and those who intend to manufacture or process 1,1,1-trichloroethane within the period ending five years beyond the date required for the submission of the last final report of this test rule, will be subject to this test rule. Because "manufacture" is defined in section 3(7) of TSCA to include "import," importers of trichloroethane are subject to this rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are required to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) specifically provides that any person required to test may apply to EPA for an exemption from that requirement.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing. As noted below, EPA is interested in evaluating the effects attributable to 1,1,1-trichloroethane itself, and is specifying a test substance to achieve this purpose. Please see EPA's proposed statement of exemption policy for more information published in the **Federal Register** of July 18, 1980 (45 FR 48512).

D. Test Substance

All commercial grades of 1,1,1-trichloroethane contain up to 8 percent stabilizer(s). Although several hundred additives have been patented, most are not used regularly. Some of those which have been identified in the various commercial products and the percent by volume of the product are: nitromethane, 0.4–1.8 percent; butylene oxide, 0.4–0.8 percent; dioxane, 2.5–3.5 percent; dioxolane, 1.0–1.4 percent; methyl ethyl ketone, 1.0–1.4 percent; toluene, 1.0–1.4 percent; sec-butyl alcohol, 0.2–0.3 percent; and isobutyl alcohol, 1.0–1.4 percent. The potential toxicological effects of some of these stabilizers may make it difficult to evaluate 1,1,1-trichloromethane's toxicity from tests on a technical grade substance. Unstabilized 1,1,1-trichloroethane is available in small quantities at high cost; however, it is not known how long it remains pure once exposed to air. Therefore, EPA is proposing a 1,1,1-trichloroethane test substance containing 0.5 percent butylene oxide stabilizer for use in tests proposed in this rule for 1,1,1-trichloroethane. This product contains the least amount of stabilizer of any product available and is currently being used by NTP in an oncogenicity bioassay on 1,1,1-trichloroethane.

E. Proposed Testing

Because the most extensive human exposure is through inhalation, the proposed route of administration for the health effects testing is inhalation.

The route of administration for each environmental effects test is specified in the generic test standard for that test with exceptions as noted below.

The following are effects of concern discussed in I.C. of this preamble for which EPA is proposing testing.

1. *Teratogenicity.* The EPA is proposing that a structural teratogenicity study be conducted in accordance with the structural teratogenicity standards to be promulgated under 40 CFR 772.116–2. The proposed standard was published in the **Federal Register** of July 26, 1979 (44 FR 44054).

2. *Aquatic vertebrates—acute toxicity test.* The EPA is proposing acute toxicity testing on a coldwater species of freshwater fish in accordance with test standards to be proposed in the **Federal Register** in July 1981. The flow-through procedure is necessary because 1,1,1-trichloroethane is highly volatile. Evaporation of 1,1,1-trichloroethane in the static procedure would result in difficulty in maintaining nominal exposure levels.

3. *Aquatic vertebrates—chronic toxicity.* The EPA is proposing early life stage toxicity testing on a coldwater and warmwater freshwater fish species and on a coldwater saltwater fish species in accordance with test standards to be proposed in the **Federal Register** in July 1981. The coldwater freshwater species tested must be the rainbow trout (*Salmo gairdneri*) because this species is generally more sensitive to toxicants than the brook tyrout (*Salvelinus fontinalis*).

4. *Aquatic invertebrates—chronic toxicity.* The EPA is proposing life cycle toxicity testing on a freshwater and saltwater invertebrate in accordance with test standards to be proposed in the **Federal Register** in July 1981. The freshwater invertebrate test must be flow-through, or static with precautions taken to avoid loss of test substance due to the volatility of 1,1,1-trichloroethane. Evaporation of 1,1,1-trichloroethane in the static renewal procedure may result in difficulty in maintaining nominal exposure levels.

5. *Birds—chronic toxicity.* The EPA is proposing chronic toxicity testing in two species of birds in accordance with the test standard to be proposed in the **Federal Register** in July 1981. Does level

selection is proposed to be made as follows:

High dose (ppm)—2510 mg/kg x0.125
Medium dose (ppm)—0.167 X high dose
Low dose (ppm)—0.028 X high dose

Also, because 1,1,1-trichloroethane is highly volatile, special dietary procedures are proposed.

6. *Terrestrial plants—root elongation/seed germination.* The EPA is proposing root elongation/seed germination testing in accordance with the test standard to be proposed in the **Federal Register** in July 1981.

7. *Terrestrial plants—early seedling growth.* The EPA is proposing early seedling growth testing in accordance with the test standard to be proposed in the **Federal Register** in July 1981. Each species must be tested twice, once using the foliar route of exposure and once using the nutrient medium as the route of exposure, because plants may be exposed by either route and toxicity may significantly depend upon the route of exposure.

8. *Bioconcentration—plant uptake/translocation.* The EPA is proposing plant uptake/translocation testing in accordance with the test standard to be proposed in the **Federal Register** in July 1981. The most sensitive monocot and the most sensitive dicot observed in the early seedling growth test must be tested because high sensitivity may be the result of high rates of uptake, and bioconcentration potential may differ significantly between monocots and dicots. Testing on more species is recommended but not required. Each species must be tested twice, once using the foliar route of exposure and once using the nutrient medium as the route of exposure, because plants may be exposed by either route.

F. Reporting Requirements

For all testing propose for 1,1,1-trichloroethane, EPA is proposing that a Study Plan be submitted by the initiation date of the test and preferably earlier than this deadline. No interim reports are required. The proposed deadline for submission of the Final Report is 15 months for bird reproductive testing and the plant uptake/translocation test, and 12 months for all other tests. These deadlines are calculated from the effective date of the final rule. For a discussion of the basis of these time frames, see FR 48535 (July 18, 1980) and V. of this preamble.

G. Major Issues for Public Comment

1. Which product should be used for testing?

See III.D. of this preamble for discussion.

2. What procedures will assume maintenance of the desired dose levels of 1,1,1-trichloroethane when administered in the diet for bird feeding studies?

The volatility of 1,1,1-trichloroethane (vapor pressure-100 mm at 20°C) presents some difficulty in providing dosed diets for feeding studies since the compound may be lost relatively rapidly by evaporation. EPA is proposing a requirement that the time be determined over which 25 percent loss of 1,1,1-trichloroethane from the diet occurs, and that the replacement of treated diets be governed by this information. EPA is suggesting the use of corn oil as a vehicle to reduce the likelihood of test substance loss. EPA is interested in comments as to the adequacy of these procedures and the availability of alternative procedures to assume that the desired dose levels are achieved.

3. Should teratology testing be proposed?

The York et al. teratology study failed to demonstrate any maternal toxicity. Such toxicity is generally regarded as a mandatory element of any teratology test from which a reasonable determination of lack of teratogenic effects can be made. Nevertheless, this study was conducted at a level that was seven times the TLV. While it appears clear that this study would not be sufficient to reasonably determine that no unreasonable risk of teratogenicity exists, is the data sufficient to reasonably predict that no unreasonable risk of terata exists?

V. Reporting Requirements

A. Study Plans and Interim Quarterly Summary Reports

In the first proposed section 4 test rule published in the **Federal Register** of July 18, 1980 (45 FR 48510), EPA proposed requiring Study Plans for all tests required under any section 4 test rule and also Interim Quarterly Summary Reports for all long-term tests. EPA also proposed in the first rule that long-term test Study Plans must be submitted 90 days before initiation of the test, while short-term test Study Plans only need to be submitted by the date of test initiation. The rationale behind these proposed requirements was provided in the first test rule and will therefore not be repeated here. An analysis of the comments received on these proposed requirements will be provided in the preamble to the final rule based on the July 18, 1980 proposal which should be promulgated in the fall of 1981. Any changes made as a result of those comments will be reflected in the final rule for dichloromethane, nitrobenzene, and 1,1,1-trichloroethane.

Interim reporting requirements are proposed for cardiovascular testing because it is a lengthy test. Interim reports would provide a current status of the study. These reports should be brief and impose minimal burden, but would provide summary information on such things as hemodynamic parameters, statistics on the hemodynamic parameters, histopathological changes in tissues examined, and biochemical parameters. Because dosing is proposed to be performed sequentially, EPA is proposing that the reports be submitted at the end of each testing sequence rather than on a quarterly basis.

Reporting requirements for reproductive effects were discussed in the July 18, 1980 proposal (45 FR 48510). Because of the length of the test, submission of a Study Plan at least 90 days prior to the start of testing and submission of Interim Quarterly Summary Reports were proposed.

All remaining tests proposed in this rule (i.e., dermal sensitization testing and all environmental effects and fate testing) are short-term tests; therefore, Study Plan deadlines are the date of test initiation and no Interim Quarterly Summary Reports are required.

B. Final Report Deadline

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. In determining deadlines for submission of Final Reports for each type of test, EPA has considered and allowed an amount of time it believes is reasonable for a number of factors that affect the time period needed for satisfactory testing. These factors include coordination among persons subject to the rule to permit agreement on joint testing programs, development of Study Plans, set-up and execution of required tests, analysis of test results, and preparation of Final Reports. The proposed time frame for these factors as they relate to tests proposed in this rule on structural teratogenicity, reproduction, and subchronic effects are detailed in the first proposed section 4 test rule published in the **Federal Register** of July 18, 1980 (45 FR 48510). An analysis of comments received on the first proposed rule will be provided in the preamble to the final rule based on the July 18, 1980 proposal which should be promulgated in the fall of 1981.

Using the same approach as was used in the July 18, 1980, proposal, the

proposed Final Report deadline for subchronic cardiovascular testing (23 months after the effective date of this rule) has been determined in Table 1 by adding the time estimated to accomplish each of the tasks listed above.

Table 1.—*Time frame for subchronic cardiovascular testing (months)*

Activities	Allotted times
1. Coordination among test sponsors	2
2. Study plan preparation [1]	4
3. 90-day pre-test reportng requirement	3
4. Test performance [2]	9
5. Analysis of test results, preparation of final report	5
6. Final report deadline	23

[1] Study Plan preparation: The time period allotted for Study Plan preparation is indicated below and is designed to permit the necessary activities precedent to initiation of the required testing.

[2] Time periods reflect time to perform three tests in accordance with the maximum number of repetitions in EPA's test rule.

Study Plan Time Frame (months)

Activities	Time allotted
1. Acquisition and acclimation of test animals	1
2. Development of experimental protocol	1
3. Control catheterization for each dog following exposure to air for one week in inhalation chamber	1
4. Determination of epinephrine doses in each dog for the cardiac sensitization portion of the protocol	1
Total	4

For all other tests EPA proposes that a Final Report deadline of 12 months from the effective date of the Final Rule is reasonable with the exception of the bird reproduction test and the plant uptake/translocation test, which are allowed 15 months each. These proposals are based on the fact that each test, except bird reproduction and plant uptake/translocation, has a comparable or shorter test performance time period than the 90-day subchronic health effects test for which a Final Report deadline of 12 months was proposed in the first rule. When the other activities, (i.e., coordination among test sponsors, Study Plan preparation, data analysis, and Final Report preparation), were considered collectively, the time period for each test was determined to be comparable or shorter than the 90-day subchronic health test. The Final Report deadline for the bird reproduction test includes an additional three months because the test performance period lasts 5–6 months. The Final Repart deadline for the plant uptake/translocation test also includes an additional three months because the test performance period lasts 4–6 months.

VI. General Issues for Public Comment

The public is encouraged to submit comments on various matters discussed in the preamble and accompanying support documents In addition, EPA specifically requests comments on the issues relating to specific chemicals highlighted at the end of each chemical specific section and the general issues discussed below.

1. Should section 4(a)(1)(B) findings be made on a case-by-base basis or should criteria be developed for substantial production/release and exposure? If so, what criteria should be recommended?

EPA has chosen to make section 4(a)(1)(B) findings on a case-by-case basis in this rule rather than define criteria for substantial production, substantial release and substantial or significant human exposure. The Agency believes that it does not have the experience at this time to establish such criteria. If specific criteria are desirable for future test rules, EPA would appreciate specific recommendations and why they are appropriate.

2. Are the effects of concern identified by EPA appropriate for the chemicals in this rulemaking?

In I.C. of this preamble EPA identified certain health effects for dichloromethane and 1,1,1-trichloroethane and environmental effects for all three chemicals contained in this rule on the basis of exposure characteristics for the purposes of determining the adequacy of information under a section 4(a)(1)(B) finding. The Agency seeks comment on whether there are available data or exposure to reasonably determine or predict the effects of chemicals in some or all of the identified areas of concern or if additional areas of testing should be considered by EPA.

3. Are the reporting deadlines proposed in today's rule appropriate?

This rule proposes reporting requirements for the subchronic cardiovascular test, dermal sensitization test, and various environmental effects (see V. of this preamble). Reporting deadlines for other health effects were proposed in the **Federal Register** of July 18, 1980 (45 FR 48535).

VI. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of test rules, EPA has adopted a 2-stage approach. All candidates for test rules go through a Level I analysis; this analysis consists of evaluating each chemical (or chemical group) on four principal market characteristics: (1) demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations. The results of the Level I analysis (along with consideration of the cost of the required tests) indicate whether the possibility of a significant adverse economic impact exists. Where the indication is negative, no further economic analysis is done for that chemical substance or group. However, for those chemical substances or groups where the Level I analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted. This Level II analysis attempts to predict more precisely the magnitude of the expected impact.

Cost of the Test Requirements for Nitrobenzene, Dichloromethane, and 1,1,1-Trichloroethane

[Dollars in thousands]

Compound	Total cost	Annualized cost[1]
Nitrobenzene	$224–708	$58.1–183.4
Dichloromethane	236–744	61.3–192.8
1,1,1-Trichloroethane	86–292	22.4– 75.8

[1] 25 percent cost of capital for 15 years.

A. Dichloromethane

The Level I analysis indicated that no significant economic impact to dichloromethane producers would result from the proposed test rule. A Level II analysis was unnecessary.

This conclusion is based on the following considerations: first, the demand for dichloromethane in its major markets appears to be relatively insensitive to changes in price. Furthermore, the market outlook for dichloromethane is quite optimistic. In addition, the per unit cost increase attributable to testing is very small, up to 0.03 cents per lb., or 0.15 percent of the 1979 price (based on 1979 production of 633.2 million lbs.). Such small cost increases could probably be passed on by producers and none of the producers should be particularly impacted by the increased cost.

B. Nitrobenzene

The Level I analysis indicated that the proposed test rule will not pose any significant economic impact on nitrobenzene manufacturers. A Level II analysis was not needed.

This conclusion is based upon the following considerations: first, the demand for nitrobenzene (and products derived from nitrobenzene) appears to be expanding and market prospects for this compound seem quite good. Second, a small number of large firms produce nitrobenzene, and no firm is expected to be placed at a comparative disadvantage due to testing costs. In addition, the per unit cost increase due

to testing is extremely small, about .01 to .02 cents per pound or .03 percent to .08 percent of the 1979 price (based on 1979 production of 952.4 million lbs.).

C. 1,1,1-Trichloroethane

Again, the Level I analysis indicated that the proposed test rule will not pose any significant economic impact on 1,1,1-trichloroethane producers. A Level II analysis was not needed.

The following factors contributed to this conclusion: first, the demand for 1,1,1-trichloroethane is expected to grow modestly but steadily. Second, the firms producing 1,1,1-trichloroethane all have a significant share of the market and none are expected to be at a comparative disadvantage in absorbing costs. Finally, the per unit cost increase due to testing is extremely small, ranging up to .01 cent per pound or 0.07 percent of the 1979 price (based on 1979 production of 716.3 million lbs.).

VIII. Availability of Test Facilities and Personnel

In addition to the requirements discussed previously, section 4(b)(1) requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing proposed in this rule." The Agency believes that there will be available resources to perform the required testing. EPA today proposes testing for three single chemicals only and anticipates that many manufacturers and processors subject to the rule will elect to arrange for joint testing or apply for an exemption from testing to minimize the number of tests that will be performed. Furthermore, this is only the second test rule proposed by EPA; therefore, the cumulative impact of EPA actions would be expected to be small. Because this may not be the case after EPA promulgates several test rules, EPA has initiated a study of the availability of test facilities for future section 4 test rules.

IX. Environmental Impact Statement

EPA is not required to prepare environmental impact statements under the National Environmental Policy Act (NEPA), 41 U.S.C. 4321 et seq. for test rules, and has determined that voluntary preparation of an environmental impact statement is not appropriate for regulations issued under section 4 of TSCA. See the preamble to the Agency's rules for compliance with NEPA published in the **Federal Register** of November 6, 1979 (44 FR 64174).

X. Public Meetings

If persons wish to present comments and questions on these proposed rules to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting on September 17, 1981 in Washington, D.C. An opportunity for presentation of oral comments is required by section 4(b)(5). This meeting is scheduled after the deadline for submission of written comments on the proposed rule to allow EPA and the public commentors to discuss issues raised in written comments. Information on the exact time and place of the meeting is available from the Industry Assistance Office.

Persons who wish to attend or present comments at the meeting should call the OTS Industry Assistance Office toll-free number 800–424–9065 (in Washington, D.C., 554–1404). While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and designated EPA participants. Persons who wish to attend the meeting should call the Industry Assistance Office before making travel plans since the meeting will not be held if members of the public do not wish to make oral comments.

The Agency will transcribe each meeting and will include the written transcripts in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

XI. Public Record

EPA has established a public record for this rulemaking (docket number OPTS–47004) which is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. on working days (Rm. E–107, 401 M St., SW., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following information:

(1) **Federal Register** notices pertaining to this rule:

(a) Notice of proposed rule on nitrobenzene, dichloromethane and 1,1,1-trichloroethane.

(b) Notices containing the ITC designation of nitrobenzene, dichloromethane and 1,1,1-trichloroethane to the Priority List.

(c) Notices containing EPA's proposed health effects test standards and Good Laboratory Practice Standards (44 FR 27334 and 44 FR 44054).

(d) Notice of proposed rule on exemption policy and procedures.

(e) Notice containing the Notice of Proposed rule on reimbursement policy and procedures.

(f) Notice containing EPA's proposed environmental effects test standards.

(g) Notice containing EPA's proposed chemical fate test standards.

(h) Notice of proposed rulemaking on chloromethane and chlorinated benzenes (45 FR 48524).

(2) Support documents:

(a) Dichloromethane Support Document.

(b) 1,1,1-Trichloroethane Support Document.

(c) Nitrobenzene Support Document.

(d) Level I Economic Evaluation: Dichloromethane.

(e) Level I Economic Evaluation: 1,1,1-Trichloroethane.

(f) Level I Economic Evaluation: Nitrobenzene.

(3) Minutes of Informal Public Participation Meetings.

(4) Communications Before Proposal:

(a) Written: Public and Intra-agency or Interagency Memoranda and Comments.

(b) Memoranda of telephone conversations.

(c) Meetings.

(5) Public comments on the ITC reports.

(6) Reports—published and unpublished data.

XI. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. The regulations for these three chemical substances are not major because they do not meet any of the criteria set forth in section 1(b) of the Order. First, the annual cost of the testing prescribed for the three chemicals is less than $1 million over the testing and reimbursement period. (Nitrobenzene: $58,000–182,000; 1,1,1-Trichloroethane: $60,000–188,000; dichloromethane: $84,000–261,000.) Second, because the cost of the required testing will be distributed over very large quantities of production, the rules will have only very minor effects (less than 0.1 percent a year) on producer's cost or user's prices for each of the chemicals. Finally, taking into account the nature of the market for these products, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic effects of any type as a result of this rule.

The regulation was submitted to the Office of Management and Budget for

review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA response to those comments, are included in the public record.

XIII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), (15 USC 601, Pub. L. 96-354, Sept. 19, 1980), EPA is certifying that these testing rules, if promulgated, will not have a significant impact on a substantial number of small entities.

The test rules, if promulgated, may impose some costs on manufacturers, processors and users of the chemicals. Manufacturers (which, for the purposes of this rule includes importers) and processors of the chemicals will be subject to a requirement to either perform the required testing, or obtain an exemption based on the fact that the testing will be carried out by another person. Although EPA has not adopted a definition of small business for TSCA section 4 purposes, EPA's economic analysis has identified the manufacturers and importers of the three chemicals and none of these firms could be considered a small business by any reasonable definition. All have total sales in excess of $100 million.

The Agency has not attempted to identify the large number of companies which would be subject to these testing rules as "processors." However, even assuming that a large number of these processors are small businesses, EPA has several bases for concluding that none will experience a significant economic impact as a direct result of these rules.

1. Small processors will not perform testing themselves, or to participate in organization of the testing effort. Based on comments from industry, EPA expects that, after this rule becomes final, manufacturers of the substance (and perhaps major processors) will attempt to organize a testing consortium to pay for the required testing. After a suitable period, one or more parties are expected to indicate to EPA that they will take responsibility for developing the required data. Because there are many large companies involved with each of these chemicals, both as manufacturers and processors, there is no reason to anticipate that any small business will be involved in these discussions.

2. Small processors will experience only very minor costs in securing exemption from testing requirements. Once these testing responsibilities are accepted, persons not included in the testing consortium (including any small business) would be required to obtain an exemption from testing [TSCA section 4(c)]. EPA believes that the cost of applying for an exemption would be very small. Under the proposed exemption policy published in the Federal Register of July 18, 1980 (45 FR 58512) the application would need to identify the applicant, the requirements from which the applicant was seeking an exemption, and citation of the study or studies upon which the exemption may be based. These minimal requirements may be reduced even further in light of comments on the proposed exemption policy.

3. Small processors are unlikely to be affected by reimbursement requirements. Any person who receives an exemption would be subject to a statutory requirement [TSCA section 4(c)(3)] to provide a "fair and equitable reimbursement" to the person or persons who assumed prime responsibility for testing. However, EPA believes that the legal liability of small processors to provide reimbursement is likely to remain a theoretical one, because existing voluntary testing groups often waive reimbursement from many small manufacturers and most processors. Therefore such processors will not be directly affected by the need to provide reimbursement or by the administrative costs of participation in the reimbursement process. EPA's proposed reimbursement rules presume that only manufacturers will contribute directly, although they leave open the possibility that manufacturers will seek contributions from some or all processors in particular situations. If reimbursement is sought from processors, the extent of the burden to be imposed on small businesses will depend on EPA's reimbursement procedures, including reporting requirements for processors and the formula for allocating testing costs between processors and manufacturers, and among processors. However, even in these cases the impact on processors would be softened by the TSCA requirement that market share and competitive position be considered in determining reimbursement. A more detailed discussion of the impact of these features on small businesses will be found in EPA's forthcoming proposed rule for section 4 reimbursement.

Processors of the chemicals which are not subject to reimbursement requirements, and users of the chemicals, may experience an indirect impact as a result of cost increases imposed on manufacturers and other persons who either pay for the testing initially or provide reimbursement to those who do. However, even if the entire per-pound cost is passed on through the market, EPA's Economic Evaluation shows that there would be no significant impact. The estimated percentage cost increase which may result from these rules is a fraction of one percent per chemical.

XIV. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA) (44 U.S.C. 3501 *et seq.*) authorizes the Director of the Office of Management and Budget to review certain information collection requests by federal agencies. The test rules proposed in this notice, if promulgated, could result in the submission of several types of information related to the required testing, including study plans for each test required, interim reports on the status of certain tests as they are being conducted, and final reports for all tests by various manufacturers and processors subject to the testing requirement. For the reasons set out below, however, EPA believes that the test rules contained in this notice do not constitute information collection requests as defined in the PRA.

On the basis of industry comments, EPA believes that in most cases a single consortium or person would step forward to perform all the tests or one particular test for a chemical. If one or more persons accept responsibility for the conduct of testing, under section 4(c) of TSCA other manufacturers and processors of the chemical may be relieved from performance of testing by application to the Administrator although they might bear some responsibility for the costs of testing. Thus the requirements for submittal of a study plan, interim reports, and a final report for required tests do not appear to constitute an "information collection request" under sections 3502(4) and (11) of PRA, because they would not impose identical reporting requirements on ten or more persons. Even if several persons take responsibility for testing, the reporting called for by these rules consists of information which is uniquely related to the different tests which are being required.

EPA's rules for submittal of exemption applications under section 4(c) of TSCA were proposed on July 18, 1980 (45 FR 48512). Section 770.405 and .406 of EPA's proposed rules set forth the requirements for filing and content of exemption applications. Because these rules were proposed before the effective date of the PRA, they were not subject to that portion of the Act which requires that proposed rules containing a collection of information requirement be submitted to the Director of OMB. Nevertheless, the actual exemption

application process is triggered by the promulgation of test rules on particular chemicals. In view of this, it is possible that proposal of particular test rules may be viewed as the appropriate time for OMB review of the information collection aspects of exemption applications. However, EPA believes a generic treatment of the applicability of the requirements of the PRA to exemptions is more appropriate. EPA takes this position because the Agency is considering suggestions for modification of the exemption reporting requirement contained in the July proposal which, if accepted, would minimize the significance of this issue. Comments received on that proposal suggested that in certain circumstances exemptions be granted automatically, without the requirement for an application. Because the issues relating to exemption applications were fully addressed in that earlier rulemaking, EPA is not requesting comment on the subject in this notice.

Imposition of testing requirements could eventually trigger a requirement to report certain information in connection with a reimbursement proceeding. Comments from interested industries cause EPA to believe that this will happen only rarely. EPA's proposed reporting requirements in connection with reimbursement proceedings will be addressed in a forthcoming notice.

Although this proposed rule does not contain any information collection requirement subject to the review and clearance functions of the PRA, in the course of reviewing these testing rules and associated requirements such as exemption rules, EPA will give full consideration to whether the information sought is necessary and will have practical utility to the Government. In addition, if a determination is later made that any of these requirements are subject to the PRA, EPA will ensure that any information collection contained in the final rule fully complies with the applicable procedural requirements.

Dated: May 29, 1981.

Anne M. Gorsuch,

Administrator.

Therefore, it is proposed that Chapter I of 40 CFR Subpart B be amended by adding §§ 773.1500, 773.3050 and 773.4400 to proposed Part 773 to read as follows:

Subpart B—Chemical Substances

§ 773.1500 Dichloromethane.

(a) *Identification of test substance.* (1) Dichloromethane (CAS 75–09–2, also know as methylene chloride) shall be tested in accordance with this Part.

(2) Dichloromethane of 99.95% purity or greater and specific gravity of 1.320, shall be used as the test substance in all tests. The test substance shall contain no stabilizers.

(b) *Persons required to test.* (1) All persons who manufacture, process, or intend to manufacture or process dichloromethane from (effective date of this rule) to (five years form the date the last final report is due) shall conduct tests and submit data as specified by this Part.

(2) Any person subject to the requirements of this section may apply to EPA for an exemption from testing pursuant to Subpart E of Part 770.

(c) *Health effects testing*—(1) *Acute effects-dermal sensitization*—(i) *Required testing.* (A) An acute dermal sensitization study shall be conducted on dichloromethane in accordance with the test standard in 772.112–26 of this chapter.

(B) The route of administration shall be intradermal injection. Appropriate dilution must be done if excessive irritation or ballooning of tissue occurs using neat dichloromethane.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to EPA no later than 12 months after the effective date of this rule.

(2) *Subchronic cardiovascular toxicity*—(i) *Study design.* (A) *Species and age.* Testing must be performed on young adult dogs.

(B) *Number and sex of animals.* At least three dogs must survive the test period. Dogs of the same sex are required.

(C) *Exposure concentration level.* The dogs will be exposed initially to 250 ppm dichloromethane in an inhalation chamber. However, if repetition of the study is required based on a determination described in paragraph (c)(2)(iii) of this section, each repetition shall use one-half the previous exposure concentration.

(D) *Duration of testing.* Animals must be exposed to dichloromethane at least 7 hours per day, 5 days per week over a 90-day period.

(E) *Controls.* Each dog shall serve as its own control.

(ii) *Study conduct.* Standards for the performance of a subchronic inhalation study can be obtained in § 772.112–33 of this chapter. General laboratory practice standards for health effects testing published in section 772.100–2 of this chapter must be followed.

(A) *General.* Each dog must be challenged with epinephrine hydrochloride prior to the exposure to dichloromethane and once a month thereafter during the 90 day test period. This experiment must be carried out prior to the cardiac catheterization (or equivalent technique for hemodynamic measurements) since it is important that stress to the animal be minimized during this procedure. The epinephrine should be administered intravenously and only electrocardiographic (EKG) monitoring is required. Prior to dichloromethane exposure, each dog shall be challenged with increasing doses of epinephrine to establish a minimum effective dose which would give rise to ectopic beats or more serious arrythmias in the individual animals. EKG changes must be recorded during each drug challenge. This procedure shall be repeated at 1, 2 and 3 month intervals during exposure to dichloromethane. When determining the new minimum effective dose at each 30-day time period, the starting dose for epinephrine in the series of challenges shall be 1/5 of the previously established minimum effective dose. Increased doses of epinephrine should be administered at 30 minute intervals until a new minimum effective dose is established.

(B) *Observations.* Animals must be under surveillance for any overt physiological and behavioral changes during inhalation exposure.

(C) *Catherterization.* (*1*) The procedure to be used for the cardiotoxicity testing of dichloromethane is right and left heart catheterization in the unanesthetized dog. Guidance for the methodology can be obtained by modification of the procedure of Will and Bisgard (1972). Cardiac catheterization of unanesthetized large domestic animals. (Journal of Applied Physiology. 33: 400–401). However, other established techniques using the unanesthetized dog are acceptable provided that the technique allows for the accurate measurement of the designated hemodynamic parameters. Several techniques are documented in the literature which utilize indwelling monitoring devices such as catheters and pressure transducers. These procedures may lead to difficulty in maintaining animal survival for the specified treatment period. However, if a procedure is employed using indwelling monitoring devices, a non-halogenated anesthetic which has no cardiac activity shall be used to carrry out the surgical implantation of such devices. In addition, an adequate postoperative period shall be allowed for recovery from the anesthesia since all hemodynamic measurements must be

determined on the unanesthetized animal.

(2) A control cardiac catheterization shall be performed on each animal following a one week exposure to circulating air in an inhalation chamber for seven hours per day, five days per week. Following the control period, each dog shall be exposed in an inhalation chamber to an atmospheric concentration of 250 ppm dichloromethane. At the end of each 30 day interval, a left and a right heart catheterization shall be performed on each animal. If a technique is employed which necessitates a catheterization prior to each data collection, a minimum of a one hour equilibration period is required between the completion of catheterization and the initiation of data collection. In the event that indwelling devices are used in the study, a minimum of one hour equilibration period is also required for each dog after it has been secured to the monitoring instrument(s).

(D) *Cardiovascular testing.* (1) The parameters which are to be measured in each animal during the control catheterization and the catheterization performed at 30 day intervals during exposure are as follows: atrial and pulmonary capillary wedge pressures; ventricular pressures; aortic and pulmonary artery pressures; blood O_2 saturations; the calculation of cardiac output (e.g., using the Fick Principle or the Indicator Dilution Method) and vascular resistance; the rate of rise of left ventricular pressure with time (LV dP/dt); electrocardiogram—Standard Lead II; heart rate; and determination of dichloromethane content in the blood.

(2) A control carboxyhemoglobin measurement must be made followed by a measurement at two and four weeks after the start of exposure to dichloromethane. If the two and four week measurements do not differ statistically from the control measurement of each dog, carboxyhemoglobin measurements may be performed at one month intervals, thereafter. However, if the carboxyhemoglobin levels recorded at the second and fourth weeks are statistically different from the control measurements, carboxyhemoglobin analysis should then be performed at two week intervals until the termination of exposure. Procedures and literature references for carboxyhemoglobin analysis of the blood can be obtained by references to Curtius and Roth (1978. Clinical biochemistry: principles and methods, Vol. II Berlin/New York: Walter de Gruyter and Co.).

(E) *Body weights.* Animals must be weighed at least weekly. At the end of the 90-day experimental period the dogs will be sacrificed for pathological examination.

(F) *Handling of moribund and dead animals.* All moribund animals must be sacrificed and undergo gross necropsy; the designated tissues must be taken for histopathology. Those animals found dead during the course of the study must undergo gross necropsy and the tissues designated for histopathology must be salvaged if death occurred within 16 hours of necropsy.

(G) *Pathology procedure*—(1) *Gross necropsy.* The gross necropsy shall include an initial physical examination of the external surfaces and all orifices followed by an internal examination of tissue and organs in situ. Speical examination shall be made and reported concerning th stutus of the pericardial sac, any abnormalties of the pericardial fluid, epicardial surface, coronary arteries, myocardium, endocardium, atria septa, valves, chordac tendinae, and papillary muscles. The thickness of the myocardium of the right and left ventricles shall be measured and recorded. In addition, a detailed gross examination shall be made of any gross lesions, the lungs, kidneys, liver adrenals and aorta.

The weight of the heart, lungs, liver, and kidneys shall be recorded after careful dissection and trimming.

(2) *Histopathology examinations.* Histopathological examinations are required only when a significant change is observed in one or more of the following parameters after 90 days of exposure: the minimum effective dose of epinephrine which produced ectopic beats and/or more serious arrythmias, electrocardiogram carboxyhemoglobin levels in the blood, cardiac output, LV dp/dt, and ventricular pressures. Following tissue fixation in an appropriate fixative for the specific tissue(s), the following microscopic examination shall be made: all gross lesions (with a margin of normal tissue); heart (representative sections of the atrium, right and left ventricles, including SA and AV nodal tissue, and cross sections of the right and left coronary arteries); lungs (representative sections from each lobe(s)); liver (two lobes); kidneys (representative sections from both kidneys to include cortex, medulla, and renal pelvis); aorta (representative section from abdominal aorta at iliac bifurcation and arch of aorta at the origin the bracheocephalic branches, left common carotid, and left subclavian arteries.

(iii) *Data evaluation.* Statistical analysis on all measured hemodynamic parameters should be carried out using an analysis appropriate to the repeated measures design of the study. Examples of such analysis include analysis of variance (or Friedman's ranked sums) and profile analysis; however, the multiple paired t-test on control versus dosed time periods or pairwise Hotelling's T^2 using all parameters simultaneously will be considered acceptable. If, at the end of the 90 day experimental period, exposure to 250 ppm dichloromethane does not result in statistically significant alterations from control in the electrocardiogram and one of the following parameters: ventricular pressure, cardiac output and vascular resistance, or LV dP/dt, then no additional testing need be done. Measurement of these parameters is required by paragraph (c)(3)(ii)(D)(1). On the other hand, if exposure to dichloromethane *does cause* statistically significant alterations from control in the electrocardiogram and one of the following parameters: venticular pressure, cardiac output and vascular resistnace, or LV dP/dt, then the 90 day subchronic study must be repeated two additional times unless a no observable effect level is reached on the first repetition. Each repetition of the study shall use one-half the previous exposure concentration.

(iv) *Reporting Requirements.* (A) A study plan shall be submitted at least 90 days before the initiation of the study. The following information shall be included: identification of the sponsor and the testing facility; qualifications and training of the personnel involved with the study; a detailed study protocol; and dates for initiation and completion of major phases of the subchronic study along with a schedule for the submission of interim and final reports.

(B) An interim summary report containing a statistical analysis of all of the test results and histopathology data shall be submitted to EPA within 30 days of completion of each testing sequence.

(C) The Final Report shall be submitted to EPA no later than 23 months after the effective date of the final test rule. This report shall include a summary and analysis of all test results including electrocardiograms, hemodynamic parameters, biochemical tests, behavioral changes, and histopathology, from each testing sequence as well as an overall summary and interpretation of the data. In addition, verified copies of all raw data such as laboratory notebooks and EKG recordings shall be submitted to the Agency with the final report.

(3) *Reproductive effects*—(i) *Required testing.* (A) Testing for reproductive

effects shall be performed in accordance with the test standard in § 772.116–3 of this chapter.

(B) The route of administraion shall be inhalation.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA at least 90-days prior to the start ot testing.

(B) Interim Quarterly Summary Reports shall be submitted to the EPA during the test period.

(C) The Final Report shall be submitted to EPA no later than 30 months after the effective date of this test rule.

(d) *Environmental effects and fate testing*—(1) *Aquatic vertebrates—chronic toxicity*—(i) *Required testing.* Early life stage toxicity tests on the fathead minnow (*Pimephales promelas* Rafinesque), rainbow trout, (*Salmo gairdneri*) and sheepshead minnow (*Cyprinodon variegatus*), shall be performed in accordance with the test standard in [insert CFR # when available].

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to the EPA no later than 12 months after the effective date of this rule.

(2) *Aquatic invertebrates—chronic toxicity*—(i) *Required testing.* Flow-through life cycle toxicity tests on *Daphnia magna* or *Daphnia pulex* and on *Mysidopsis bahia* shall be performed in accordance with the test standards in [insert CFR # when available].

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to the EPA no later than 12 months after the effective date of this rule.

(3) *Birds—acute toxicity*—(i) *Required testing.* (A) Single oral dose acute toxicity tests on two species of birds shall be performed in accordance with the proposed FIFRA guidelines in § 163.71–1 of this chapter.

(B) An acute oral LD_{50} must be calculated or extrapolated in addition to determination of an LD_{50}.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to the EPA no later than 12 months after the effective date of this rule.

(4) *Birds—chronic toxicity*—(i) *Required testing.* (A) Bird reproduction tests on two species of birds shall be performed in accordance with the test standard in [insert CFR # when available].

(B) Dose level selection must be as follows:

High Dose (ppm)—0.125 × LD_{50} (in mg/kg) obtained in single oral does acute bird toxicity test

Medium dose (ppm)—0.167 × high dose

Low dose (ppm)—0.28 × high dose

(c) The following special procedures must be followed for diet preparation.

(*1*) The time over which 25 percent loss of test substance from the diet occurs must be determined. The treated diet offered to test birds must then be replaced at a frequency so that there will not be more than a 25 percent reduction from initial concentrations.

(*2*) To meet the above requirement, it is suggested that corn oil be used as a test substance carrier because it is likely to reduce loss from volatilization. Also, care should be taken at the end of each day to ensure that birds do not have the opportunity to eat treated diets that may lose more than 25 percent of the test substance before the next replacement.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to the EPA no later than 15 months after the effective date of this rule.

(5) *Terrestrial plants—early seedling growth*—(i) *Required testing.* (A) Early seedling growth tests shall be performed in accordance with the test standard in [insert CFR # when available].

(B) The test shall be performed twice for each species, once using the foliar route of exposure and once using the nutrient medium as the route of exposure.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted no later than 12 months after the effective date of this rule.

(6) *Bioconcentration—plant uptake/translocation*—(i) *Required testing.* (A) A plant uptake/translocation test shall be performed in accordance with the test standard in [insert CFR # when available].

(B) Testing is required on a minimum of two species—the most sensitive monocot and the most sensitive dicot as determined in the early seedling growth test required in paragraph (d)(5) of this section. Testing of more species is recommended but not required.

(c) The test shall be performed twice for each species, once using the foliar route of exposure and once using the nutrient medium as the route of exposure.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted no later than 15 months after the effective date of this rule.

(7) *Bioconcentration — aquatic vertebrates*—(i) *Required testing.* A bioconcentration test shall be performed in accordance with the test standard in [insert CFR # when available].

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted no later than 12 months after the effective date of this rule.

§ 773.3050 Nitrobenzene.

(a) *Identification of test substance.* (1) Nitrobenzene (CAS No. 98–95–3, also known as nitrobenzol and oil of mirbane) shall be testing in accordance with the Part.

(2) Nitrobenzene of at least 99.9 percent purity shall be used as the test substance in all of these tests.

(b) *Persons required to test.* (1) All persons who manufacture, process, or intend to manufacture or process nitrobenzene from (effective date of the rule) to (five years from the date the last final report is due) shall conduct tests and submit data as specified by this Part.

(2) Any person subject to the requirements of this section may apply to EPA for an exemption from testing pursuant to Subpart E of Part 770 of this chapter.

(c) *Health effects testing*—(1) *Reproductive effects*—(i) *Required testing.* (A) Testing for reproductive effects on one rodent species shall be performed in accordance with the test standard § 772.116–3 of this chapter.

(B) The route of administration shall be inhalation.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA at least 90 days prior to the start of testing.

(B) Interim Quarterly Summary Reports shall be submitted to EPA during the test period.

(C) The Final Report shall be submitted to EPA no later than 30 months after the effective date of this rule.

(2) *Structural teratogenic effects*—(i) *Required testing.* (A) A test for structural teratogenicity shall be conducted on nitrobenzene in accordance with the test standard in § 772.116–2 of this chapter. The rat and one other species shall be tested.

(B) The route of administration shall be inhalation.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation of the testing.

(B) No interim summary reports are required.

(C) The Final Report shall be submitted to EPA no later than 12 months after the effective date of this rule.

(d) *Environmental effects and fate testing*—(1) *Aquatic vetebrates—acute toxicity*—(i) *Required testing.* A static acute toxicity test on the rainbow trout (*Salmo gairdneri*) shall be performed in accordance with the test standard (insert CFR # when available).

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted no later than 12 months after the effective date of this rule.

(2) *Aquatic vertebrates—chronic toxicity*—(i) *Required testing.* (A) Early life stage toxicity tests on the rainbow trout (*Salmo gairdneri*), fathead minnow (*Pimephales promelas* Rafinesque) and sheepshead minnow (*Cyprinodon variegatus*), shall be preformed in accordance with the test standard in (insert CFR # when available).

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to EPA no later than 12 months after the effective date of this rule.

(3) *Aquatic invertebrates—chronic toxicity*—(i) *Required testing.* (A) A static renewal life cycle test on *Daphnia magna* or *Daphnia pulex* and a flow-through life cycle test on *Mysidopsis bahia* shall be performed in accordance with the test standard in (insert CFR # when available).

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to EPA no later than 12 months after the effective date of this rule.

(4) *Birds—acute toxicity*—(i) *Required testing.* (A) Single oral dose acute toxicity tests on two species of birds shall be performed in accordance with the proposed FIFRA guidelines under § 163.71–1 of this chapter.

(B) An acute oral LD_{10} must be calculated or extrapolated in addition to determination of an LD_{50}.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to EPA no later than 12 months after the effective date of this rule.

(5) *Birds—chronic toxicity*—(i) *Required testing.* (A) Bird reproduction tests on two species of birds shall be performed in accordance with the test standard in (CFR # when available).

(B) Dose level selection must be as follows:

High dose (ppm)—0.125 × LD_{10} (in mg/kg) obtained in the single oral dose acute bird toxicity test

Medium dose (ppm)—0.167 × high dose

Low dose (ppm)—0.028 × high dose

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to the EPA no later than 15 months after the effective date of this rule.

(6) *Terrestrial plants—early seedling growth, seed germination/root elongation.* (i) *Required testing.* (A) Early seedling growth and seed germination/root elongation tests shall be performed in accordance with the test standards in (insert CFR # when available).

(B) The early seedling growth test shall be performed twice for each species, once using the foliar route of exposure and once using the nutrient medium as the route of exposure.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to EPA no later than 12 months after the effective date of this rule.

(7) *Bioconcentration—plant uptake/translocation*—(i) *Required testing.* (A) A plant uptake/translocation test shall be performed in accordance with the test standard in (insert CFR # when available).

(B) Testing is required on a minimum of two species—the most sensitive monocot and the most sensitive dicot as determined in the early seedling growth test required in paragraph (d)(7) of this section.

(C) The test shall be performed twice for each species, once using the foliar route of exposure and once using the nutrient medium as the route of exposure.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted no later than 15 months after the effective date of this rule.

(8) *Soil adsorption*—(i) *Required testing.* (A) Testing for soil adsorption shall be conducted in accordance with the test standard in § 772.122–5 of this chapter.

(B) At least one soil from each of the following soil orders must be used in the soil thin-layer chromatography test method: Alfisol, Inceptisol, Mollisol, and Vetisol. Each soil must have: an organic matter content between one and four percent; a pH between five and seven; and a cation exchange capacity between 7 and 25 meq/100g. At least one soil must have Kaolinite as its dominant clay mineral; in addition, the other soils must have illite or montmorillonite as the dominant clay mineral. Also, at least one soil must have a redox potential more negative than −185mV.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of testing.

(B) No interim reports are required.

(C) The Final Report shall be submitted to EPA no later than 12 months after the effective date of this rule.

§ 773.4400 1,1,1-Trichloroethane.

(a) *Identification of test substance.*

(1) 1,1,1-Trichloroethane (CAS NO. 71–55–6, also known as methyl chloroform) shall be tested in accordance with this Part.

(2) 1,1,1-Trichloroethane stabilized with 0.5 percent butylene oxide shall be used as the test substance in all tests.

(b) *Persons required to test.* (1) All persons who manufacture, process or intend to manufacture or process 1,1,1-trichloroethane from (effective date of the rule) to (5 years from the date the last final report is due) shall conduct tests and submit data as specified by this Part.

(2) Any person subject to the requirements of this Section may apply to EPA for an exemption from testing pursuant to Subpart E of Part 770.

(c) *Health effects testing*—(1) *Structural teratogenic effects*—(i) *Required testing.* (A) A test for structural teratogenicity shall be performed in accordance with the test standards in § 772.116–2 of this chapter.

(B) The route of administration shall be inhalation.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to EPA no later than 12 months after the effective date of this rule.

(d) *Environmental effects and fate testing*—(1) *Aquatic vertebrates—acute toxicity.* (i) *Required testing.* (A) A flow-through acute toxicity test on the rainbow trout (*Salmo gairdneri*) shall be performed in accordance with the test standard in [insert CFR # when available].

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to the EPA no later than 12 months after the effective date of this rule.

(2) *Aquatic vertebrates—chronic toxicity tests*—(i) *Required testing.* (A) Early life stage toxicity tests on the fathead minnow (*Pimephales promelas* Rafineque), rainbow trout (*Salmo gairdneir),* and sheepshead minnow (*Cyprinodon variegatus*), shall be performed in accordance with the test standard in [insert CFR# when available].

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to the EPA no later than 12 months after the effective date of this rule.

(3) *Aquatic invertebrates—chronic toxicity*—(i) *Required testing.* (A) Flow-through life cycle tests on *Daphnia magna* or *Daphnia pulex* and on *Mysidopsis bahia* shall be performed in accordance with the test standard in [insert CFR# when available].

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to the EPA no later than 12 months after the effective date of this rule.

(4) *Birds—chronic toxicity*—(i) *Required testing.* (A) Bird reproduction tests on two species of birds shall be performed in accordance with the test standard in [insert CFR# when available].

(B) Dose level selection must be as follows:

High dose (ppm)—0.125 × 250 (mg/kg)
Medium dose (ppm)—0.167 × high dose
Low dose (ppm)—0.028 × high dose

(C) Special procedures must be followed for diet preparation:

(*1*) The time over which 25 percent loss of test substance from the diet occurs must be determined. The treated diet offered to test birds must then be replaced at a frequency so that there will not be more than a 25 percent reduction from initial concentrations.

(*2*) To meet the above requirement, it is suggested that corn oil be used as a test substance carrier because it is likely to reduce loss from volatilization. Also, care should be taken at the end of each day to ensure that birds do not have the opportunity to eat treated diets that lose more than 25 percent of the test substance before the next replacement.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted to the EPA no later than 15 months after the effective date of this rule.

(5) Terrestrial plants—early seedling growth, seed germination/root elongation—(i) *Required testing.* (A) Early seedling growth and seed germination/root elongation tests shall be performed in accordance with the test standards in [insert CFR #'s when available].

(B) The early seedling growth test shall be performed twice for each species, one using the foliar route of exposure and once using the nutrient medium as the route of exposure.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later tha the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted no later than 12 months after the effective date of this rule.

(6) *Bioconcentration— plant uptake and translocation*—(i) *Required testing.* (A) A plant uptake/translocation test shall be performed in accordance with the test standard in [insert CFR# when available]. Testing is required on a minimum of two species—the most sensitive monocot and the most sentitive dicot as determined in the early seedling growth test required in paragraph (d)(5) of this section.

(B) The test shall be performed twice for each species, once using the foliar route of exposure and once using the nutrient medium as the route of exposure.

(ii) *Reporting requirements.* (A) The Study Plan shall be submitted to the EPA no later than the initiation date of the test.

(B) No interim reports are required.

(C) The Final Report shall be submitted no later than 15 months after the effective date of this rule.

[FR Doc. 81–16724 Filed 6–4 81; 8:45 am]
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federal register

Friday
June 5, 1981

Part IV

Department of Agriculture

Federal Grain Inspection Service

Revisions to Regulations to Reflect Changes Resulting From Amendment to the U.S. Grain Standards Act

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Revisions to the Regulations To Reflect Changes Resulting From Amendment to the U.S. Grain Standards Act

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) amends its regulations to reflect changes resulting from Pub. L. 96-437 which amended the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*) (Act). The regulations relate to the exemption of mandatory official weighing of certain grain transfers, the issuance of Class Y weight certificates by certain weighers as a timely, cost effective service, establishing unit fees for supervision of weighing services and reduction of minimum contract requirement time. The regulations also establish a redefined supervision of weighing service (Class Y weighing) which would be available at export elevators at export port locations.

DATES: Effective date: June 5, 1981. Comment date: Comments are due on or before August 4, 1981.

ADDRESS: Comments must be submitted in writing, in duplicate, to the Director, Issuance and Coordination Staff, USDA, FGIS, Room 1127 Auditors Building, 1400 Independence Avenue SW., Washington, D.C. 20250, telephone (202) 447-3910. All comments received will be made available for public inspection at the above office during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: George T. Lipscomb, Director, Weighing Division, USDA, FGIS, Room 3117, Auditors Building, 1400 Independence Avenue SW., Washington, D.C. 20250, telephone (202) 382-1731.

SUPPLEMENTARY INFORMATION: This interim action is issued in conformance with Executive Order 12291 and has been determined to be "nonmajor." The agency has followed the procedures of Executive Order 12291 with respect to this rule.

David R Galliart, Acting Administrator, FGIS, has determined that this interim action will not have a significant economic impact on a substantial number of small entities, because most users of the service do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (Pub. L 96-354, 94 Stat. 1164-1170) and the amended regulations implement amendments to the Act eliminating mandatory inbound grain weighing requirements on export elevators at export port locations. Further, the amended regulations also provide for a revised supervision of weighing service which is voluntary and is available upon request. This action removes constraints and relieves all entities, large and small, of the costs of using official weighing (Class X), except when official weighing is mandatory under the Act.

Under the authority in Section 16(a) of the Act, as amended (7 U.S.C. 87e), notice is given that the Administrator of FGIS is revising various sections of the Part 800 regulations under the Act. This revision will reflect recent amendments to the Act and establish a revised supervision of weighing service (Class Y) which meets the needs of both interior elevators and export elevators at export port locations.

Pub. L. 96-437 amended the Act to exempt from mandatory official weighing the transfers of grain into or out of export elevators at export port locations for the following type shipments: (1) Intracompany shipments of grain into an export elevator by any mode of transportation, (2) intercompany shipments of grain transferred into an export elevator by transportation modes other than barges, and (3) grain transferred out of an export elevator by any mode of transportation to destinations within the United States.

Accordingly, the regulations need to be revised to reflect the changes in the Act. Also, FGIS is redefining the Class Y weighing service with appropriate fees for export elevators at export port locations and revising the regulations and fees for Class Y services at interior locations. Several trade groups and many export elevators have requested that FGIS make such service available at export port locations at the earliest date. Therefore, it is appropriate to amend the regulations to provide for supervision of weighing service (Class Y), upon request, at export elevators at export port locations.

The notice to implement the provisions of Pub. L. 96-437 published in the October 23, 1980 **Federal Register** (45 FR 70425), provided for an orderly implementation of the provisions of the law. That notice provided that after November 24, 1980, the grain industry would have the following options available for weighing exempted grain:

1. Official weighing (Class X),
2. Supervision of weighing (Class Y), or
3. No weighing services.

Amended regulations are needed to provide for the second option, supervision of weighing service (Class Y), at export elevators at export port locations, since the current regulations do not provide for Class Y weighing at these locations.

During the 45-day comment period after publication of the notice providing the three options on October 23, 1980, no written comments were received; however, the grain trade provided FGIS with oral comments and recommendations with respect to supervision of weighing services (Class Y) for export elevators at export port locations. In summary, their comments were that the Class Y service should be cost effective, provide for flexible supervision by official personnel based on individual facility needs, and permit supervision of weighing certificates (Class Y) to be signed and issued by approved elevator personnel. Industry requested the service be made available as soon as possible. In response to those oral comments, FGIS is amending the Part 800 regulations under the Act (see 45 FR 15802-15873) to redefine Class Y weighing service to:

1. Provide that Class Y weight certificates may be issued by an approved weigher,
2. Establish unit fees for supervision of weighing services (Class Y), and
3. Reduce the present 6-month minimum contract requirement to a 3-month minimum contract requirement.

The revision of the regulations to permit Class Y weight certificates to be issued by approved weighers who are employed by or at an approved weighing facility is needed to provide a timely, cost effective service. As a practical matter, if would not be cost effective to provide a supervision of weighing service (Class Y) that represented a viable alternative to the official weighing service (Class X) if only official personnel are permitted to issue Class Y weight certificates.

Further, unless approved weighers are permitted to issue Class Y weight certificates, export elevators receiving a large volume of grain by trucks or railcars would require the issuance of the certificates by official personnel with the attendant costs. This would require that the elevator pay the costs for such services rather than the more economical supervised service where the certificates may be issued by approved weighers.

Adequate supervisory controls can be maintained over the approved weighers through application of Section 7A(f) of the Act. This section of the Act requires that as a condition for receiving supervision of weighing services, the operator of a facility must have

demonstrated to the satisfaction of the Administrator that the operator will permit only competent persons with a reputation for honesty and integrity and who are approved by the Administrator to operate the scales and to handle grain in connection with weighing of the grain. Further, the weighing activities performed by these approved weighers will be subject to such supervision by official inspection personnel as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing service. Failure on the part of any approved elevator personnel to properly weigh and certify the weight of grain could result in withdrawal of services by the Administrator.

Establishing a unit fee for supervision of weighing services (Class Y) represents a change from the hourly rate in the current fee schedule. This change is being made because it is impractical to charge an hourly rate for a type of service that is based on supervision by the spot-check method. The difficulty of maintaining accurate records of the exact length of time involved in each spot check and the variations in time involved from shift to shift and day to day would make it difficult for users of the service to project their costs or to verify the accuracy of charges received. By using a cost-per-unit fee, users of the service can easily estimate their costs of service and easily verify the bills received. The reduced recordkeeping by the FGIS will also be reflected in lower fees to the users of the service.

Because of the difference in the nature of supervision of weighing services at export elevators at export port locations from that performed at interior locations, separate levels of fees have been established for each of these locations. Since official personnel are almost always present at export elevators to provide mandatory inspection and weighing services, fees for supervision of weighing services (Class Y) at these locations are much lower than at interior locations. Travel time, travel costs, and nonproductive time are much higher when providing services to interior elevators. These higher costs must be reflected in the fees for Class Y services at interior locations.

The minimum contract requirement time is reduced from 6 months to 3 months because it is estimated that 3 months will be adequate time in which to plan and commit staff for the performance of this service. However, a facility under contract may elect not to have specified unit trains Class Y weighed upon sufficient notice given to the supervising agency. It is necessary to continue the requirement for a minimum contract period to avoid any possibility that users of the service would request to stop and start services indiscriminately, thus creating a difficult situation for FGIS and official agencies with respect to budgeting, staffing, and supervision.

Comments are solicited for 60 days after publication of this interim document. A final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Consideration will be given to submitted comments and to all other information available to the U.S. Department of Agriculture before making a final determination with respect to these revisions.

The following paragraphs of the Part 800 regulations under the Act (45 FR 15802–15873) are being amended:

1. Section 800.15(b)(2) is revised to read as follows:

§ 800.15 Services.

* * * * *

(b) * * *

(2) *Intercompany barge receipts.* The person who operates an export elevator at an export port location shall be responsible for complying with the Class X weighing requirements and regulations with respect to all intercompany grain shipments received by barge.

* * * * *

§ 800.19 [Amended]

2. Section 800.19 is amended by removing (b)(3) and renumbering (b)(4) as (b)(3).

3. Section 800.71 is amended by revising paragraph (a) to include reference to "supervision of weighing"; amending the "Note" at the end of Schedule A, Table 1 to reflect that the footnotes will be found at the end of new Table 3; amending the caption of Table 2 to add "(Class X)", and to delete "or supervision of" from item (1) in Table 2, and adding a "Note" at the end to Table 2; adding a new Table 3; and revising footnote (1) in Schedule B, Table 1 to delete "or Class Y", so as to read as follows:

§ 800.71 Fees assessed by the Service.

(a) *Official inspection, official weighing, and supervision of weighing.* The fees shown in schedules A and B apply to official grain inspection, official weighing, and supervision of weighing services performed by the Service in the United States and official inspection and official weighing in Canada.

Schedule A.—*Fees for Official Inspection, Official Weighing, and Supervision of Weighing Services Performed by the Service in the United States* [1]

Table 1

* * * * *

NOTE.—The footnotes for table 1 are shown at the end of table 3.

Table 2

Official Weighing Services (Class X)

* * * * *

(1) Official weighing services (per man-hour per Service representative) .....

* * * * *

NOTE.—*The footnotes for table 2 are shown at the end of table 3.*

Table 3

Supervision of Weighing Services (Class Y)

Export elevators at export port locations:	
(1) Barge (per barge or part barge)	$5.00
(2) Boxcar (per car or part car)	1.00
(3) Hopper car (per car or part car)	1.00
(4) Truck or trailer (per truck or trailer or part truck or part trailer)	.50
(5) Unit trains (per each car or part car of unit train)	1.00
(6) Extra copies of certificates and reports (per copy)	2.50
All other locations:	
(1) Barge (per barge or part barge)	10.00
(2) Boxcar (per car or part car)	3.50
(3) Hopper car (per car or part car)	3.50
(4) Truck or trailer (per truck or trailer or part truck or part trailer)	2.50
(5) Unit trains (per each care or part car of unit train)	3.50
(6) Extra copies of certificates and reports (per copy)	2.50

[1] The fees include the cost of performing official inspection and official class X or class Y weighing functions by Service representatives. For incidental costs included in the fees, and fees in addition to the unit and the hourly fees, see § 800.72, paragraphs (a) and (b).

[2] If it is found that there was a material error in the inspection from which a reinspection, an appeal inspection, or a Board appeal inspection is taken, the specified reinspection, appeal inspection, or Board appeal inspection fee shall not be assessed, but see § 800.72(b) for fees that are assessed in all instances. For definition of a material error, see § 800.0(b)(45) and § 800.73(h).

[3] Board appeal inspections are based on file samples. The fee for Board appeal inspection service shall be $34.00 per sample during a regular workday and $40.00 per sample during a nonregular workday, except for protein which shall be $15.00 per sample.

[4] Online inspection services include all inspection services which are based on official samples obtained from a flowing stream of grain during the loading or unloading of grain.

[5] Not applicable.

[6] The unit fee.

[7] Same fees as in (1)(i)(B), plus applicable sampling charge—see (2).

[8] Only one inspection or weighing fee, as applicable, will be charged for these services whether performed singly or concurrently.

[9] For application of fee for standby, see § 800.72(b).

[10] If at the request of the Service a file sample is located and forwarded by an agency for official appeal, the agency may, upon request, be reimbursed by the Service at the rate of $2.50 per sample for the cost of locating and forwarding the sample(s).

[11] For application of fee for extra copies of certificates, see § 800.160(c)(3).

Schedule B.—*Fees for official inspection and weighing services performed by the Service in Canada*[1]

Table 1

* * * * *

[1] The fees include the cost of performing official inspection and official class X weighing functions by Service representatives. For incidental costs included in the fees, and fees in addition to the unit and the hourly fees, see sec. 800.72, paragraphs (a) and (b).

* * * * *

4. In § 800.77, paragraph (c) is revised to read as follows:

§ 800.77 Kinds of weighing services.

* * * * *

(c) *Class Y weighing service.* This service consists of (1) an approved weigher physically weighing each identified lot of bulk or sacked grain, determining that all grain is removed from or delivered to the appropriate carrier without avoidable waste or loss, recording the weight information, and issuing a Class Y weight certificate; and (2) official personnel partially or completely supervising the loading or the unloading of the grain, the weighing, the recording of weight information, and the issuing of the Class Y weight certificates.

5. In § 800.115, paragraph (b)(3) is revised to read as follows:

§ 800.115 Who may request original services.

* * * * *

(b) * * *

(3) *Class Y weighing.* A request for Class Y weighing services at (i) an export elevator at an export port location shall be made for a contract period of 3 months or longer for all lots received or shipped in a specified type of carrier; and (ii) other than an export elevator at an export port location shall be made for a period of 3 months or longer for all lots shipped from or to a specified location, or all lots shipped from or to a specified location in a specified type of carrier: *Provided,* That in the case of unit trains, a facility under contract may elect not to have specified unit trains Class Y weighed upon sufficient notice given to the supervising agency.

* * * * *

6. In § 800.160, paragraphs (e) and (f)(1) are revised to read as follows:

§ 800.160 Official certificates; issuance and distribution.

* * * * *

(e) *Who may issue certificates*—(1) *Authority.* (i) Certificates for official inspection or Class X weighing services provided under the Act may be issued only by official personnel who are specifically licensed or authorized to perform and to certify the results of the service reported on the certificates. Only an official inspector may issue an official certificate which shows an official grade determination; only an official weigher may issue an official weight certificate which shows a Class X weight; (ii) certificates for Class Y weighing services provided under the Act may be issued only by individuals who are licensed or authorized or are approved weighers to perform and to certify the results of the service as reported on the Supervision of Grain Weight Certificate. Only an official weigher or approved weigher may issue a certificate which shows a supervision of weighing (Class Y) result.

(2) *Exception.* Each certificate shall be issued, in the case of official inspection or Class X weighing, by the licensed or authorized individual, or in the case of Class Y weighing, by the licensed or authorized individual, or an approved weigher, in the best position to know (i) whether the official inspection or Class X or Class Y weighing service being certificated was performed in an approved manner, and (ii) whether each determination made is accurate. If more than one licensed or authorized individual, or an approved weigher, participates in providing an official inspection or Class X or Class Y weighing service, the individual who makes the final determination needed to complete the service shall issue the certificate. Nothing in this paragraph shall preclude supervisory personnel from issuing a certificate if the individual is licensed or authorized to do so, or the individual is an approved weigher, and has determined that each fact stated on the certificate is accurate.

(f) *Name requirement*—(1) *Nonexport.* The name or the signature of the individual who issues an official inspection certificate or Class X or Class Y weight certificate shall be shown on the original of each certificate. The name shall be shown on each copy. Upon request of an applicant, both the name and the signature of the person who issues a certificate, other than an export certificate, shall be shown on the original of the certificate.

* * * * *

7. Section 800.161 is amended by revising paragraphs (b)(2), (6), (9)(v), (31), (32), and (35) to read as follows:

§ 800.161 Official certificate requirements.

* * * * *

(b) * * *

(2) *Agency name.* (i) For an official inspection certificate or a Class X weighing certificate, the name of the issuing official agency; or, if the certificate is issued by a delegated State, a field office, or the Board of Appeals and Review, the name United States Department Agriculture—Federal Grain Inspection Service; (ii) for a Class Y weighing certificate, the name of the official agency, delegated State, or the United States Department of Agriculture—Federal Grain Inspection Service whichever provides for the supervision of the Class Y service.

* * * * *

(6) *Location of issuing office.* (i) For official inspection or Class X weighing services, the name of the city, town, port, or other location, and the State where the certificate is prepared and issued; (ii) for Class Y weighing services, the name of the facility, city, town, port, or other location, and the State where the certificate is prepared and issued.

* * * * *

(9) * * *

(v) For a certificate that shows the results of a Class Y weighing service by an approved weigher, "I certify that I am *employed* by or at the *identified facility* and approved to weigh the kind of grain covered by this certificate and that on the above date the identified grain was weighed with the following results:"

* * * * *

(31) *Name.* (i) The name or the signature, or both, of the licensed or authorized person who issued the official inspection or Class X weight certificate, stated in accordance with the provisions of § 800.160(g); (ii) the name or the signature, or both, of the licensed or authorized person, or the approved weigher, who issued the Class Y weight certificate.

(32) *Authority and purpose.* (i) For official inspection or official weighing service (Class X), a statement as follows: "This certificate is issued under the authority of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*), and the regulations thereunder (7 CFR 800.0 *et seq.*). It is issued to show the kind, class, grade, quality, condition, or quantity of grain; or the condition of a carrier or container for the storage or transportation of grain; or other facts relating to grain as determined by official personnel. The statements on the certificate are considered true at the time and place the inspection or the weighing service was performed. The certificate shall not be considered representative of the lot if the grain is transshipped or is otherwise transferred from the identified carrier or container or if grain or other material is added to or removed from the total lot. If this

certificate is not canceled by a superseding certificate, it is receivable by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein. This certificate does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal law."

(ii) For a supervision of weighing service (Class Y), a statement as follows: "This certificate is issued under the authority of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*), and the regulations thereunder (7 CFR 800.0 *et seq.*) to show the weight of grain at the time and place of weighing. It may not represent the weight at a different date or place. The statements on the certificate are considered true at the time and place the supervision of weighing service was performed. If this certificate is not canceled by a superseding certificate, it is receivable by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein. This certificate does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal law."

* * * * *

(35) *Supervision of weighing (Class Y).* For a certificate that shows Class Y weighing, the statements: (i) In bold print "The Class Y grain weight indicated on this certificate was determined by persons employed by or at the identified facility who are occasionally supervised by the supervising agency. The supervising agency did not determine the weight of the grain identified on the certificate."; and (ii) "This certificate meets the supervision of weighing requirements of Section 3(y), 7A(c), and 7A(e) of the U.S. Grain Standards Act; it does *not* meet the requirements for official weighing under Section 5 of the U.S. Grain Standards Act."; and (iii) in ghost or shadow type diagonally across the face of the certificate, the words "Class Y weighing."

8. Section 800.170 is amended by revising paragraphs (a) and (b) to read as follows:

§ 800.170 When a license or authorization or approval is required.

(a) *Requirement.* (1) Any individual who performs or represents that he or she is licensed or authorized to perform any or all inspection or Class X weighing services under the Act must be licensed or authorized by the Service to perform each service. (2) Any individual who performs or represents that he or she is licensed or authorized, or an approved weigher, to perform Class Y weighing services under the Act must be licensed or authorized, or approved, by the Service to perform this service.

(b) *Excepted activities.* A license or authorization, or approval for weighing, under the Act and regulations is not required for (1) opening or closing a carrier or container of grain, or transporting or filing official samples, or similar laboring functions; (2) typing or filing official inspection and weighing certificates or other official forms or performing similar clerical functions; (3) performing official equipment testing functions with respect to official inspection equipment; (4) performing inspection, weighing, or scale testing functions that are not conducted for the purposes of the Act; or (5) performing scale testing functions by a State or municipal agency or by the employees of such agencies.

* * * * *

(Sec. 9, 18, Pub. L. 94–582, 90 Stat. 2875 and 2884 (7 U.S.C. 79a and 87e))

Done in Washington, D.C., on June 1, 1981.

D. R. Galliart,
Acting Administrator.

[FR Doc. 81–16745 Filed 6–4–81; 8:45 am]
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CSA			CSA	

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.

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.**

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