AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

12
221-200
GSA

Vol.41—No.114
6–11–76

PAGES
23663–23928

federal register

FRIDAY, JUNE 11, 1976

THE NATIONAL ARCHIVES OF THE UNITED STATES
LITTERA SCRIPTA MANET
1934

highlights

PART I:

UNITED STATES PAROLE COMMISSION
Executive order delegating authority to Attorney General to concur in designation of Commissioners to National Appeals Board 23663

PRESIDENTIAL REVIEW OF CIVIL AERONAUTICS BOARD DECISIONS
Executive order establishing procedures for review 23665

MARINE MAMMALS
Commerce/NOAA limits number of porpoise that may be killed incidental to 1976 tuna harvest 23680

CHILD NUTRITION
USDA/FNS amends National School Lunch Program regulations; effective 7–3–76 23695

MEAT AND POULTRY INSPECTION
USDA/APHIS amends transporting vehicle sanitation requirements; effective 9–9–76 23699

DISASTER RELIEF
USDA/FNS proposes framework for cooperation with FDAA to provide food to victims; comments by 7–1–76 .. 23719

LEGAL ASSISTANCE
Legal Services Corporation proposals on eligibility and restrictions regarding criminal and juvenile proceedings, challenges to criminal convictions, and attorney hiring (5 documents); comments by 7–12–76 23727–23730

PIPELINE SAFETY
DOT/MTB amends Federal safety standards regarding caulked bell and spigot joints; effective 7–4–76 23679

CABLE TV SERVICES
FCC amends access services rules; effective 6–18–76 23678

RADIO BROADCAST SERVICES
FCC prohibits certain fraudulent billing practices; effective 7–15–76 23675

WORK SAFETY
Labor/OSHA proposes standards for abrasive blasting; comments by 7–30–76 23721
Labor/OSHA proposes guidelines for safety and health training for Federal employees; comments by 8–10–76 .. 23722

CONTINUED INSIDE

reminders

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

Rules Going Into Effect Today

DOT/FAA—National Capital airports; motor vehicles carrying passengers for hire 19622; 5–13–76

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.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Ten agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
	CSC			CSC
	LABOR			LABOR

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

Comments on this trial program are invited. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202–523–5286. For information on obtaining extra copies, please call 202–523–5240. To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202–523–5022.

federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

MEETINGS—

CSC: Federal Employees Pay Council, 7–6–76 23737
EPA: State-Federal Water Programs Advisory Committee, 6–30–76 23752
FCC: Industry National Advisory Committee, 7–29–76 .. 23777
Personal Use Radio Advisory Committee, 7–29–76 .. 23777
HEW/OE: Equality of Educational Opportunity National Advisory Council, 6–28 and 6–29–76 23745
Ethnic Heritage Studies National Advisory Council, 7–14 thru 7–16–76 23745
NIH: Advisory Committee meetings, 6–28 thru 7–23–76 ..... 23743, 23744
Interior/BPA: FY 1978 Draft Environmental Impact Statement discussion, 7–19, 7–21, and 7–22–76 23733
Justice/LEAA: Private Security Advisory Council, 6–29 and 6–30–76 23732
Labor/OSHA: Construction Safety and Health Advisory Committee, 6–30–76 23808
Occupational Safety and Health National Advisory Committee, 7–16–76 23808
National Foundation on the Arts and the Humanities: Educational Panel, 7–8 and 7–9–76 23804
Planning Office Panel, 7–8 and 7–9–76 23804
Public Programs Panel, 7–1 and 7–2–76, 7–6 and 7–7–76 (3 documents) 23804

PART II:

COMMUNITY HEALTH CENTERS

HEW issues regulations establishing requirements for grants; effective 6–11–76; comments by 8–10–76 23851

PART III:

BILINGUAL EDUCATION

HEW/OE issues final regulation governing program 23859

PART IV:

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

HEW/OE regulations governing determinations of expected family contributions for 1976/77 academic year .. 23873

PART V:

ENVIRONMENAL QUALITY

HUD changes certain procedures in Departmental Handbook with respect to protection and enhancement; effective 6–11–76 23877

PART VI:

MINIMUM WAGES

Labor/ESA general wage determinations for Federal and federally assisted construction 23881

contents

THE PRESIDENT

Executive Orders

Civil Aeronautics Board; establishment of executive branch procedures for Presidential review of decisions submitted by the Board 23665
Parole Commission, United States; authority delegation to Attorney General to concur in designation of Commissioners to National Appeals Board 23663

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Rules

Lemons grown in Ariz. and Calif. 23697
Limes grown in Fla 23698
Oranges (Valencia) grown in Ariz. and Calif 23697
Poultry and domestic rabbit products; grading standards ... 23681

Notices

Grain standards; inspection points:
Louisiana 23737

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Food and Nutrition Service.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Animal and poultry import restrictions:
Swine vesicular disease, Switzerland 23699
Livestock and poultry quarantine:
Hog cholera 23699
Meat and poultry inspection, mandatory:
Citations changed 23701
Parasitic liver handling 23701
Sanitary requirements for vehicles 23699
Meat and poultry inspection, voluntary:
Implementation of regulations. 23714
Rabbits and rabbit products 23702

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
Education Panel Advisory Committee 23804
Planning Office Panel Advisory Committee 23804
Public Programs Panel Advisory Committee (3 documents) ... 23804

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Procurement list, 1976; additions and deletions (2 documents) ... 23748

BONNEVILLE POWER ADMINISTRATION

Notices

Meetings:
Draft environmental statement 23733

CENSUS BUREAU

Notices

Special State or local censuses conducted since July 1, 1975; table of results 23737

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
Aeromar, C por A 23747
Cathay Pacific Airways Ltd ... 23747
Trans World Airlines, Inc 23747

CIVIL SERVICE COMMISSION

Rules

Adverse actions by agencies 23667
Excepted service:
Commerce Department 23667

Notices

Meetings:
Federal Employees Pay Council 23737

COMMERCE DEPARTMENT

See Census Bureau; Domestic and International Business Administration; National Oceanic and Atmospheric Administration.

CONSUMER AFFAIRS AND REGULATORY FUNCTIONS, OFFICE OF ASSISTANT SECRETARY

Rules

Real estate settlement procedures, correction ... 23673

COUNCIL ON ENVIRONMENTAL QUALITY

Notices

Environmental statements:
Availability, etc. (2 documents) ... 23748, 23750

CUSTOMS SERVICE

Rules

Countervailing duties:
Sugar content of certain articles from Australia ... 23669

Notices

Antidumping:
Round head steel drum plugs from Japan ... 23732
Countervailing duty petitions:
Fasteners from Japan ... 23732

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Rules

Nuclear controls; list of countries:
Grenada ... 23668

Notices

Scientific articles; duty free entry:
Hawaii, University of ... 23740
Johns Hopkins University ... 23738
Johns Hopkins University, et al ... 23738
National Institutes of Health ... 23739
New York, State University of ... 23739
Vermont, University of; et al ... 23740

EDUCATION OFFICE

Rules

Basic educational opportunity grant program; family contribution schedules ... 23873
Bilingual education program; implementation provisions ... 23859

Notices

Meetings:
National Advisory Council on Equality of Educational Opportunity ... 23745
National Advisory Council on Ethnic Heritage Studies ... 23745

EMPLOYMENT AND TRAINING ADMINISTRATION

Notices

Employment transfer and business competition determinations; financial assistance applications ... 23807

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions ... 23881

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans:
Maryland; parking management regulations, correction ... 23716
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Endothall ... 23716

Notices

Meetings:
State-Federal Water Programs Advisory Committee ... 23752
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
N - [[(4 - chlorophenyl) amino] (carbonyl)] 2, 6-difluorobenzamide ... 23752
Pesticide programs:
Registering pesticides; presumption against ... 23753
Pesticide registration:
Applications (2 documents) ... 23753, 23754
Pesticides, specific exemptions and experimental use permits:
Arizona University ... 23751
Cities Service Co ... 23751
Fisons Corp ... 23751
GAF Corp ... 23751
Mobay Chemical Corp. (2 documents) ... 23752
Sellers Chemical Corp ... 23752

FARMERS HOME ADMINISTRATION

Rules

Emergency loans:
Policies, procedures and authorizations ... 23699
Operating loans:
Processing procedures; forms ... 23698

Proposed Rules

Private business enterprises and community water and waste disposal facilities; grants for development ... 23718

FEDERAL COMMUNICATIONS COMMISSION

Rules

Cable television services:
Access services ... 23678
FM broadcast stations; table of assignments:
California ... 23675
Radio broadcast services:
Fraudulent billing rule, applicability ... 23673
Fraudulent billing practices, prohibition ... 23675

Proposed Rules

Amateur radio service:
Authorized emissions ... 23723
Aviation services:
Advisory frequencies ... 23723
Practice and procedure:
Low power communication devices ... 23723

Notices

FM rules relating to power vs. height; interim policy ... 23777
Meetings:
National Industry Advisory Committee ... 23777
Personal Use Radio Advisory Committee ... 23777
Hearings, etc.:
American Telephone and Telegraph Co ... 23760

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Disaster areas:
Idaho ... 23745
Oklahoma ... 23745

FEDERAL ENERGY ADMINISTRATION

Notices

Appeals and applications for exception, etc.; cases filed with Exceptions and Appeals Office:
List of applicants ... 23804

FEDERAL MARITIME COMMISSION

Notices

Oil pollution; certificates of financial responsibility ... 23778
Agreements filed, etc.:
Continental/U.S. Gulf Freight Association ... 23779
North Atlantic/West Europe Rate Agreement ... 23779

FEDERAL POWER COMMISSION

Proposed Rules

Electric utilities:
Residential bill data collection ... 23723

Notices

Refunding and reacquisition of long term debt, and interperiod allocation of income taxes; conference ... 23779
Hearings, etc.:
Alabama Power Co ... 23780
Appalachian Power Co ... 23780
Black Marlin Pipeline Co ... 23780
Crown Zellerbach Corp ... 23782
Department of the Interior, Southwestern Power Administration ... 23783
Distrigas Corp ... 23782
El Paso Natural Gas Co. (2 documents) ... 23783
Florida Gas Transmission Co ... 23783
Ford Motor Co ... 23784
Georgia Power Co ... 23784
Heller, C. A ... 23785
Idaho Power Co ... 23785
Kansas City Power & Light Co ... 23785
Marathon Oil Co ... 23787
Mississippi Power Co ... 23787
Missouri Power & Light Co ... 23788
New Jersey Zinc Co ... 23789
Niagara Mohawk Power Corp ... 23789
Pacific Gas and Electric Co. (2 documents) ... 23789, 23790
Phillips Petroleum Co ... 23790
Southern California Edison Co ... 23790
Tacoma, City of ... 23790
Thermalito Irrigation District and Table Mountain Irrigation District ... 23791
Transcontinental Gas Pipe Line Corp ... 23791
Tuohy, John J ... 23791
Union Electric Co ... 23791

FEDERAL RESERVE SYSTEM

Rules

Credit by banks:
Purchasing or carrying margin stocks, revised form ... 23667

CONTENTS

Notices

Actions of the Board; applications and reports ... 23756
Applications, etc.:
Baybank Newton-Waltham Trust Co ... 23758
Central Bancorp, Inc ... 23759
First Colonial Corp ... 23759
First United Bancorporation, Inc ... 23759
Fort Sam Houston Bankshares, Inc ... 23759
Montgomery Bancorporation, Inc ... 23759
United Bankshares, Inc ... 23759

FOOD AND NUTRITION SERVICE

Rules

School lunch program, National: Type A lunch, reimbursement payments and butter/fortified margarine provisions ... 23695

Proposed Rules

Disaster relief feeding; agreement with FDAA ... 23719
Food Stamp program: Test projects allowed ... 23720

GEOLOGICAL SURVEY

Notices

Outer Continental Shelf; oil and gas development: Gulf of Mexico Area, requirements for completion and workover operations ... 23733

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office; Health Services Administration; National Institutes of Health; Public Health Service; Social and Rehabilitation Service.

HEALTH SERVICES ADMINISTRATION

Notices

Advisory committees; renewal ... 23742

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Consumer Affairs and Regulatory Functions, Office of Assistant Secretary; Federal Disaster Assistance Administration.

Notices

Environmental quality; procedures for protection and enhancement ... 23877

IMMIGRATION AND NATURALIZATION SERVICE

Proposed Rules

Immigration regulations: Ports of entry; St. Johns, Virgin Islands ... 23718

INTERIOR DEPARTMENT

See also Bonneville Power Administration; Geological Survey; Land Management Bureau; National Park Service.

Notices

Authority delegations: Director, Geological Survey; mineral and geothermal resources ... 23736
Offshore pipelines; issuance of joint memorandum of understanding with Transportation Department ... 23746

INTERNAL REVENUE SERVICE

Rules

Income tax: Farm losses ... 23669

Notices

Authority delegations: Fiscal Management Officer, et al.; cashiers for investigative purposes, etc ... 23732

INTERSTATE COMMERCE COMMISSION

Notices

Hearing assignments ... 23822
Motor carriers:
Lease and interchange of vehicles ... 23822
Temporary authority applications ... 23823
Transfer proceedings ... 23823

JUSTICE DEPARTMENT

See Immigration and Naturalization Service; Law Enforcement Assistance Administration.

LABOR DEPARTMENT

See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.

Notices

Certifying officers; designation; worker adjustment assistance ... 23819
Adjustment assistance:
Allegheny Ludlum Steel Corp ... 23809
Astor Clothes Co., Inc ... 23819
Atlas Tile and Marble Works, Inc ... 23810
Bethlehem Steel Corp. (2 documents) ... 23819, 23820
Bristol Clothing Manufacturing, Inc ... 23811
Colt Industries-Crucible Steel-Trent Tube Division (2 documents) ... 23811, 23812
Cyclops Corp ... 23813
Dana Corp ... 23820
Ford Motor Co ... 23813
Jay Garment Co ... 23820
L. and W. Brassiere Co ... 23815
Melton Shirt Co ... 23816
Penn Footwear Co ... 23816
Republic Steel Corp ... 23817
Satralloy, Inc ... 23821
Teledyne Pittsburgh Tool Steel ... 23821
Torrington Co ... 23821
Tyrol Sportswear, Inc ... 23821
Warner Gear Co ... 23818
Wesco Industries Corp ... 23822
Wohl Shoe Co ... 23818

LAND MANAGEMENT BUREAU

Rules

Public land orders:
Colorado ... 23672
Idaho ... 23672

Notices

Applications, etc.:
New Mexico ... 23733
Authority delegations:
Area Managers, Farmington, Rio Puerco, and Rio Grande-Las Vegas Resource Areas, N. Mex ... 23733

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Meetings:
Alarm Committee, date change ... 23732

LEGAL SERVICES CORPORATION

Proposed Rules

Attorney hiring ... 23730
Eligibility ... 23727
Restrictions:
Assistance to juveniles ... 23729
Criminal convictions challenge ... 23730
Criminal proceedings ... 23728

NATIONAL INSTITUTES OF HEALTH

Notices

Extension, establishment and renewal of committees, etc.:
National Commission on Diabetes ... 23743
NIH Public Advisory Committees ... 23744
Temporary Review Committee for Frederick Cancer Research Center ... 23745
Meetings:
Aging Review Committee ... 23743
Clinical Applications and Prevention Advisory Committee ... 23743
Clinical Cancer Program Project Review Committee ... 23743
Commission for the Control of Epilepsy and Its Consequences ... 23743
National Commission on Diabetes ... 23743
President's Cancer Panel ... 23744
Review of Research Contract Proposals, National Cancer Institute ... 23744

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Marine mammals:
Incidental taking in course of commercial fishing operations ... 23680
Shrimp fisheries, offshore; permit requirements ... 23680

Notices

Marine mammals; permit applications, etc.:
Aquarium of Cape Code, Inc ... 23741
Hain, Dr. James H. W.; Sea Education Association ... 23741
Marine Animal Productions, Inc. and J & L Attractions, Inc ... 23742
Seneca Park Zoo ... 23742
Sinha, Dr. Akhouri A ... 23742

NATIONAL PARK SERVICE

Notices

Public use limitations:
Pacific Northwest Region ... 23736

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules

State plans for enforcement of standards:
- Iowa ... 23670
- Oregon ... 23671
- Washington ... 23672

Proposed Rules

Health and safety standards:
- Abrasive blasting ... 23721
- Safety and health training for Federal Employees ... 23722

Notices

Meetings:
- Construction Safety and Health Advisory Committee ... 23808
- Occupational Safety and Health National Advisory Committee ... 23808

Multi-employer worksites, citation guidelines; extension of time for comment ... 23808

State plans; development, enforcement, etc.:
- South Carolina ... 23809

PENSION BENEFIT GUARANTY CORPORATION

Proposed Rules

Premium payment and declaration; cross reference ... 23731

PIPELINE SAFETY OPERATIONS OFFICE

Rules

Minimum Federal safety standards:
- Transportation of gas by pipeline; caulked bell and spigot joints ... 23679

Notices

Offshore pipelines; issuance of joint memorandum of understanding with Interior Department ... 23746

PUBLIC HEALTH SERVICE

Rules

Community health centers; project grants ... 23851

SECURITIES AND EXCHANGE COMMISSION

Rules

Interpretative releases:
- Brokers and dealers effecting transactions in municipal securities ... 23668

Notices

Securities Exchange Act:
- Brokers and dealers-customer disputes; settlement procedures ... 23803

Self-regulatory organizations; proposed rule changes:
- American Stock Exchange, Inc. ... 23792
- Pacific Stock Exchange, Inc. ... 23799
- Philadelphia Stock Exchange, Inc. (2 documents) ... 23801
- Stock Clearing Corporation of Philadelphia ... 23802

Hearings, etc.:
- Appalachian Power Co., et al. ... 23793
- Appalachian Power Co. ... 23792
- Connecticut Yankee Atomic Power Co. ... 23794
- Indiana & Michigan Electric Co. ... 23795
- Kentucky Power Co. ... 23796
- Middle South Utilities, Inc. and Louisiana Power & Light Co. ... 23796
- New England Power Co. ... 23797
- Ohio Power Co. ... 23798
- Selected Opportunity Fund, Inc ... 23802

SOCIAL AND REHABILITATION SERVICE

Rules

Medical assistance programs; utilization control ... 23673

SMALL BUSINESS ADMINISTRATION

Proposed Rules

Business loans:
- Media policy ... 23731

TRANSPORTATION DEPARTMENT

See Pipeline Safety Operations Office.

TREASURY DEPARTMENT

See Customs Service; Internal Revenue Service.

WAGE AND PRICE STABILITY COUNCIL

Notices

Rising health care costs; hearing ... 23751

list of cfr parts affected in this issue

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

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

3 CFR

EXECUTIVE ORDERS:

11919 23663
11920 23665

5 CFR

213 23667
752 23667

7 CFR

54 23681
70 23681
210 23695
908 23697
910 23697
911 23698
1831 23698
1832 23699

PROPOSED RULES:

250 23719
271 23720
1823 23718

8 CFR

PROPOSED RULES:

100 23718

9 CFR

76 23699
94 23699
308 23700
314 23701
318 23701
325 23700
354 23702
362 23714
381 23700

12 CFR

221 23667

13 CFR

PROPOSED RULES:

120 23731

15 CFR

378 23668

17 CFR

241 23668

18 CFR

PROPOSED RULES:

141 23723

19 CFR

159 23669

24 CFR

3500 23673

26 CFR

1 23669

29 CFR

1952 (3 documents) 23670–23672

PROPOSED RULES:

1910 23721
1915 23721
1916 23721
1926 23721
1960 23722
2602 23731

40 CFR

52 23716
180 23716

42 CFR

51 23852
51c 23852

43 CFR

PUBLIC LAND ORDERS:

5499 (Amended by 5587) 23672
5586 23672
5587 23672

45 CFR

123 23860
190 23874
250 23673

PROPOSED RULES:

1611 23727
1613 23728
1614 23729
1615 23730
1616 23730

47 CFR

73 (3 documents) 23673–23675
76 23678

PROPOSED RULES:

2 23723
15 23723
87 23723
97 23723

49 CFR

192 23679

50 CFR

216 23680
245 23680

CUMULATIVE LIST OF PARTS AFFECTED DURING JUNE

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

3 CFR

PROCLAMATIONS:

4444 22237

EXECUTIVE ORDERS:

April 26, 1859 (Revoked in part by PLO 5585) 22939
July 21, 1871 (Revoked in part by PLO 5585) 22939
11643 (Amended by EO 11917) 22239
11649 (Amended by EO 11916) 22031
11916 22031
11917 22239
11918 22329
11919 23663
11920 23665

MEMORANDUMS:

May 31, 1976 22331
June 2, 1976 23179

4 CFR

400 22241
410 22241
414 22241

5 CFR

213 ..... 22549, 23667
332 22549
752 22549
771 22550
752 23667

PROPOSED RULES:

890 22096

7 CFR

1 22333
2 22333
5 22333
26 22826
28 22923
54 23681
70 23681
210 ..... 22923, 23695
246 22070
265 22070
401 ..... 22251, 23387–23389
402 22252
656 23181
731 22550
905 23184
907 ..... 22333, 23389
908 ..... 22550, 23697
910 ..... 22826, 23697
911 ..... 22827, 23698
916 22070
917 ..... 22071, 23185
932 22551
944 23186
953 22071
1207 22072
1250 22923
1421 22334
1475 22551
1824 22255
1831 ..... 23390, 23698
1832 ..... 23390, 23699
1871 23392
1901 ..... 22256, 23186
2006 22928

7 CFR—Continued

PROPOSED RULES:

51 22832
250 23719
271 23720
912 22568
914 22569
915 22075
916 23207
917 22952
923 22278
958 23408
981 22075
984 22084
989 22569
1201 22579
1464 22580
1806 23410
1823 23718

8 CFR

212 22556

PROPOSED RULES:

100 23718

9 CFR

73 22556
76 ..... 22033, 23699
78 22034
94 23699
308 23700
314 23701
318 23701
325 ..... 22557, 22929, 23700
354 23702
362 23714
381 23700

10 CFR

205 22341
211 22343
213 22341
700 ..... 22036, 23212

PROPOSED RULES:

211 22591
212 ..... 22591, 22959
215 22591
700 .....

11 CFR

Ch. I 23373

PROPOSED RULES:

121 22912

12 CFR

221 23667
225 22260
271 22261

PROPOSED RULES:

202 22592

13 CFR

301 23373
307 23373

13 CFR—Continued

PROPOSED RULES:

120 ..... 22103, 23731
121 22847

14 CFR

39 ..... 22044–22050, 22343, 22809, 23373–23375
71 ..... 22050, 22344, 22809, 23376
97 ..... 22809, 23376
1213 22930

PROPOSED RULES:

39 ..... 22094, 22842, 23419–23420
71 ..... 22095, 22370, 22843–22845, 23421
73 22844
75 ..... 22095, 22845
250 22280
372a 22096

15 CFR

376 22931
378 23668
803 23606
805 23392
908 23394

16 CFR

13 ..... 22810, 22811, 23377–23379
1207 23186
1500 22931
1507 22931
1700 ..... 22261, 23187

PROPOSED RULES:

454 22593
455 22847
704 22099
1605 22956

17 CFR

240 22820
241 23668

PROPOSED RULES:

150 22547
240 ..... 22595, 22847, 22959, 23423
249 23423
275 22101

18 CFR

PROPOSED RULES:

Ch. 1 22591
141 23723
157 22104
250 22104
803 22598

19 CFR

12 23398
103 22936
159 23669

PROPOSED RULES:

1 22952
10 22952

20 CFR

200 22557
260 22558

20 CFR—Continued

266 ... 22558
405 ... 22502, 22560

PROPOSED RULES:

405 ... 22835
901 ... 22101

21 CFR

121 ... 22267, 22812
123 ... 23379
510 ... 22267
558 ... 22267

PROPOSED RULES:

4 ... 22581
207 ... 22835
212 ... 22202

22 CFR

41 ... 22560

PROPOSED RULES:

901 ... 22828
902 ... 22829
903 ... 22829
904 ... 22829
905 ... 22829
906 ... 22830
907 ... 22830
908 ... 22831

23 CFR

630 ... 22812
655 ... 23380
663 ... 23380

PROPOSED RULES:

640 ... 23421
1204 ... 23422

24 CFR

275 ... 22276, 23302
804 ... 22814
845 ... 23292
899 ... 22814
1914 ... 22277, 22949
1915 ... 23187
1916 ... 22814, 22815
1917 ... 22950, 22951, 23382–23384
1920 ... 22036–22039
2700 ... 23298
3500 ... 22560, 22702, 23673

PROPOSED RULES:

10 ... 22583
250 ... 22682
1917 ... 22279, 22365–22369, 22835–22840, 22954, 22955, 23207, 23417–23418

25 CFR

221 ... 22560
252 ... 22936

PROPOSED RULES:

43h ... 22566

26 CFR

1 ... 22267, 22561, 23669
301 ... 22561

27 CFR

18 ... 23399

28 CFR

0 ... 22815, 23198
2 ... 22344

28 CFR—Continued

PROPOSED RULES:

16 ... 23206

29 CFR

1928 ... 22267, 22561
1952 ... 22561, 23670–23672

PROPOSED RULES:

1910 ... 22953, 23721
1915 ... 23721
1916 ... 23721
1926 ... 23721
1960 ... 23722
1952 ... 22580
2602 ... 23212, 23731

30 CFR

55 ... 23612
56 ... 23613
57 ... 23615
75 ... 23199

32A CFR

Ch. I ... 22562
Ch. VI ... 22562
Ch. VII ... 22562
Ch. VIII ... 22562
Ch. XV ... 22562
Ch. XVIII ... 22562
Ch. XIX ... 22563

32 CFR

770 ... 22344
2000 ... 22268

33 CFR

82 ... 23400
84 ... 23400
117 ... 23400
127 ... 22346
173 ... 23400
174 ... 23400
273 ... 22346
401 ... 22563

PROPOSED RULES:

110 ... 23419

36 CFR

221 ... 22815

PROPOSED RULES:

1150 ... 23598

38 CFR

PROPOSED RULES:

3 ... 22103

39 CFR

111 ... 22039

PROPOSED RULES:

111 ... 22375

40 CFR

52 ... 22349, 22351, 22816, 23200, 23716
180 ... 22937, 23384–23386, 23716
436 ... 23552

PROPOSED RULES:

52 ... 22845, 23208
60 ... 23060
129 ... 23576
180 ... 22113
436 ... 23561

41 CFR

1–7 ... 22816
1–12 ... 22817
3–3 ... 22351
3–26 ... 22040
101–32 ... 23203
101–35 ... 22938
101–38 ... 22938
101–42 ... 22268
101–43 ... 22268
101–44 ... 22271
101–45 ... 22273
101–46 ... 22273
101–47 ... 22354

PROPOSED RULES:

8–7 ... 22599
8–18 ... 22599

42 CFR

51 ... 23852
51c ... 23852
122 ... 23386
123 ... 22524

43 CFR

18 ... 22563
2900 ... 22939, 22940
3200 ... 23386

PROPOSED RULES:

3520 ... 23206
9230 ... 23206

PUBLIC LAND ORDERS:

3520 ... 22051
5499 ... 23672
5585 ... 22939
5586 ... 23672
5587 ... 23672

45 CFR

123 ... 23860
190 ... 23874
205 ... 23387
248 ... 22055
249 ... 22055
250 ... 22055, 23673

PROPOSED RULES:

1611 ... 23727
1613 ... 23728
1614 ... 23729
1615 ... 23730
1616 ... 23730

46 CFR

105 ... 23401
148 ... 23401

PROPOSED RULES:

33 ... 22840
75 ... 22840
94 ... 22840
160 ... 22840
192 ... 22840
206 ... 22094
207 ... 22094

47 CFR

0 ... 22563
1 ... 22817
2 ... 22563
63 ... 22274
73 ... 22055, 22940, 23673–23675
76 ... 22274, 23678
81 ... 22059, 22066
83 ... 22817
87 ... 22066, 22944
94 ... 22274

47 CFR—Continued

PROPOSED RULES:

2 ..... 22370, 23723
15 ..... 22280, 23723
73 ..... 22281, 23209
76 23210
78 ..... 22096, 23210
87 ..... 22370, 23723
89 22096
91 22096
93 22096
97 23723

49 CFR

10 22564
192 23679
301 22355
385 22355
386 22355
389 22356
571 22356
802 22357
1033 ..... 22067, 22274, 22564, 22819
1062 22275

49 CFR—Continued

1124 22944
1307 22067

PROPOSED RULES:

258 ..... 22222, 23423
260 ..... 22228, 23423
391 22584
1201 23172

50 CFR

17 22041
26 22361
28 22565
33 23204
216 ..... 22565, 23204
245 23680
260 ..... 22818, 23680
285 22818

PROPOSED RULES:

13 22916
14 22831
17 ..... 22073, 22916, 23406
33 22568
216 22580

FEDERAL REGISTER PAGES AND DATES—JUNE

Pages	*Date*
22031–22236	June 1
22237–22327	2
22329–22547	3
22549–22807	4
22809–22922	7
22923–23177	8
23179–23371	9
23373–23662	10
23663–23928	11

presidential documents

Title 3—The President

Executive Order 11919 • **June 9, 1976**

Delegating Authority of the President To Concur in Designations of Commissioners, United States Parole Commission

By virtue of the authority vested in me by section 301 of title 3, United States Code, and section 4204(a)(5) of title 18, United States Code, as enacted by the Parole Commission and Reorganization Act (Public Law 94–233), and as President of the United States of America, it is hereby ordered that the Attorney General shall serve as the President's designee for purposes of concurring in designations of Commissioners of the United States Parole Commission to serve on the National Appeals Board, as vice chairman of the Commission, and as regional Commissioner.

Gerald R. Ford

THE WHITE HOUSE,
June 9, 1976.

[FR Doc.76–17278 Filed 6–9–76;4:45 pm]

Executive Order 11920 • June 10, 1976

Establishing Executive Branch Procedures Solely for the Purpose of Facilitating Presidential Review of Decisions Submitted to the President by the Civil Aeronautics Board

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 801 of the Federal Aviation Act, as amended (49 U.S.C. 1461), and as President of the United States of America, solely to provide Presidential guidance to department and agency heads and in order to facilitate Presidential review of decisions submitted to the President for his approval by the Civil Aeronautics Board pursuant to section 801 of the Federal Aviation Act, as amended, it is hereby ordered as follows:

SECTION 1. (a) Except as provided in this section, decisions of the Civil Aeronautics Board, hereinafter referred to as the CAB, transmitted to the President pursuant to section 801 of the Federal Aviation Act, as amended, hereinafter referred to as section 801, may be made available by the CAB for public inspection and copying following submission to the President.

(b) In the interests of national security, and in order to allow for consideration of appropriate action under Executive Order No. 11652, as amended, decisions of the CAB transmitted to the President under section 801 shall be withheld from public disclosure for five days after submission to the President.

(c) At the same time that decisions of the CAB are submitted to the President pursuant to section 801, the CAB shall transmit copies thereof to the Secretary of State, the Secretary of Defense, and the Assistant to the President for National Security Affairs.

(d) The Secretary of State and the Secretary of Defense, or their designees, shall review the decisions of the CAB transmitted pursuant to subsection (c) above, and shall promptly advise the Assistant to the President for National Security Affairs or his designee, whether, and if so, why, action pursuant to Executive Order No. 11652, as amended, is deemed appropriate. If, after considering the above recommendations, the Assistant to the President for National Security Affairs or his designee determines that classification under Executive Order No. 11652 is appropriate, he shall take such action and immediately so inform the CAB. Action pursuant to this subsection shall be completed within five days of receipt of the decision by the President.

(e) On and after the sixth day following receipt by the President of a CAB decision submitted pursuant to section 801, the CAB is authorized to disclose all unclassified portions of the text of such decision. Nothing in this section is intended to affect the ability to withhold material under Executive order or statute other than section 801.

SEC. 2. (a) Views of departments and agencies outside of the Executive Office of the President, other than those views involving considerations of defense or foreign policy (including international negotiations costs) which are to be the subject of recommendations to the President in connection with his review under section 801, shall be presented to the CAB in accordance with the procedures of the CAB. While some issues will inevitably involve both questions of regulatory policy and defense or foreign policy, departments and agencies outside of the Executive Office of the President should make a conscientious effort to present their views on regulatory matters in proceedings before the CAB, and raise only matters of defense or foreign policy that are of Presidential concern in the course of the review under section 801.

(b) Departments and agencies outside of the Executive Office of the President which intend to make recommendations to the President on matters of defense or foreign policy and have such intentions while the matter is pending before the CAB, shall, except as confidentiality is required for reasons of defense or foreign policy,

make the existence of such intentions and the conclusions to be recommended known to the CAB in the course of its proceedings.

SEC. 3. (a) In advising the President with respect to his review of an order submitted to him pursuant to section 801, departments and agencies outside of the Executive Office of the President shall:

(1) identify any matter contained in their respective recommendations which was not previously submitted to the CAB pursuant to section 2(a) above;

(2) explain why such matter was not previously submitted to the CAB for its consideration; and

(3) identify with particularity the defense or foreign policy implications of the CAB decision which are deemed appropriate for the President's consideration.

(b) Orders involving foreign and overseas air transportation certificates of U.S. carriers that are subject to the approval of the President are not subject to judicial review when the President approves or disapproves an order for reasons of defense or foreign policy. All disapprovals necessarily are based on such a Presidential decision, but approval by the President does not necessarily imply the existence of any defense or foreign policy reason. For the purpose of assuring whatever opportunity is available under the law for judicial review of the CAB decisions, all departments and agencies which make recommendations to the President pursuant to section 801 should indicate separately whether, and why, if the order or any portion of the order is approved, the President cannot state in his approval that no defense or foreign policy reason underlies his action.

SEC. 4. Individuals within the Executive Office of the President shall follow a policy of (a) refusing to discuss matters relating to the disposition of a case subject to the approval of the President under section 801 with any interested private party, or an attorney or agent for any such party, prior to the President's decision, and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may only be made when the head of an appropriate department or agency outside of the Executive Office of the President personally finds that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

SEC. 5. Departments and agencies outside of the Executive Office of the President which regularly make recommendations to the President in connection with the Presidential review pursuant to section 801 shall, consistent with applicable law, including the provisions of Chapter 5 of Title 5 of the United States Code:

(a) establish public dockets for all written communications (other than those requiring confidential treatment for defense or foreign policy reasons) between their officers and employees and private parties in connection with the preparation of such recommendations; and

(b) prescribe such other procedures governing oral and written communications as they deem appropriate.

SEC. 6. Although it is recognized that the provisions set forth in this Order will frequently apply to review of decisions made in adversary proceedings involving private parties, this Order is intended solely for the internal guidance of the departments and agencies in order to facilitate the Presidential review process. This Order does not confer rights on any private parties.

SEC. 7. The provisions of this Order shall be effective on the 30th day following publication in the FEDERAL REGISTER.

THE WHITE HOUSE,
June 10, 1976.

Gerald R. Ford

[FR Doc.76-17296 Filed 6-10-76;10:58 am]

rules and regulations

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

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that the positions of Private Secretary and Special Assistant to the Assistant Secretary for Economic Affairs are no longer excepted under Schedule C and that the following positions are excepted under Schedule C: two positions of Confidential Assistant and one position of Private Secretary to the Chief Economist.

Effective June 11, 1976, §§ 213.3314 (a) (4) and (11) are revoked and §§ 213.3314(a) (23) and (24) are added as set out below:

§ 213.3314 Department of Commerce.

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

(4) [Revoked]

* * * * *

(11) [Revoked]

* * * * *

(23) Two Confidential Assistants to the Chief Economist.

(24) One Private Secretary to the Chief Economist.

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

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

[FR Doc.76-17047 Filed 6-10-76;8:45 am]

PART 752—ADVERSE ACTIONS BY AGENCIES

Physical Handicap

Section 752.104(c) is amended by removing the word "or" in the fifth line, and § 752.304(b)(2) is amended by removing the words "or" and "because of" in the fourth line.

Effective June 11, 1976, these sections are amended as set out below.

§ 752.104 General standards.

* * * * *

(c) An agency may not take an adverse action against an employee covered by this part that is based on discrimination because of race, color, religion, sex, national origin, age, or for physical handicap with respect to any position the duties of which may be effectively performed by a person with the physical handicap.

* * * * *

§ 752.304 Appeal rights to the Commission.

* * * * *

(b) *Scope of review.* * * *

(2) When an employee alleges that a suspension was taken as a result of discrimination on grounds of race, color, religion, sex, national origin, or age: *Provided,* That the employee was at least 40 years of age but less than 65 years of age, the Commission refers the allegation of discrimination to the agency for investigation of that issue and a report thereon to the Commission.

(5 U.S.C. 1302, 3301, 3302, 7701, E.O. 10577; 3 CFR, 1954–1958 Comp., p. 218, E.O. 11491; 3 CFR, 1966–1970 Comp., p. 861)

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

[FR Doc.76-17046 Filed 6-10-76;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Docket No. R-0026]

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

Adoption of Revised Form

Pursuant to the authority of Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g), the Board of Governors has adopted a revised Federal Reserve Form U–1, "Statement of Purpose of a Stock-Secured Extension of Credit by a Bank," effective September 1, 1976.[1] This form is for use by banks in fulfilling certain requirements of Part 221 of Title 12 (Regulation U).

On February 7, 1968 the Board published a notice in the FEDERAL REGISTER (33 FR 2702) announcing, inter alia, that, effective March 11, 1968, § 221.3(a) of Regulation U is amended to add a requirement that a bank shall obtain and keep for a prescribed period in connection with any stock-secured loan, on a form prescribed by the Board, a statement relating to the purpose of the loan by (i) the customer and (ii) the officer extending the credit. The Board commented that the changes in § 221.3(a) of Regulation U were designed to make uniform the evidentiary requirements of such section.

[1] A copy of the Federal Reserve Form U–1 is filed as a part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System or any Federal Reserve Bank.

Pursuant to and simultaneously with the notice of amendment to § 221.3(a), the Board published in the FEDERAL REGISTER on February 7, 1968 (33 FR 2721), a notice of adoption, effective March 11, 1968, of, inter alia, Federal Reserve Form U–1, "Statement of Purpose of the Proceeds of a Stock-Secured Extension of Credit by a Bank", for use by banks in implementing and fulfilling the requirements of that Section.

In 1969, the Board adopted an amendment to § 221.3(a), effective July 8, 1969, to reduce the time required for retaining Federal Reserve Form U–1 (34 FR 9203, June 11, 1969) and adopted a revised Form U–1 to reflect such change (34 FR 12330).

Since the last revision of Federal Reserve Form U–1 in 1969, substantial experience has been gained by banks, law enforcement agencies and System staff in the use of the form. Such experience leads to the conclusion that certain revisions of Form U–1 are necessary and appropriate, if it is to continue to serve as a useful evidentiary tool in maintaining compliance with provisions of Regulation U.

Generally, the revised Form U–1 will embody the following changes:

(1) The addition of caveats and definitional aids to prospective borrowers respecting their potential criminal liability under various statutes and the provisions of the Board's Regulation X. The purpose of Regulation X, which was adopted by the Board on November 1, 1971, is to prevent infusion into United States securities markets of unregulated credit obtained in circumvention of the provisions of the Board's margin regulations, or by borrowers falsely certifying the purpose of a loan, or otherwise willfully and intentionally evading the provisions of those regulations.

(2) A revision of the format to provide increased assistance to law enforcement agencies and bank examiners by requiring, inter alia, a borrower to specifically state whether or not a proposed stock-secured extension of credit is for the purpose of purchasing or carrying margin stock.

(3) Inclusion of a requirement for affirmative representation by borrowers respecting the integrity of the collateral offered as security for an extension of credit, and a requirement that a duly authorized officer of the lending bank shall undertake, in addition to other required procedures, an examination of the physical aspects of the securities offered as collateral and perform such validation procedures with respect thereto as are mandated by bank policy and governmental regulations.

Because the revisions to Form U–1 are designed to make uniform evidentiary requirements pursuant to § 221.3(a) and are procedural in nature the Board concluded that the notice and public procedure contemplated by Section 553 of Title 5, United States Code, was unnecessary with respect to such changes.

By order of the Board of Governors, May 25, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76–16954 Filed 6–10–76;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 378—SPECIAL NUCLEAR CONTROLS

Addition of Grenada to List of Countries Adhering to Limited Nuclear Test Ban Treaty

Part 378 sets forth the procedures that exporters should follow in exporting commodities and technical data related to nuclear weapons, nuclear explosive devices or nuclear testing. Certain provisions of these regulations do not apply to countries that are adherents to the Limited Nuclear Test Ban Treaty. The countries adhering to this treaty are listed in Supplement No. 1 to Part 378 of the Export Administration Regulations (15 CFR Part 378). Grenada has notified the U.S. Department of State that it considers itself unrestrictedly bound by the Treaty. As a result of this notification, Grenada is now added to the list of countries adhering to the Limited Nuclear Test Ban Treaty.

Effective date of action: June 1, 1976. Accordingly, Supplement No. 1 to Part 378 of the *Export Administration Regulations* (15 CFR Part 378) is amended to insert "Grenada," following "Greece," in the list of "Countries Adhering to the Limited Nuclear Test Ban Treaty".

RAUER H. MEYER,
Director,
Office of Export Administration.

[FR Doc.76–17112 Filed 6–10–76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–12496]

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Brokers and Dealers Effecting Transactions in Municipal Securities

Extension to October 1, 1976 of certain aspects of the financial responsibility and reporting program pertaining to transactions in municipal securities.

The Securities and Exchange Commission today announced the extension until October 1, 1976 of certain aspects of the financial responsibility and reporting program pertaining to transactions in municipal securities. The effected components of the program consist of the Commission's previous interpretations respecting the application of Rules 17a–3, 17a–4 and 17a–11(c) [17 CFR 240.17a–3, –4 & –11(c)] to brokers and dealers effecting transactions solely in municipal securities.

Section 17(a)(1)[1] of the Securities Exchange Act of 1934 ("the Act") requires registered brokers and dealers, inter alia, to make and keep such records for such periods of time as the Commission by rule prescribes as necessary or appropriate in the public interest or for the protection of investors. Among the rules adopted pursuant to this rulemaking authority are Rules 17a–3, 17a–4 and 17a–11 [17 CFR 240.17a–3, –4 & –11]. Rule 17a–3 [17 CFR 240.17a–3] essentially requires that brokers and dealers registered pursuant to section 15 of the Act shall make and keep current specified books and records relating to their business. Rule 17a–4 [17 CFR 240.17a–4] requires the preservation for specified lengths of time of the books and records maintained pursuant to Rule 17a–4 (b), (c) and (d) [17 CFR 240.17a–4 (b), (c) & (d)].[2] Paragraph (c) of Rule 17a–11 [17 CFR 240.17a–11] requires that brokers and dealers give immediate, telegraphic notice of a Rule 17a–3 [17 CFR 240.17a–3] violation to the Commission, and take corrective measures within forty-eight hours after transmittal of such notice.

In Securities Exchange Act Release No. 11854 (November 20, 1975) ("Release No. 11854") [40 FR 57786 (Dec. 12, 1975)], the Commission adopted a financial responsibility and reporting program pertaining to transactions in municipal securities, including certain amendments, temporary amendments and interpretations to the uniform net capital rule (Rule 15c3–1), the customer protection rule (Rule 15c3–3), and other related financial responsibility and reporting rules, including Rules 17a–3, 17a–4 and 17a–11(c) [17 CFR 240.17a–3, –4 & –11 (c)]. In Release No. 11854, the Commission noted that brokers and dealers effecting transactions solely in municipal securities might be largely unfamiliar with the requirements of Rule 17a–3 [17 CFR 240.17a–3], and might experience difficulty in digesting and implementing all of the rule's provisions prior to December 1, 1975, by which date these brokers and dealers would become subject to Rule 17a–3 [17 CFR 240.17a–3].[3]

The Commission concluded that it was necessary and appropriate to provide a transitional period during which brokers and dealers effecting transactions solely in municipal securities could educate themselves concerning Rule 17a–3 [17 CFR 240.17a–3] and make those adjustments to their bookkeeping and recordkeeping systems dictated by the rule's provisions. The Commission accordingly interpreted Rule 17a–3 [17 CFR 240.17a–3] to require brokers and dealers effecting transactions solely in municipal securities to make and keep current books and records sufficient to demonstrate their financial condition, to reflect the receipt and delivery of all funds and securities, and to reflect all customer activity.[4] A companion interpretation of Rule 17a–4 [17 CFR 240.17a–4] provided that brokers and dealers effecting transactions solely in municipal securities would be required to preserve in an easily accessible place those books and records maintained pursuant to Rule 17a–3 [17 CFR 240.17a–3] as interpreted, and such other business records required to be preserved by Rule 17a–4 [17 CFR 240.17a–4]. In addition, the Commission interpreted Rule 17a–11(c) [17 CFR 240.17a–11(c)] to apply only to violations of Rule 17a–3 [17 CFR 240.17a–3] as interpreted.[5] The Commission stated its intention to consult and coordinate with the Municipal Securities Rulemaking Board ("the Board") concerning appropriate books and records requirements for brokers and dealers effecting transactions solely in municipal securities and invited public comment concerning numerous questions pertaining to appropriate financial responsibility and reporting requirements for these brokers and dealers.[6]

The interpretations to Rules 17a–3, 17a–4 and 17a–11(c) [17 CFR 240.17a–3, –4 & –11(c)] discussed above originally were scheduled to expire on January 15, 1976. However, prior to that date, certain interested members of the public and the Board requested that these interpretations be extended. The Board indicated at that time that it had under active consideration certain proposals concerning books and records requirements which it expected to publish for comment in the near future, as a prelude to a formal filing with the Commission, pursuant to Section 19(b) of the Act, of a proposed books and records rule by March, 1976. The Commission responded by extending these interpretations until March 31, 1976.[7]

On February 3, 1976, the Board made available to interested members of the public an exposure draft of rules establishing recordkeeping and preservation requirements for municipal securities brokers and municipal securities dealers. The Board solicited public comments concerning these draft proposals during a period expiring March 5, 1976. On March 2, 1976, in response to this invitation, the Commission transmitted

[1] Securities Acts Amendments of 1975, Pub. L. No. 94–29, section 14, 89 Stat. 137 (June 4, 1975), formerly ch. 404, section 17, 48 Stat. 897 (1934).

[2] The Commission calls attention to Securities Exchange Act Release No. 11935 (Dec. 17, 1975), 40 FR 59706 (Dec. 30, 1976), wherein the Commission amended Rule 17a–4 to require brokers and dealers filing Parts II or IIA of Form X–17A–5 to make and keep certain additional books and records.

[3] Securities Exchange Act Release No. 11854, at 22–23 (Nov. 20, 1975), 40 FR 57786 (Dec. 12, 1975).

[4] Id. at 23.

[5] Id. at 24–25.

[6] Id. at 23, 26–27.

[7] Securities Exchange Act Release No. 12021 (Jan. 15, 1976), 41 FR 3469 (Jan. 23, 1976).

the staff's preliminary comments and suggestions with respect to the exposure draft. The Board's exposure draft also generated substantial interest among members of the public. The Board considered its proposed recordkeeping and preservation requirements at its regularly scheduled meeting on March 25 and 26, 1976. As the Board's revised schedule would not allow completion of the public procedures provided for in Section 19(b) prior to the expiration of the interpretations of Rules 17a–3, 17a–4 and 17a–11(c) [17 CFR 240.17a–3, –4 & –11(c)], the Commission deferred the expiration date of these interpretations from March 31, 1976 to June 1, 1976.[8]

The Board filed its proposed recordkeeping rules under Section 19(b) of the Act on April 8, 1976.[9] With certain exceptions, Section 19(b) requires that the terms of substance of proposed rules of self-regulatory organizations be published for public comment in the FEDERAL REGISTER, and precludes, except for good cause, Commission approval of such proposals until thirty days after such publication. The Board's proposed rules were published in the FEDERAL REGISTER on April 30, 1976.[10] In filing the proposed rules, the Board consented to an extension of the time for Commission action thereon to 90 days after their publication, and thus Commission action with respect to these rules is not required until July 29, 1976, almost two months after the expiration of the interpretations. In addition, the public comment period with respect to these rules does not close until June 14, 1976, two weeks after the expiration of the interpretations. It is apparent that the Board's proposed recordkeeping and preservation rules, if approved, could not become effective prior to the expiration of the Commission's previous extension of its interpretations of Rules 17a–3, 17a–4 and 17a–11(c) [17 CFR 240.17a–3, –4 & –11(c)].

The Commission has determined that it is appropriate in the public interest and for the protection of investors to continue the existing regulatory structure with respect to brokers and dealers effecting transactions solely in municipal securities until the Commission is in a position to consider and approve appropriate recordkeeping and preservation rules for such brokers and dealers. Accordingly, the Commission hereby extends the aforementioned interpretations of Rules 17a–3, 17a–4 and 17a–11(c) [17 CFR 240.17a–3, –4 & –11(c)] until October 1, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 26, 1976.

[FR Doc.76–16982 Filed 6–10–76;8:45 am]

[8] Securities Exchange Act Release No. 12288 (March 31, 1976), 41 FR 15842 (April 15, 1976).

[9] Rule 19b–4 Filing No. MSRB–76–4 (April 8, 1976).

[10] 41 FR 18175 (April 30, 1976).

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 76–167]

PART 159—LIQUIDATION OF DUTIES

Countervailing Duties—Sugar Content of Certain Articles From Australia

Net amount of bounty declared for the period January 1975 through December 1975 for products of Australia subject to the countervailing duty order published in T.D. 54582. Section 159.47(f), Customs Regulations, amended.

The Treasury Department is in receipt of official information that the rate of bounties or grants paid or bestowed by the Australian Government within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), on the exportation during the period January 1975 through December 1975 of approved fruit products and other approved products containing sugar was nil.

The net amount of bounties or grants on the above-described commodities which are manufactured or produced in Australia is hereby ascertained, determined, or estimated to be the rate stated above. Accordingly, no additional duties on the above-described commodities, imported directly or indirectly from that country, shall be assessed and collected under section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

§ 159.47 [Amended]

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)), under "Australia—Sugar content of certain articles" is amended (1) by deleting therefrom the reference to T.D. 70–225, 71–276, and 73–277, and (2) by adding a reference to this Treasury Decision. As amended, the last four lines of the table under this commodity will read:

Country	Commodity	Treasury decision	Action
•	•	•	• •
		55716	Certain articles exempted as to shipments exported on or after July 19, 1962.
		74–133	New rate.
		75–54	Do.
		76–167	Do.

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

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: June 7, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76–16991 Filed 6–10–76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7418]

PART 1—INCOME TAX; TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1953

Farm Losses; Correction

On May 7, 1976, T.D. 7418 was published in the FEDERAL REGISTER (41 FR 18811).

1. The words "of $25,000" in Example (3) of paragraph (b)(6) of § 1.1251–1 should read "to $25,000".

2. The first word in the title to paragraph (b)(3) of § 1.1251–2 should read "Electing".

3. The words "of § 1.125–8" in paragraph (d)(1) of § 1.1251–2 should read "of § 1.1251–3".

4. The number "14.20%" in the table in Example (1)(i) of paragraph (e)(3) of § 1.1251–2 should read "14.28%".

5. The following should be inserted immediately before the end of Example (1)(i) of paragraph (e)(3) of § 1.1251–2:

Since the potential gain limitation percentage for the 1-year period beginning on September 1, 1970, exceeds 25 percent, a portion of A's excess deductions account, under the provisions of subparagraph (2)(iv) of this paragraph, is succeeded to by C and D. Similarly, since such percentage for the 1-year period beginning May 1, 1973, exceeds 25 percent, such provisions apply to the gift made to F. Since, however, such percentage is 25 percent or less for all 1-year periods in which the gift to E falls (i.e., 25 percent and 14.28 percent for the 1-year periods beginning, respectively, on August 1, 1971, and March 1, 1972) such provisions do not apply to the gift to E.

6. The number "106%" in the table in Example (1)(ii) of paragraph (e)(3) of § 1.1251–2 should read "100%".

7. Example (3) of paragraph (e)(3) of § 1.1251–2 should be deleted.

8. The words "of § 1.1254–4" in paragraph (a)(1) of § 1.1251–4 should read "of § 1.1245–4".

9. The table in Example (2) of paragraph (c)(5) of § 1.1251–4 should be changed by inserting a double line below the number "$15,000" in line (1)(c), by inserting a single line below the number "$5,000" in line (2)(b), and by inserting double lines below the number "$10,000" in lines (2)(c) and (3).

10. Example (3) of paragraph (d)(2) of § 1.1251–4 should be changed by adding a double line below the number "$10,000" in line (3).

11. The table in Example (2) of paragraph (e) of § 1.1252–1 should be changed by deleting the lines below the number "$5,000" in line (3), by changing the double line below the number "100%" in line (4) to a single line, by inserting a double line below the number "$5,000" in line (9).

12. The number "2152" in the table in Example (3) of paragraph (e) of § 1.1252–1 should be changed to "1252".

13. A double line should be added below the number "$7,000" in line (9) of

Example (2)(ii) of paragraph (a)(4) of § 1.1252–2.

14. Example (3) of paragraph (c)(4) of § 1.1252–2 should be changed by deleting the lines below the number "$13,000" in line (1)(c), by changing the double line below the number "100%" in line (1)(d) to a single line, by changing the single line below the number "$20,000" in line (1)(h) to a double line, by changing the single line below the number "$3,000" in line (2)(c) to a double line, and by adding a double line below the number "$3,000" in line (3).

15. A double line should be inserted below the number "$18,000" in line (9) of Example (1)(i) of paragraph (d)(2) of § 1.1252–2.

16. The double line below the number "$13,000" in line (1)(c) of Example (2)(i) of paragraph (d)(2) of § 1.1252–2 should be deleted.

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.76–17091 Filed 6–10–76;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Supplements to Iowa Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 20, 1973, a notice was published in the FEDERAL REGISTER (38 FR 19368) of the approval of the Iowa Plan and the adoption of Subpart J of Part 1952 containing the decision and describing the plan. By a letter dated September 3, 1975, from Jerry Addy, Iowa Commissioner of Labor, to J. A. Reidinger, former Assistant Regional Director for OSHA, Region VII, and by letters dated December 19, 1975, January 27, 1976, January 28, 1976, and February 6, 1976, from Region VII officials (J. A. Reidinger, former Assistant Regional Director for OSHA; Vernon Strahm, present Regional Administrator for OSHA, Region VII; and T. A. Housh, Jr., Solicitor of Labor for Region VII), State plan modification materials were transmitted to Barry J. White, Associate Assistant Secretary for Regional Programs, for his determination as to whether these supplements should be approved. These supplements fulfill the corresponding commitments in Iowa's developmental schedule, as outlined in 29 CFR 1952.164 as further revised and published in the FEDERAL REGISTER on May 7, 1976 (41 FR 18835).

2. *Description of the supplements.* (a) *Enabling Legislation Becomes Effective.* Chapter 88 of the Iowa Code (Iowa Senate File 1218), effective on July 1, 1972, was approved as State enabling legislation in the FEDERAL REGISTER approval notice of the Iowa Plan on July 20, 1973 (38 FR 19368), fulfilling the commitment contained in 29 CFR 1952.163(a). This approval was conditional on the provision that certain corrective amendments would be incorporated into the State law. These amendments as enacted were approved by notice in the FEDERAL REGISTER on September 2, 1975 (40 FR 40156).

(b) *Hiring Qualified Personnel.* In order for the State of Iowa to have an adequate number of personnel to enforce state occupational safety and health standards, as required by Section 18(c)(1) of the Act, a commitment was given in the State's developmental schedule (29 CFR 1952.163(f)) under which the State was obligated to hire a full complement of qualified enforcement personnel by April 1974. As of April 24, 1974, the State had employed twenty-one safety inspectors, three industrial hygienists, and five safety engineers under the Federally approved Iowa Merit Employment Department system, thus fulfilling the State's obligation for hiring.

(c) *Basic Training of Staff.* In order that all Iowa occupational safety and health enforcement personnel have the knowledge and expertise to perform their inspections and related duties in an efficient and professional manner, all compliance personnel were to attend the Basic Compliance Officers Course at the Occupational Safety and Health Institute in Rosemont, Illinois. This commitment, described in 29 CFR 1952.163(g), was fulfilled by May 9, 1975.

(d) *Training Program for Employers and Employees.* Since the voluntary compliance of employers and the knowledgeability of employees as to their rights and obligations under the Iowa plan are essential to the program, a commitment was given in 29 CFR 1952.163(e) to develop a training program which would utilize the services of local colleges. As of October 1974, a program of training for employers and employees had been developed with the Des Moines Area Community College in Ankeny, Iowa, and Kirkwood Community College in Cedar Rapids, Iowa.

(e) *Management Information System.* Under the requirements of section 18(c)(8) of the Act, approved 18(b) plan States would have to "make reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require." In order to establish source files for these reports, to provide internal management control and direction of compliance activities, and also to help facilitate monitoring under section 18(f) of the Act, the State gave a commitment in 29 CFR 1952.163(h) to develop a Management Information System (MIS). The Iowa Bureau of Labor had a functioning manual MIS system in operation as of July 1972.

(f) *Consultation.* In order to encourage voluntary compliance among employers, the Iowa designee gave a commitment to develop an on-site consultation program (29 CFR 1952.163(k)). According to OSHA Program Directives Nos. 72–27 and 74–13, the State on-site consultation program must not work to the detriment of the enforcement program; must include provisions for the abatement of serious hazards and for the referral of imminent danger situations to the enforcement section; and must not have any other direct relationship to the enforcement program itself. The Iowa Bureau of Labor, by September 1975, initiated a program which met these basic requirements for State on-site consultation.

(g) *Adoption of the Federal Standards as Interim State Standards.* The State of Iowa temporarily adopted extant Federal occupational safety and health standards in 29 CFR Parts 1910 and 1926 as of July 1, 1972 (State Code, Chapter 88), thus fulfilling the commitment given in 29 CFR 1952.163(c). At the time of the notice of the Approval of the Iowa Plan, the State was conducting hearings on the adoption of all Federal occupational safety and health standards (except maritime) as permanent State standards.

(h) *Permanent Standards.* Under section 18(c)(2) of the Act, an approved-plan State must "provide for the development and enforcement of safety and health standards" which "will be at least as effective in providing safe and healthful employment and places of employment" as the Federal standards. A Regional Office comparison determined that the standards promulgated by the State of Iowa are identical both in substance and numbering system to the Federal standards. These standards (29 CFR Parts 1910 and 1926) were adopted as interim standards, as mentioned in the Iowa State plan approval notice and were subsequently adopted as permanent State occupational safety and health standards on August 15, 1973, thus fulfilling the commitment expressed in 29 CFR 1952.163(d).

(i) *Commencement of Compliance Activities.* The State of Iowa fulfilled the commitment given in 29 CFR 1952.163(i) by initiating the enforcement of its occupational safety and health standards immediately after the approval of the Iowa plan (July 20, 1973). Since that date, the State compliance activities have been monitored in five semi-annual evaluations which have favorably reported the State's developmental progress in compliance activities as well as other aspects of the program.

(j) *Development of Compliance Programs in Agriculture, Mercantile, and Service Issues.* Under the provision of Section 6.1.a of Chapter 88 of the Iowa Code, the State was required to develop compliance programs in all issues covered by the Federal regulations, except maritime. The final areas of the State's enforcement programs were implemented as of July 1975, as evidenced by pro-

visions of the Operational Agreement, notice of which was published in the FEDERAL REGISTER on October 31, 1975 (40 FR 50716), fulfilling the commitment given in 29 CFR 1952.163(j).

3. *Location of the plan and its supplements for inspection and copying.* A copy of these supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Room N-3608, 200 Constitution Avenue, NW., Washington, D.C. 20210; OSHA Technical Data Center (TDC), Room N-3620, 200 Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 911 Walnut Street, Room 3000, Kansas City, Missouri 64106; Iowa Bureau of Labor, State House, East 7th and Court Avenue, Des Moines, Iowa 50319.

4. *Public participation.* Under § 1953.2 (c) of this chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Iowa plan supplements described above are consistent with commitments contained in the approved plan, and are substantially similar to parallel Federal regulations and procedures. Accordingly, it is found that further public comment and notice is unnecessary.

5. *Decision.* After careful consideration, the Iowa plan supplements outlined above are approved under 29 CFR Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart J of 29 CFR Part 1952 is amended to reflect the completion of developmental steps by revising 29 CFR 1952.164 (c) through (l) as follows:

§ 1952.164 Completed developmental steps.

* * * * *

(c) In accordance with the commitment contained in § 1952.163(a), the State of Iowa enacted occupational safety and health enabling legislation which became effective on July 1, 1972.

(d) In accordance with the commitment contained in § 1952.163(f), the State of Iowa, as of April 24, 1974, hired a sufficient number of qualified safety and health personnel under the approved Iowa Merit Employment Department system.

(e) In accordance with the commitment contained in § 1952.163(g), all basic training of Iowa compliance personnel was completed as of May 9, 1975.

(f) In accordance with the commitment contained in § 1952.163(e), a program of education and training of employers and employees was developed with local community colleges as of October 1974.

(g) In accordance with the commitment contained in § 1952.163(h), the Iowa Bureau of Labor developed an approved manual Management Information System as of July 1972.

(h) In accordance with the commitment contained in § 1952.163(k), the Iowa Bureau of Labor initiated an approved program of on-site consultation as of September 1975.

(i) In accordance with the commitment contained in § 1952.163(c), the State of Iowa adopted Federal standards as interim State standards under Chapter 88 of the Iowa Code, effective on July 1, 1972.

(j) In accordance with the commitment contained in § 1952.163(d), the State of Iowa promulgated Federal occupational safety and health standards (29 CFR Parts 1910 and 1926) as permanent State Standards as of August 16, 1973.

(k) In accordance with the commitment contained in § 1952.163(i), the Iowa Bureau of Labor began its compliance activities in July 1973.

(l) In accordance with the commitment contained in § 1952.163(j), the Iowa Bureau of Labor implemented compliance programs in the agriculture, mercantile, and service issues by July 1975.

(Secs. 8(g), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g), 667)).

Signed at Washington, D.C. this 8th day of June 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-17094 Filed 6-10-76;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Oregon Plan Supplement

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On December 28, 1972, a notice was published in the FEDERAL REGISTER (37 FR 28628) of the approval of the Oregon Plan and of the adoption of Subpart D of Part 1952 containing the decision. Further a notice of Approval of Revised Developmental Schedule was published on April 1, 1974, in the FEDERAL REGISTER (39 FR 11881).

The State of Oregon has submitted a supplement to the plan involving implementation of its commitment to develop the basis for an on-going affirmative action plan. The supplement was evaluated by the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) in conjunction with the regional Civil Service Commission officials. Under this evaluation the Affirmative Action Plan was accepted as meeting at this time the State's commitment and forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) for his determination as to whether it should be approved as meeting this commitment. The supplement is described below.

2. *Description of the Supplement.* Affirmative Action Plan. The Workmen's Compensation Board of Oregon has developed an Affirmative Action Plan outlining its policy of equal employment opportunity and establishing practices and procedures for the recruiting and hiring of minority and women employees, to assure its commitment to an on-going program that provides equal employment opportunity to all persons on the basis of individual merit.

3. *Location of the plan and its supplement for inspection and copying.* A copy of the plan and its supplement may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room N-3620, 200 Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workmen's Compensation Board, Labor and Industries Building, Room 204, Salem, Oregon 97310.

4. *Public participation.* Under § 1953.2 (c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Oregon plan supplement described above is consistent at this time with commitments contained in the approved plan, which was previously made available for public comment. Accordingly, it is found that further public comment and notice is unnecessary.

5. *Decision.* After consideration, the Oregon plan change outlined herein is approved under Part 1953. In addition, Subpart D of 29 CFR Part 1952 is hereby amended to reflect the approved plan change. Accordingly, § 1952.109(e) of Subpart D is hereby amended as follows:

§ 1952.109 Completed developmental steps.

* * * * *

(e) In accordance with § 1952.108(f) Oregon has developed and implemented an Affirmative Action Plan.

* * * * *

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Washington, D.C. this 4th day of June 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-17095 Filed 6-10-76;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Washington Plan; Approval of Plan Supplement

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the review of changes and progress in State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington Plan and the adoption of Subpart F to Part 1952 containing the decision. On April 2, 1976 the State of Washington submitted a supplement to the plan involving a developmental change to the Seattle Regional Office of the Occupational Safety and Health Administration. Following regional review, the supplement was forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for his determination as to whether it should be approved. The supplement is described below.

2. *Description of the supplement.* Upgrading of salaries of safety personnel. The state has submitted a statement certifying that, in accordance with salary survey findings, the salaries of State safety personnel were increased by an average of 12 percent as of March 1, 1975. This increase completes the objectives as set forth in the State plan for upgrading of safety personnel.

3. *Location of the plan and its supplement for inspection and copying.* A copy of the plan and its supplement may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room N-3620, 200 Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; and the Department of Labor and Industries, General Administration Building, Olympia, Washington 98504.

4. *Public participation.* Under § 1953.2 (c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Washington plan supplement described above is consistent with the commitment contained in the approved plan, which was previously made available for public comment. Accordingly, it is found that further public comment and notice is unnecessary.

5. *Decision.* After careful consideration, the Washington plan supplement described above is hereby approved under Subpart B of Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart F of 29 CFR Part 1952 is hereby amended to reflect the approved plan change. Accordingly, § 1952.124 of Subpart F is hereby amended by adding a new paragraph (g) as follows:

§ 1952.124 Completed developmental steps.

* * * * *

(g) In accordance with § 1952.123(f) Washington has completed the upgrading of salaries of safety personnel.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C. this 4th day of June 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-17096 Filed 6-10-76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5586; (C-22357)]

COLORADO

Transfer of Jurisdiction and Addition to Arapaho National Forest

Pursuant to the Act of December 31, 1974, Pub. L. 93-575, 88 Stat. 1878, it is ordered as follows:

1. Subject to valid existing rights, and all prior withdrawals, the following described public lands under the jurisdiction of the Secretary of the Interior, being adjacent to the boundaries of the Arapaho National Forest, Colorado, as of December 31, 1974, are hereby transferred to the Secretary of Agriculture and made a part of the Arapaho National Forest:

SIXTH PRINCIPAL MERIDIAN

T. 3 S., R. 78 W.,
Sec. 6;
Sec. 7, lots 1, 4, 5, 7, 17, N½NE¼;
Sec. 8, lots 2, 3, 7, 19, N½N½, SW¼NW¼;
Sec. 9, E½E½, NW¼NE¼, N½NW¼, NE¼SW¼;
Sec. 18, lot 21;
Sec. 19, lots 9, 11, 14 thru 19;
Sec. 22, lots 1, 3, 9, 10, N½, E½SE¼;
Sec. 23, lots 1 thru 4, E½W½;
Sec. 26, lots 1 thru 5, E½NW¼, NE¼SW¼;
Sec. 27, lots 1, 2, 8 thru 12, E½NE¼, NE¼SW¼, SE¼;
Sec. 28, lots 16, 19, 20, N½SE¼;
Sec. 29, lots 10, 11, 14;
Sec. 30, lots 1 thru 4, E½W½, N½SE¼;
Sec. 32, NE¼;
Sec. 33, lots 2, 8, NW¼NW¼;
Sec. 34, NE¼;
Sec. 35, NW¼.
T. 4 S., R. 78 W. (partially surveyed),
Sec. 3, lots 1, 2, 7, 8, 9;
Sec. 4, lots 15 and 16;
Sec. 9, lots 6 thru 13, NW¼SE¼;
Sec. 10, lots 7, 11, NE¼SE¼;
Sec. 14, W½;
Sec. 15, lots 3, 4, 5, 11, 12, 13, 14, SE¼NE¼;
Sec. 22, lots 1, 12, 15, 22, W½SW¼;
Sec. 23, lots 1, 2, 4, 6 thru 9, NE¼, N½NW¼, SE¼NW¼, N½SE¼;
Sec. 25, lot 2, E½NW¼, S½;
Sec. 26, lots 5, 15, 16, 20;
Sec. 35, lots 1 and 4.
T. 2 S., R. 79 W. (partially surveyed),
Sec. 7, SE¼SE¼;
Sec. 8, E½, S½SW¼;
Sec. 9, W½;
Sec. 16, W½;
Sec. 17, N½, N½SW¼, N½S½SW¼, SE¼;
Sec. 18, N½NE¼, SE¼NE¼, NE¼NW¼, E½E½SE¼;
Sec. 19, lot 7;
Sec. 20, N½NE¼, SE¼NE¼, E½ lot 10;
Sec. 21, NW¼, N½SW¼, NE¼SE¼SW¼;
Sec. 27, E½SW¼, SE¼;
Sec. 33, lot 1, NW¼NE¼, NE¼NW¼;
Sec. 34, lots 1 thru 4, 8 thru 11, 28 and 30;
Sec. 35, N½SW¼, SE¼.
T. 3 S., R. 79 W. (partially surveyed),
Sec. 1, lots 1, 2, 4, 9, 10, S½NE¼, E½SE¼;
Sec. 2, lots 1, 2, SW¼NW¼, NW¼SW¼;
Sec. 3, lots 1, 2, 3, 5, 6, S½N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 10, lots 1 thru 4, W½NE¼, NW¼, NW¼SE¼;
Sec. 12, lot 8;
Sec. 13, lots 5 and 6.
T. 2 S., R. 80 W. (partially surveyed),
Sec. 11, lot 7;
Sec. 13, lot 10;
Sec. 18, E½;
Sec. 21, NE¼SW¼;
Sec. 28, E½E½.
Totaling 11,670.94 acres in Summit County.

2. The exterior boundaries of the Arapaho National Forest are hereby extended to include all of the lands not presently within such boundaries, lying in T. 3 S., R. 78 W.; T. 4 S., R. 78 W.; T. 2 S., R. 79 W.; T. 3 S., R. 79 W.; and T. 2 S., R. 80 W., secs. 7 thru 18, and sec. 20 thru 28, all of the Sixth Principal Meridian.

3. Effective upon approval of this order, the lands described in paragraph 1 of this order shall be subject to such forms of disposition and use as by law may be made of national forest lands. The use and disposal of such lands shall hereafter be governed by the rules and regulations promulgated by the Secretary of Agriculture.

4. This order does not alter the applicability of the U.S. mining laws or the mineral leasing laws. The purpose of this order is to transfer surface management jurisdiction.

JACK O. HORTON,
Assistant Secretary of the Interior.

JUNE 4, 1976.

[FR Doc.76-16960 Filed 6-10-76;8:45 am]

[Public Land Order 5587; (Idaho 5276)]

IDAHO

Amendment of Public Land Order No. 5499

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented; 43 U.S.C. 416, it is ordered as follows:

Public Land Order No. 5499 of May 1, 1975, published in the May 8, 1975, issue of the FEDERAL REGISTER, revoking Secretarial Orders of September 10, 1937, November 9, 1937, December 29, 1938, March 27, 1941, and April 21, 1942, which withdrew lands for general investigations and the Boise Project, is hereby amended to include the following described lands which were inadvertently omitted:

BOISE MERIDIAN

T. 13 N., R. 11 E.,
Secs. 33 thru 36.

JACK O. HORTON,
Assistant Secretary of the Interior.

JUNE 4, 1976.

[FR Doc.76-16961 Filed 6-10-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR CONSUMER AFFAIRS AND REGULATORY FUNCTIONS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-394]

PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT

Corrections

In Part III of the FEDERAL REGISTER for Friday, June 4, 1976, appearing on pages 22702-22712, the following corrections should be made:

§ 3500.6 [Amended]

1. Page 22705, § 3500.6(a) is corrected by inserting in the third sentence the word "Information" after the word "Special", and by inserting the word "but" after the word "received"; by inserting the words "them in" after the word "placing", and deleting the word "or" after the word "mail" in the fourth sentence; and by deleting in the last sentence the period after the word "Board" and adding the words "unless provided elsewhere."

§ 3500.7 [Amended]

2. Page 22705, § 3500.7(d)(1) delete the quotation mark after the word "items" and add a quotation mark after the phrase "amounts at settlement".

§ 3500.9 [Amended]

3. Page 22706, § 3500.9(a)(3) is corrected by inserting in the first sentence a period after the words "lines 100-1400" and inserting the phrase "However, blank lines or items listed in lines 100-1400" before the word "which".

4. Page 22706, § 3500.9(a)(5) is corrected by inserting the word "of" after the word "form" in the last sentence.

5. On page 22709, the paragraph dealing with lines 1111-1113 is corrected by deleting the last sentence and adding the following, "Show the attorney's fees for legal representation on lines 1111-1113."

6. On page 22712, add the following phrase: "*Effective date:* June 30, 1976" before the signature block.

Effective June 8, 1976.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.76-17093 Filed 6-10-76;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Utilization Control—Methodology for Determining Number of Days Subject to Reductions in the Federal Medical Assistance Percentage

The Administrator of the Social and Rehabilitation Service, with the approval of the Secretary, is hereby revising 45 CFR 250.20(b)(2) and redesignating that paragraph as 45 CFR 250.18(f) in order to correct a technical error and bring the wording of the provision into line with the Department's intent at the time it was issued. The current wording of that paragraph states that a State's quarterly utilization control (UC) "showing" must include a description of the methodology that the State uses to keep track of the patient days potentially subject to a reduction in the Federal medical assistance percentage under section 1903(g) of the Social Security Act. This language appears to suggest that the failure of a State to include this description in its quarterly showing will trigger the imposition of reductions under section 1903(g) of the Act. It was never the intent of the Department, however, to effectuate such a result. The purpose of requiring this methodology is to provide the Administrator with a means of accurately calculating the correct reduction in FFP in the event that a State is found to be out of adherence with Federal UC standards. The existence (or lack thereof) of this methodology was never meant to be itself a factor in determining whether reductions should actually be applied.

The revised (and redesignated) paragraph, hereby issued, continues to require that States have available the same information required by the original paragraph. However, it clarifies that a State must have this information as part of its responsibilities under its State title XIX plan, rather than as an integral component of the quarterly UC showings required under section 1903(g) of the Act. Since the revision is of a technical nature, intended only to clarify the Department's original intent in promulgating paragraph (b)(2) of 45 CFR 250.20, the Department finds that there is good cause to dispense with proposed rulemaking procedures. The revision will be retroactively effective to July 1, 1975—the effective dates of 45 CFR 250.18 and 250.20.

45 CFR Chapter II, paragraph (b)(2) of § 250.20 is revised and redesignated as paragraph (f) of § 250.18. As so amended, §§ 250.18 and 250.20 read as follows:

§ 250.18 Utilization control.

* * * * *

(f) Each State must have procedures for determining promptly the number of days which each title XIX patient for whom payment is made under the State plan has received care beyond sixty days, or, for inpatient mental hospital services, beyond ninety days. The records containing this information on patient-days must be available at the single State agency for review by Federal officials. In determining the number of days each individual has received institutional services, there shall not be counted any days with respect to which such individual is entitled to have payments made (in whole or in part) on his behalf under section 1812 of the Social Security Act.

§ 250.20 Federal financial participation in State expenditures for control and review of utilization of care and services.

(b)

* * * * *

(2) [Reserved]

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

Effective date: This revision and redesignation are retroactively effective as of July 1, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: May 21, 1976.

M. KEITH WEIKEL,
Acting Administrator, Social and Rehabilitation Service.

Approved: June 8, 1976.

DAVID MATHEWS,
Secretary.

[FR Doc.76-17234 Filed 6-10-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-489]

PART 73—RADIO BROADCAST SERVICES

Applicability of the Fraudulent Billing Rule

JUNE 10, 1976.

On October 20, 1965, the Commission amended Part 73 of its rules and regulations to prohibit fraudulent billing practices by broadcast licensees. At the same time, it issued a Public Notice containing illustrative examples of certain kinds of fraudulent billing practices with which the Commission was familiar. It cautioned that "Since fraudulent billing practices may take many forms, the following list of examples should not be considered all-inclusive." 1 FCC 2d 1068, 1075. The fraudulent billing rule, now designated as § 73.1205 of the Commission's rules and regulations, was amended on May 13, 1970 to clarify its meaning and the previously-issued Public Notice was correspondingly amplified with two new examples. 23 FCC 2d 70.

The Commission has now further amended § 73.1205. In view of the amendments, it is appropriate to add corresponding illustrative examples to the pre-

viously issued Public Notice and to issue a revised and consolidated Notice incorporating the additions adopted in 1970 as well. The examples which follow are, like those previously released, not to be considered all-inclusive but merely illustrative of the application of the rule to some practices.

EXAMPLES

1. A licensee issues a bill or invoice to local dealer for 50 commercial spots at a rate of $5 each for a total of $250. In connection with the same 50 commercial spots, the station also supplies the local dealer or an advertising agency, jobber, distributor, or manufacturer of products sold by the local dealer, another affidavit, memorandum, bill, or invoice which indicates that the amount charged the local dealer for the 50 spots was greater than $5 per spot.

Interpretation: This is fraudulent billing, since it may deceive the manufacturer, jobber, distributor or advertising agency to which the inflated bill eventually is sent, as to the amount actually charged and received by the station for the advertising.

2. A licensee issues a bill or invoice to a local dealer for 50 commercial spots at $5 each and the bill, invoice or accompanying affidavit indicates that the 50 spots were broadcast on behalf of certain cooperatively advertised products, whereas some of the spots did not advertise the special products, but were used by the local dealer solely to advertise his store or products for which cooperative sponsorship could not be obtained.

Interpretation: This is fraudulent billing, even though the station actually received $5 each for the 50 spots, because by falsely representing that the spots advertised certain products, the licensee has enabled the local dealer to obtain reimbursement from the manufacturer, distributor, jobber or advertising agency for advertising on behalf of its product which was not actually broadcast.

3. A licensee sends, or permits its employees to send, blank bills or invoices bearing the name of licensee or his call letters to a local dealer or other party.

Interpretation: A presumption exists that licensee is tacitly participating in a fraudulent scheme whereby a local dealer, advertising agency or other party is enabled to deceive a third party as to the rate actually charged by licensee for advertising, and thereby to collect reimbursement for such advertising in an amount greater than that specified by the agreement between the third party and the local dealer. It is the licensee's responsibility to maintain control over the issuance of bills and invoices in the licensee's name, to make sure that fraud is not practiced.

4. A licensee submits bills or invoices to an advertising agency, station representative, or other party indicating that licensee's rate per spot is $50, whereas the licensee actually receives only $5 or $10 per spot in actual payment from the agency, representative or other party. Licensee claims that the remaining 80 or 90 percent of its original invoice has been deducted by the agency as "commission" and therefore no fraudulent billing is involved.

Interpretation: This is fraudulent billing. The agency discount does not customarily exceed 15 percent and the supplying of bills and invoices by the licensee to agencies which indicate that the licensee is charging several times as much for advertising as he actually receives constitutes participation in a fraudulent scheme.

5. A licensee submits a bill or invoice to a local dealer or other party for 50 commercial spots at $5 for a total of $250. However, the bottom of the bill or invoice carries an addendum so placed that it may be cut off of the bill or invoice without leaving any indication that the invoice originally carried such an addendum. The addendum specifies a "discount" to the advertiser based on volume, frequency or other consideration, so that the amount actually billed at the bottom of the page is less than $5 for each spot.

Interpretation: The preparation of bills or invoices in a manner which seems designed primarily to enable the dealer to deceive a cooperative advertiser as to the amount actually charged for cooperative advertising raises a presumption that the licensee is participating in a fraudulent scheme.

6. A licensee submits a bill or invoice to a local dealer for 50 spots involving cooperative advertising of a certain product or products at a rate of $5 each and actually collects this amount from the dealer. However, as a bonus the licensee "gives" the dealer 50 additional spots in which the product or products named on the original invoice are not advertised, so that the dealer actually obtains the benefit of 100 spots in return for payment to the station of the $250 billed for the 50 cooperative spots.

Interpretation: If the 50 "bonus" spots were broadcast as the result of any agreement or understanding expressed or implied, that the dealer would receive such additional advertising in return for contracting for the first 50 spots at $5 each, the so-called "bonus" spots were, in fact, a part of the same deal, and the licensee, by his actions, is participating in a scheme to deceive or defraud a manufacturer, jobber, distributor or advertising agency.

7. A local appliance dealer agrees to purchase 1,000 spots per year from a station and thereby earns a discount which reduces his rate per spot from $10 to $5. During the course of the year, the dealer purchases 100 spots from the station which advertises both the dealer and "Appliance A" and for which the dealer pays $5 per spot. Since the station's rate per spot for 100 spots is $10, the dealer asks the station to supply him with an invoice for the 100 spots on behalf of "Appliance A" at $10 spot, claiming that if the manufacturer of the applicance had purchased the 100 spots, or if the dealer himself had purchased only these 100 spots within the course of a year, the $10 rate would apply, and that, therefore, the manufacturer should be required to reimburse the dealer at the $10 rate.

Interpretation: This practice constitutes fraudulent billing unless the licensee makes certain that the manufacturer of "Appliance A" is alerted to the fact or possibility of the dealer's earning a volume discount. Thus, unless the dealer provides satisfactory evidence that the manufacturer is aware that the dealer actually paid only $5 per spot, the licensee should print or stamp a statement on the face of the affidavit of performance which is to be forwarded to the manufacturer. The statement might be, for example, "RATE SUBJECT TO VOLUME DISCOUNT TO DEALER."

8. A licensee issues a bill or invoice to a dealer for commercial spots which were never broadcast.

Interpretation: This practice, prima facie, involves fraud, either against the dealer or against a third party which the dealer expects to provide partial reimbursement for the nonexistent advertising.

9. A licensee knowingly issues a bill or invoice to a local or national advertiser which shows broadcast of commercial announcements 1 minute in length, whereas in fact some of the announcements were only 30 seconds in length.

Interpretation: This is fraudulent billing, since it misrepresents the length of the commercials, a highly important element of the price charged for them.

10. A licensee knowingly issues a bill or invoice to a local or national advertiser which sets forth the time of day or date on which commercial announcements were broadcast, whereas in fact they were presented at a substantially or materially different time or on a different day, or were not broadcast at all.

Interpretation: This is fraudulent billing, since time of broadcast is often highly important in its value and the price charged for it. Charging for advertising not broadcast is clearly fraudulent.

11. The licensee of a station affiliated with a network furnishes a written certification that the station has broadcast a certain network program in full, whereas in fact the station has not broadcast a part of the advertising content of the program, or has failed to broadcast a portion of the program other than advertising.

Interpretation: Falsely certifying to the network that a network program was broadcast in its entirety constitutes a violation of § 73.1205(b) of the Rules regardless of whether the matter not broadcast consists of advertising or other matter.

12. A licensee enters into a barter agreement with a program supplier whereby the licensee agrees to broadcast the entire program as furnished by the supplier, including commercial spots which the supplier already has sold. The station itself is permitted to sell a number of additional spots for insertion in the program. The station is required by its agreement with the syndicator or supplier to furnish a statement as to whether each program was broadcast in full as furnished by the supplier. Although the station furnishes certification that the program was broadcast in its entirety, it has in fact omitted portions of either the commercial or noncommercial segments of the program.

Interpretation: As in Example 11 above, such false certification constitutes a violation of § 73.1205(b) of the rules.

13. One or more station employees, as a result of willfulness, mistake, misunderstanding or carelessness, are issuing false bills, invoices, affidavits, certifications or other documents such as are described in § 73.1205 (a) or (b). For example, an employee is issuing bills based on advertising contracts or "start orders" without checking the program logs or equivalent station records to make sure that the advertising was broadcast as represented in the bills. Although the principals of the licensee are unaware of the fact, they would have known if they had periodically reviewed their billing practices with reasonable diligence for practices that have proved by experience to be likely to result in issuance of false bills or invoices.

Interpretation: The unawareness of the principals of the licensee of the issuance of false bills or invoices is not an excuse, even where the false bills were issued by an employee because of mistake, misunderstanding or carelessness, since the principals failed to exercise reasonable diligence to assure that their employees did not issue false bills or invoices. Note, however, that the rule does not preclude a station from billing in advance. In such circumstances, the station has a general obligation to check program logs or equivalent station records to assure that all time previously billed/or paid for was later broadcast or to make an appropriate adjustment.

Action by the Commission May 25, 1976. Commissioners Wiley (Chairman),

Lee, Reid, Hooks, Quello, Washburn and Robinson.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-17014 Filed 6-10-76;8:45 am]

[Docket No. 20726; RM-2628]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments

In the matter of amendment of § 73.-202(b), table of assignments, FM broadcast stations. (Mariposa, California).

By the Chief, Broadcast Bureau:

1. The Commission has under consideration its notice of proposed rule making (41 FR 9190) adopted February 23, 1976, proposing the substitution of Channel 242 for Channel 284 at Mariposa, California. Petitioner, Mariposa Broadcasting, Inc., is the only commenting party.

2. The notice set forth relevant demographic data and noted that Channel 284 has remained unoccupied since it was assigned in 1969. Petitioner states that it unsuccessfully applied for the channel last year since its proposed transmitter site was short-spaced, about 10 miles, to the site of Station KSRN (Channel 283), Reno, Nevada. Petitioner asserts that there is no site location which would comply with both the Commission's minimum mileage separation and principal community coverage requirements (§§ 73.207 and 73.315(a) of the Commission's Rules, respectively), due to the mountainous terrain in the area. Based on petitioner's showing, we believe that a substitute assignment which would provide the Mariposa area with a first local aural service is appropriate.

3. The assignment of Channel 242 to Mariposa will cause no new preclusion on Channels 240A, 241, 242, 243, and 244A. There is an abundance of Class A channels available in this area and, if needed, there is one Class B or C channel (depending on the zone) also available to each community precluded on Channels 241, 242 or 243. In addition, Channel 242 meets all mileage separation requirements at Mariposa and the transmitter site may be located at any site not more than 8 miles northwest of the community.

4. We believe, therefore, that the substitution of Channel 242 for Channel 284 at Mariposa would be an efficient use of the remaining FM frequencies in this area. The need for a Class B channel had been previously demonstrated and that need has become greater since the population in the area has increased.[1] There are presently no local aural services in Mariposa County. We regret the delay in instituting service to the Mariposa area due to the unavailability of a suitable transmitter site as noted before. Accordingly, we have processed this petition more expeditiously than usual in order to provide interested persons the opportunity to apply for Channel 242, assigned herein, at the earliest possible date in accordance with a request from petitioner for expedited action. Petitioner has indicated that it will promptly apply for the channel.

5. In light of the above, it is ordered, That effective July 16, 1976, the FM Table of Assignments (§ 73.202(b) of the Commission's rules) is amended as it pertains to the community listed below:

City:	*Channel No.*
Mariposa, Calif.	242

6. Authority for the actions taken herein is found in Sections 4(i), 303(g) and (r), 307(b) and 310(a) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

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

(Secs. 4, 303, 307, 310, 48 Stat., as amended, 1066, 1082, 1083, 1086; 47 U.S.C. 154, 303, 307, 310.)

Adopted: June 2, 1976.

Released: June 7, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-17010 Filed 6-10-76;8:45 am]

[FCC 76-488; Docket No. 20499]

PART 73—RADIO BROADCAST SERVICES

Prohibition of Fraudulent Billing Practices

In the matter of amendment of § 73.-1205 of the Commission's rules in order to prohibit certain fraudulent billing practices.

By the Commission:

1. Now under consideration are: (a) our notice of proposed rule making in Docket No. 20499 (Notice), 53 FCC 2d 900, 40 FR 26695 (1975)[1]; and (b) responsive comments and a reply comment.[2] Comments were sought on the proposed changes in the rule and on a modified Public Notice illustrating the applicability of the rule.

A reply comment was filed by American Broadcasting Companies, Inc.

2. The background of our concern with fraudulent billing practices was fully summarized in the Notice and will not be repeated here. The purpose of the present proceeding is to consider extending the applicability of § 73.1205 to cover the issuance of fraudulent documents to program suppliers with respect to noncommercial matter, which is not encompassed under the present rule; and to provide clarification of aspects of the applicability of the rule, especially with respect to the licensee's responsibility for employees who issue certain documents that contain false information. To those ends, we put out for comment the following proposed revision of § 73.1205:

§ 73.1205 Fraudulent billing practices.

(a) No licensee of a standard, FM, or television broadcast station shall knowingly issue to any local, regional or national advertiser, advertising agency, station representative, manufacturer, distributor, jobber, or any other party, any bill, invoice, affidavit or other document which contains false information concerning the amount actually charged by the licensee for the broadcast advertising for which such bill, invoice, affidavit or other document is issued, or which misrepresents the nature or content of such advertising, or which misrepresents the quantity of advertising actually broadcast (number or length of advertising messages) or the time of day or date at which it was broadcast.

(b) Where a licensee and any program supplier have entered into a contract or other agreement obligating the licensee to supply any document providing specified information concerning the broadcast of the program or program matter supplied, including noncommercial matter, the licensee shall not knowingly include in that document information required by the contract or agreement which is false.

(c) A licensee shall be deemed to have violated this section if it fails to exercise reasonable diligence to see that its agents and employees do not issue documents containing the false information specified in (a) and (b) above.

Subsection (b) is new, and subsection (c) was proposed in place of the last sentence of the existing rule, which now states, "Licensees shall exercise reasonable diligence to see that their agents and employees do not issue any documents which would violate this section if issued by the licensee." No other change was proposed in what is designated above as subsection (a).

3. Although the comments were few in number, they have provided useful guidance and suggestions in the disposition of this proceeding. They range from full support to complete opposition. We shall discuss first comments pertaining to the substance or advisability of the proposed amendments. We shall then turn to the comments suggesting changes in the drafting of the rule to reach more clearly substantive goals, and conclude with consideration of the comments on the revised Public Notice.

4. We believe that it is appropriate to start the disposition of this proceeding with a quotation from our decision in Fraudulent Billing Practices, 1 FCC 2d 1068 (1965), in which we adopted the fraudulent billing rule. We stated there:

The practice of "double billing" is patently fraudulent and is condemned by all those filing comments. It is urged, however, by some of the parties that while "double billing"

---

[1] A recent estimate places the 1975 population of Mariposa County at 8,441 compared to the 1970 Census of 6,015 population.

[1] The time for filing comment and reply comments was extended to November 28 and December 29, 1975. See 40 FR 37054 (1975) and 40 FR 51483 (1975).

[2] Comments were filed by: American Broadcasting Companies, Inc.; Dempsey and Koplovitz—Arkansas Television Company, Delaware Broadcasting Company, El Mundo Broadcasting, The Hearst Corporation, International Broadcasting Corporation; Haley, Bader & Potts; Metromedia, Inc.; National Association of Broadcasters; National Broadcasting Company, Inc.; Westinghouse Broadcasting Company, Inc.

might reflect upon a licensee's character and would, therefore, be a relevant consideration upon a renewal of license, it is a business practice which does not affect a station's service to the public and therefore a matter which the Commission may not regulate by rule. This contention has little force in our view. We are not concerned here with a practice engaged in outside of the radio field by broadcast licensees. We are here concerned with this one aspect of the operation of the licensed facilities. The public interest standard of the Communications Act implies a requirement that a licensee be law abiding in the operation of his station, *Federal Communications Commission* v. *American Broadcasting Co.*, 347 U.S. 284, 290 (1954); *Granik* v. *F.C.C.* 234 F. 2d 682 (1956). The prohibition of a particular fraudulent practice as being inconsistent with operation in the public interest is not the "supervision" of a licensee's business practices and policies which Congress withheld when it determined that broadcast station should operate in a competitive market rather than under a form of common carrier or public utility regulation. Furthermore, the practice of "double billing" has an impact beyond the particular parties concerned. The use of this concededly improper and illegal practice affects adversely the operation of competitive stations not engaging therein, and also is clearly a matter of proper Commission concern. See *Federal Trade Commission* v. *Keppel & Bro.*, 291 U.S. 304.

It is also contended that the adoption of the rules would constitute double jeopardy, since other legal remedies are available against "double billing." However, the availability of other remedies to other local or Federal bodies does not require that this Commission stand aside. *Federal Communications Commission* v. *American Broadcasting Co., supra, Mester* v. *U.S.*, 70 F. Supp. 118 (D.C., N.Y., 1947), aff'd 332 U.S. 749, rehearing den., 332 U.S. 820. [1 FCC 2d at 1069–70]

5. After the adoption of the fraudulent billing rule in 1965,[3] the problem of "network clipping" came to our attention. See Radiozark Broadcasting of Louisiana, Inc., 32 FCC 2d 603 (1971) and Channel 13 of Las Vegas, Inc., 37 FCC 2d 518 (1972). We found that some stations were clipping portions of material supplied by a network, commercial and noncommercial, sometimes for the insertion of additional local commercial matter, but were not advising the networks of the deletions when certifying their performance in order to obtain payment from the network.[4] Under the existing rule, we are in the anomalous situation of being able to fine a station if it deletes a network commercial and fraudulently certifies that it was broadcast, but unable to impose a fine if the station issues a similar fraudulent statement as to deletion of noncommercial program matter in order to insert local commercials or other material. See our Public Notice on network clipping, 40 FCC 2d 136 (1973).

6. A second related development has been the adoption of the prime time access rule, § 73.658(k), which limits the amount of the time television stations in larger markets can devote to programming supplied by the networks. There has been a concomitant rise in the amount of "syndicated" or non-network programming. In some cases, the station simply purchases the rights to the programming from the syndicator. However, in other cases, the programming is supplied along with commercials that are to be broadcast within the program. The contract may also specify the date and time period in which the program is to be broadcast. In such circumstances the program syndicator may require a certificate of performance stating that the program was broadcast, including the commercials, at the required date and time. Such arrangements may be for a single program, or for an ongoing series of daily or weekly programs.

7. Our concern at the time we considered the adoption of what is now § 73.1205 was the participation by a licensee in fraudulent activity. See the quoted material in paragraph four, above, from our decision in Fraudulent Billing Practices. Our concern in this proceeding is the same.[5] We believe that a fraudulent statement raises the same questions, regardless of whether the subject of the statement is commercial matter or other program matter. Similarly, we see no reason for treating fraudulent statements issued to program syndicators any differently from those issued to networks. This is especially true when the syndicator is providing an ongoing program series, since the syndicator-licensee relationship is virtually identical to the network-licensee relationship, except as to the method of program distribution. Accordingly, for the reasons set out above and in Fraudulent Billing Practices, quoted above, we reject the contentions that we should repeal the rule, that the amendments are beyond our statutory authority, that the amendments are not needed because local courts have criminal or civil jurisdiction in cases where fraudulent practices are found, and that the rule should not be extended to cover program syndicators.

8. Other comments express the views that the amendments proposed put us into the position of being an interpreter of contracts, intrude the government into another area of business regulation, and are therefore contrary to our "deregulation" efforts. The "deregulation" contention has been raised in several recent rule making proceedings that would increase the burdens placed on licensees. However, as we have recently noted:

This agency's responsibility to act in furtherance of the public interest remains paramount, even if it seems to involve some conflict with our re-regulation policy. Although some burden may be felt, the public interest nevertheless may require us to act. The re-regulation approach requires us to be quite sure that such action is in fact required. (AM–FM Program Duplication, Docket No. 20016, FCC 76–406, released May 6, 1976, paragraph 15).

The proposed changes will extend our regulation of this area of conduct. Nevertheless, the changes will make uniform the applicability of the rule to conduct covered in substantial part by existing requirements. While the broadening of the coverage of the rule is modest, our concern about the issuance of fraudulent documents is great. When balancing this concern against our re-regulation policy, we believe the public interest scale clearly tips toward the broadening of the scope of the rule.

9. Moreover, where the public interest requires, we already review contracts. For example, we may be required to review network affiliation contracts to determine compliance with the chain broadcasting rules.[6] We already have to review affiliation contracts under the present fraudulent billing rule when we investigate allegations of clipping of network commercial matter. As a practical matter, determining the obligation imposed on a licensee under its network affiliation contract has not been a difficult problem to date, since the terms relating to network certifications are relatively straightforward. See Channel 13 of Las Vegas, Inc., above. Thus, we conclude that the views expressed at the beginning of paragraph eight do not bar the amendments proposed in this proceeding.

10. Some parties commented about the requirement proposed in new subsection (c) of the rule that holds a licensee responsible if it fails to exercise "reasonable diligence" and, as a result, its employees issue documents containing false information of the sort described in subsections (a) and (b) of the rule. They believe that the rule should be recast in terms of the employee "knowingly" issuing documents containing false information. In this way it is urged that the licensee will not be an absolute insurer of the truth of all information contained in all documents covered by the rule. We reject the suggestion that the employee must "knowingly" issue documents containing false information. We are seeking in this subsection to impose on licensees an obligation to review and to supervise their activities so that their employees cannot engage in a pattern of issuing false information, regardless of whether issuance of the information resulted from willfulness, mistake, misunderstanding or carelessness. Moreover, we believe that "reasonable diligence" is the appropriate standard. We propose to find violations of the rule where em-

[3] Fraudulent Billing Practices, above. The rule was modified and consolidated into its present form in Fraudulent Billing Practices, 23 FCC 2d 70 (1970).

[4] In order to obtain payment from the network, an affiliate is required to certify periodically that it has broadcast specified material provided by the network. The form used for these certifications typically has a column in which cancellations or deletions of the network material can be indicated. An affiliate is, of course, always free to delete material it believes contrary to the public interest. It is the failure to disclose such deletions that is our concern in this proceeding.

[5] Our concern is not, as suggested by one party, what network material is deleted by an affiliate.

[6] See §§ 73.131–73.138, 73.231–73.238, and 73.658 of the Rules.

ployees issue documents containing false information, and the licensee knows that fact, or would have known had it given periodic, diligent, reasonable supervision to this area of its operations. On the other hand, the licensee is not absolutely liable for errors, since we do not propose to find violations where the licensee lacked knowledge and where the false information appears to have been issued as the result of an occasional mistake not indicating a pattern or where reasonable diligence would not uncover the issuance of false information, such as carefully concealed wrongdoing.

11. One party hypothesized the following situation:

> * * * suppose a radio licensee with an automated commercial traffic and billing system plans to present five commercial announcements between 7:00 A.M. and 7:30 A.M. on its morning drive-time program. The orders would be key-punched into the automated system, assigned specific broadcast times (e.g., 7:05, 7:11, 7:12, 7:20 and 7:29) and printed on the advance program schedule. Then, during the program, the operating engineer would log the exact times the announcements were broadcast. Every one of these times might vary slightly from the times indicated on the advance program schedule for a variety of reasons. Now, the licensee can simply correct any major consequential changes in the planned times and then simply let his automated system prepare his invoices. Or, he can re-punch the entire commercial inventory to reflect every minor inconsequential change in planned times of broadcast and then let his automated system generate his invoices. Obviously, the latter alternative is a far more costly and time-consuming process.
>
> The key question is whether there is any legitimate basis for requiring the licensee to undergo the expense and burden of making all of these minor inconsequential changes. The answer is no. If the licensee simply corrects any major deviations and then generates his invoices utilizing the same data base which produced the pre-printed log, there is no way that such a procedure could contribute to a fraudulent billing scheme. As a practical matter, it is of absolutely no significance that a spot invoiced as 7:10 A.M. was actually broadcast at 7:08 A.M. or 7:14 A.M.
>
> The party suggests, therefore, that the rule be modified to pertain to the issuance of a document "which substantially and materially misrepresents the time of day or date" at which an announcement was broadcast.

12. We believe the comment is well taken in the circumstances described. However, the use of the proposed language in other circumstances would lead to undesirable results. There are times where a few minutes difference in time, although not substantial, would be material. Thus, if an advertiser pays a premium rate for advertising during drive time, which the particular licensee defines as 6:30 a.m. to 9:00 a.m., the difference between broadcasting the announcement at 8:59 a.m., as opposed to 9:01 a.m., would be material. Similarly, if an advertiser pays a premium rate for an announcement to be broadcast at a set position (at the end of the evening news program, for example), the broadcast of the announcement a few minutes late would be material. We also believe that the date is always substantial and material unless the contract specifies otherwise.[1] Thus, we propose to amend the rule to apply to a document that substantially and/or materially misrepresents the time an announcement was broadcast or that misrepresents the date of its broadcast.

13. Another party noted that subsections (a) and (c) refer to the issuance of a document that contains false information, but that subsection (b) refers to documents that include false information. Technically, false information might be included in a document that is never issued. Thus, we believe it appropriate to frame subsection (b), as are subsections (a) and (c), in terms of issuing a document that contains false information.

14. One party commented on new example 13 of the proposed Public Notice, pertaining to the licensee's responsibility for the acts of its employees who may issue fraudulent bills. We believe that part of this party's concern is answered above in paragraph ten, concerning the substantive requirements of § 73.1205(c). We shall revise the example to reflect our interpretation of the requirements of § 73.1205(c) as set out in paragraph ten. It is also suggested that under proposed example 13 a licensee is required to check its program logs in preparing its bills or invoices. It is stated that this requirement is unnecessarily restrictive and that "program logs or equivalent station records" should be substituted. We agree that this change would be appropriate. It should be understood, however, that we define "equivalent station records" to mean records that accurately reflect what was actually broadcast. Finally, the commenting party notes that for advertising clients without an established credit rating or for groups without a continuing existence, such as ad hoc political campaign committees, many licensees require payment before any material is broadcast. The party requests that we revise example 13 "to make it clear that it is not intended to preclude stations from billing in advance of broadcast so long as program logs or equivalent stations records are checked to insure that all time previously billed and/or paid for was later broadcast or adjustment made." We do not interpret § 73.1205 to cover the situation described, since at the time of issuance there is no way to determine whether the information contained in the bill is false. However, we believe that stating this interpretation as a part of example 13 would be helpful, and an appropriate revision will be made. It should be emphasized that the examples are not all inclusive and are intended to provide general illustrations of the applicability of the rule. It is not possible to foresee all possible practices or to pose all possible factual variations of main themes that we have already found. Thus, we believe that licensees should be guided generally by the examples, but should turn to the provisions of the rule itself when new situations or fact patterns are confronted.

15. With respect to new subsection (b), we believe that following statement from our Public Notice on network clipping, above, bears repeating here:

> Nothing in this Notice should be interpreted to place any limitation on the licensee's discretion to delete any material that it believes to be indecent, profane, obscene, in bad taste, or otherwise contrary to the public interest. The Notice is intended to emphasize that such deletions or cancellations should be accurately disclosed in the certifications to the network. This Notice is not intended to apply to clipping of a few seconds duration that occasionally results from switching or other technical problems. (40 FCC 2d at 137)

Although that statement was directed to certificates issued to networks, we shall apply the thoughts expressed there to affidavits of performance issued to program syndicators.

16. In light of the above, we believe that the public interest will be served by amending § 73.1205 of the Rules and revising the accompanying interpretive Public Notice. Authority for amending the rule is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Authority for revising the Public Notice is contained in Section 4(i) of the Act, 47 U.S.C. 154(i).

17. Accordingly, It is ordered, effective July 15, 1976, That § 73.1205 of the rules and regulations is amended as indicated below.

18. *It is further ordered*, That this proceeding is terminated.

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

Adopted: May 25, 1976.

Released: June 10, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

1. Section 73.1205 is amended to read as follows:

§ 73.1205 Fraudulent billing practices.

(a) No licensee of a standard, FM, or television broadcast station shall knowingly issue or knowingly cause to be issued to any local, regional or national advertiser, advertising agency, station representative, manufacturer, distributor, jobber, or any other party, any bill, invoice, affidavit or other document which contains false information concerning the amount actually charged by the licensee for the broadcast advertising for which such bill, invoice, affidavit or other document is issued, or which misrepresents the nature or content of such advertising, or which misrepresents the quantity of advertising actually broadcast (number or length of advertising

[1] For example, in an affidavit of performance for the broadcast of 20 run-of-schedule announcements to be broadcast in the period from September 1 through September 10, the beginning and end dates are material, although the exact dates the announcements were broadcast would not necessarily be material.

messages) or which substantially and/or materially misrepresents the time of day at which it was broadcast, or which misrepresents the date on which it was broadcast.

(b) Where a licensee and any program supplier have entered into a contract or other agreement obligating the licensee to supply any document providing specified information concerning the broadcast of the program or program matter supplied, including noncommercial matter, the licensee shall not knowingly issue such a document containing information required by the contract or agreement that is false.

(c) A licensee shall be deemed to have violated this section if it fails to exercise reasonable diligence to see that its agents and employees do not issue documents containing the false information specified in paragraphs (a) and (b) above.

NOTE.—Commission interpretations of the rule may be found in a separate Public Notice issued June 10, 1976, entitled "Applicability of the Fraudulent Billing Rule," FCC 76-489 FR Doc. 76-17014, page 23673 (41 FR 23673).

[FR Doc.76-17009 Filed 6-10-76;8:45 am]

[FCC 76-519]

PART 76—CABLE TELEVISION SERVICES

Clarification

In re: clarification of § 76.256 of the Commission's rules and regulations.

By the Commission: Commissioner Reid absent; Commissioners Hooks and Robinson concurring in the result.

1. Since the adoption of the Cable Television Report and Order in 1972 (FCC 72-108, 36 FCC 2d 143 (1972)) we have required cable operators to have rules prohibiting the presentation of obscene or indecent matter on access channels (§ 76.256 (d) (1), (2), and (3)).[1] Because of an apparent ambiguity in the way our rule was originally written and an increasing number of questions from cable operators and others we are taking this opportunity to clarify the rule and further discuss the obligations of cable operators in this area.

2. The ambiguity arises in the existing rule because while we require the operator to have regulations prohibiting obscene or indecent programming we do not appear to require specifically that the operator has the obligation to keep this matter off the system. This is, however, what we intended and it is how we have interpreted the rule since its inception. Accordingly, we are clarifying the language in § 76.256 (d) (1), (2), and (3) to provide that in addition to having rules prohibiting obscene and indecent programming on the access channels, it is also the cable operator's responsibility to enforce these rules.

3. Thus, while, consistent with § 76.256(b), the operator may not in general exercise program content control over programming on access channels, he explicitly does have the power and obligation under our rules to proscribe obscene or indecent matter. Indeed, he is responsible to the Commission for doing so. This has always been our intent and we believe the language change in the rule will make that clear.

4. We recognize that the obligation we impose on the operator may be a difficult one. This is particularly true when the access channels are being significantly used. Therefore we have adopted a rule of reasonableness with respect to how we expect the operator to comply. Since the volume of programming may increase considerably on the channels not under the direct control of the operator, it would be unreasonable to require him to monitor all such programming prior to its being played to guarantee that objectionable material is not included. Indeed, such a procedure would be impossible on "live" presentations. Hence the operator cannot be held responsible for occasional violations of the prohibitions which he had no reason to believe would be violative of these rules. However, once programming has been submitted and played that does violate the proscription, or if the operator is on notice in some other manner that the particular programmer in question has a history of including, or intention to include questionable material, then we believe that the operator should exercise his responsibility. By adopting this approach to enforcing our rule, we hope to reaffirm our proscription of obscence or indecent programming while also easing the concern of cable operators that we will hold them responsible for isolated events not reasonably within their control.

5. Once the operator, either because of the programmer's prior history or for any other reason, is on notice that questionable material may be included in a program he should take appropriate steps (which may include pre-screening) to insure that any proscribed programming is not cablecast. One reasonable approach would be to request that the offending portion be deleted. If the programmer refuses to delete the objectionable material, the operator can simply refuse to allow the program on the system.

6. Should the operator not have reason to question a program which subsequently, upon cablecasting, appears to violate our rule, it would be within the operator's discretion to withhold further access to the system at least until clear procedures could be worked out between the parties to assure that such material will not be cablecast again. We do not foreclose the possibility that in some instances the most reasonable way of enforcing the rule would be to prohibit future access to a particular programmer for a considerable length of time. We hope, however, that this extreme would be a last resort. It would certainly be no substitute for a reasonable understanding between the parties.

7. This clarification of our rule prohibiting obscene and indecent programming on the access channels is intended to enunciate a policy of reasonability. The Commission appreciates the practical difficulty that would arise were an operator forced to pre-screen numerous channels of access programming. We are aware that this is a delicate area in which a doctrinaire approach might produce a "chilling effect" on the growth of access services. Further, we are pleased to note that with only occasional exceptions since we adopted the access requirements there appears to have been compliance with our rules without creating a "chilling effect". We believe this situation can continue and that the guidelines we are suggesting here will prove beneficial.

8. Obviously, there will be situations where a program is not proscribed by our rule but, in the opinion of the cable operator, might prove distasteful to some subscribers. We, of course, cannot and should not attempt to regulate such situations. There is no Constitutional safeguard against unpleasantness. We have suggested in the past, however, and still believe that as a matter of taste and common sense it would be appropriate for such programming to be cablecast at hours that would tend to minimize its exposure to children. Our rules do not require such scheduling, but we wish to make clear again that neither do they prohibit it.

9. The Commission is recommending to the Congress that the Communications Act be amended to provide inter alia that those who use the access channels (as well as cable operators who use their own channels) be liable to criminal prosecution for programming obscene or indecent material. In addition, state or local laws may well apply to the users of such channels. With respect to the cable operator's responsibility for access programming, however, we have decided to retain our present rule, as clarified, rather than seeking the sterner remedy of criminal liability. This approach has been adopted largely because of our continuing desire to promote the most open use of access channels. At the same time, it must be understood that Constitutionally unprotected material should be proscribed. We believe that this is an area where administrative flexibility can accomplish both goals.

10. Authority for the adoption of the attached amendments contained in sections 4(i), 303(r), 308, and 309 of the Communications Act of 1934, as amended. Because they are interpretive in nature, the prior notice and effective date requirements of 5 U.S.C. 553 are inapplicable.

11. Accordingly it is ordered that § 76.256(d) (1), (2), and (3) is amended as set forth below, effective June 18, 1976.

(Secs. 4, 303, 308, 309, 48 Stat., as amended, 1066, 1082, 1084, 1085; 47 U.S.C. 154, 303, 308, 309.)

Adopted: June 2, 1976.

Released: June 9, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Section 76.256(d) (1), (2) and (3) are amended to read as follows:

[1] On the public and educational access channels, advertising is also prohibited. Lotteries are prohibited on public, educational and leased access channels.

§ 76.256 Access services.

* * * * *

(d) * * *

(1) For public access programming, such system shall prohibit the presentation of: any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information; and obscene or indecent matter, and shall establish rules to this effect as well as rules requiring first-come nondiscriminatory access, and rules permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of two years.

(2) For educational access programming, such system shall prohibit the presentation of: any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information; and obscene or indecent matter, and shall establish rules to this effect including a rule permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of two years.

(3) For leased access programming, such system shall prohibit the presentation of: lottery information; and obscene or indecent matter and shall establish rules to this effect; and other rules requiring first-come, nondiscriminatory access, sponsorship identification (see § 76.221), specifying an appropriate rate schedule and permitting public inspection of a complete record of the names and addresses of all persons or groups requesting time. Such a record shall be retained for a period of two years.

* * * * *

[FR Doc.76-17008 Filed 6-10-76;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

[Docket No. OPSO-36, Amdt. No. 25]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; MINIMUM FEDERAL SAFETY STANDARDS

Caulked Bell and Spigot Joints

This amendment to Part 192 revises § 192.753(a) which requires that cast-iron caulked bell and spigot joints subject to pressures of 25 psig or more must be sealed with mechanical leak clamps. This revision establishes performance standards for the use of other sealing methods and materials that provide a level of safety at least equal to that provided by mechanical leak clamps in sealing cast-iron bell and spigot joints. The performance standards are (1) flexibility in the joint, (2) permanent chemical or mechanical bonding of the sealant with the pipe, and (3) compliance with the strength, environmental, and chemical compatibility requirements of §§ 192.53 and 192.143.

The Materials Transportation Bureau (MTB) issued Notice 75-6 (40 FR 52855, November 13, 1975) proposing this amendment on the basis of a petition from Miller Pipeline Corporation dated July 8, 1974, and a waiver from § 192.753 granted by the Ohio Public Utilities Commission. Both the petition and the waiver were supported by extensive test data collected from foreign and domestic sources on the Avonseal process. Because other sealing methods are also in use, the standards proposed in the Notice were intended to have broad application and allow the use of any sealing method which can serve as a safe alternative to mechanical leak clamps. Interested persons were invited to participate in the rulemaking by submitting written data, views, and arguments by December 29, 1975.

Seventeen persons filed written comments to Notice 75-6 in response to the invitation to participate. Fourteen of these favored adoption of the revised rule, as proposed, and three others favored adoption with certain minor changes.

It was suggested by one commenter that the final rule should allow the use of a sealant which bonds with either the cylindrical surface of the pipe adjacent to the bell or the bell surface. MTB believes this suggestion would add flexibility to the rule and permit the use of improved techniques and methods. Therefore, in the final rule, § 192.753(a) (2) (ii) is changed to require permanent bonding with the bell and spigot metal surfaces or the adjacent metal surfaces of the pipe.

Another commenter proposed that each operator using a sealing method other than mechanical leak clamps be required to submit supporting data on the method as a means of verifying compliance with the performance standards. MTB has not adopted this comment, preferring to establish general standards for performance to obviate the need for MTB approval of any particular method. Each operator is responsible under the law for ensuring that the performance objectives are met. Approvals would only appear as MTB endorsements of proprietary items. Further, if needed for enforcement purposes, MTB is empowered to obtain from operators any information which relates to determining compliance.

Also, in response to a commenter's suggestion, for clarity the words "material or device" are used in the final rule to refer to a sealing method which may serve as an alternative to mechanical leak clamps.

Report of the Technical Pipeline Safety Standards Committee

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 requires that all proposed standards and amendments to such standards pertaining to gas pipelines be submitted to the Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each proposal." The proposed amendment to § 192.753 was submitted to the Committee as Item A-1 in a list of three proposed amendments.

On April 16, 1976, the Committee filed the following favorable report:

> This communication is the official report of the Technical Pipeline Safety Standards Committee concerning the Committee's action on three amendments to 49 CFR Part 192 proposed by the Office of Pipeline Safety Operations and other matters which the Committee decided should be brought to the attention of the Department of Transportation.
>
> The following described actions were taken by the Committee at a meeting held in New Orleans, Louisiana, on March 30, 31, 1976.
>
> *Item A-1* of the agenda was a proposal by OPSO to revise Section 192.753, Caulked bell and spigot joints, to permit use of sealing techniques other than mechanical leak clamps on cast iron bell and spigot joints operated at 25 psig or more.
>
> By a vote (12 affirmative—1 negative) the Committee found that the * * * (proposed revision of) § 192.753(a) is technically feasible, reasonable and practicable.
>
> * * * * *
>
> Throughout the body of this report the OPSO proposals which were accepted by the Committee as technically feasible, reasonable and practicable were those proposals contained in the agenda submitted to the Committee and do not necessarily conform to the proposals contained in the Notice of Proposed Rulemaking which appeared in the FEDERAL REGISTER.

The minority views of Mr. A. W. Peabody, member of the Committee, are as follows:

> I have reviewed the committee report which you distributed under date of April 1. Although I have no problem with any of the actions which were taken during the March meetings, I do wish to point out one item which OPSO might wish to consider for editorial change.
>
> The item in question is § 192.753(a) (2) (ii) which reads "Permanently bonds, either chemically or mechanically or both, with the pipe or bell and spigot metal surfaces; and." My problem is the underlined words. The intent of the words should not, I am sure, permit a choice between bonding to the pipe and bonding to the bell and spigot. The bell and spigot are specific parts of a piece of cast-iron pipe and it is essential that these two items be sealed at the joint between the two. By leaving the wording as it is, the inference might be that one could provide a bond chemically or mechanically or both with the cast-iron pipe in general which of course is not the intent of the section.
>
> Various wordings would correct the situation. One way would be to leave out the words "pipe or" which would return the wording to that contained in the original notice issued by OPSO. Another solution would be to have the reading "* * * with both bell and spigot metal surfaces;" or "* * * with the metal surfaces of both the bell and the spigot;"
>
> As I recall, I brought this to the attention of the Committee during our meeting but we did not reach the point of taking any action. Actually, as I indicated above, I believe that this could be readily handled on an editorial basis.

Effective date. Section 3(e) of the Natural Gas Pipeline Safety Act of 1968

requires that standards and amendments thereto prescribed under the Act be effective 30 days after the date of issuance unless the Secretary determines good cause exists for an earlier or later effective date as a result of the period reasonably necessary for compliance. Accordingly, the revised § 192.753(a) will become effective 30 days after issuance, on July 4, 1976.

In consideration of the foregoing, § 192.753(a) is revised to read as follows:

§ 192.753 Caulked bell and spigot joints.

(a) Each cast-iron caulked bell and spigot joint that is subject to pressures of 25 psig or more must be sealed with:

(1) A mechanical leak clamp; or

(2) A material or device which—

(i) Does not reduce the flexibility of the joint;

(ii) Permanently bonds, either chemically or mechanically, or both, with the bell and spigot metal surfaces or adjacent pipe metal surfaces; and

(iii) Seals and bonds in a manner that meets the strength, environmental, and chemical compatibility requirements of §§ 192.53 (a) and (b) and 192.143.

* * * * *

(Sec. 3, Pub. L. 90-481, 82 Stat. 721, 49 USC 1672; 40 FR 43901, 49 CFR 1.53.)

Issued in Washington, D.C. on June 4, 1976.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.76-17036 Filed 6-10-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—MARINE MAMMALS

Incidental Taking in the Course of Commercial Fishing Operations

On December 5, 1975, the National Marine Fisheries Service (the Service) promulgated amendments to regulations then in effect at 50 CFR 216.24 governing the incidental taking of marine mammals in the course of commercial fishing operations, pursuant to the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407. The amendments were intended to be effective during the 1976 fishing season, and reflected the latest developments in the Service's program of reduction in porpoise mortalities occurring incidentally to commercial tuna purse seining. Subsequently, on December 20, 1975, a general permit was issued to the American Tunaboat Association to conduct fishing operations involving porpoise during 1976.

As a result of a legal action brought against the Service by the Committee for Humane Legislation and other private groups, these regulations, and the general permit and certificates of inclusion issued thereunder were declared void as contrary to law by Judge Charles R. Richey of the United States District Court for the District of Columbia on May 11, 1976. Judge Richey stayed the effective date of his order until May 31, 1976, but declared that subsequent to that date no fishing in association with marine mammals in the manner permitted by the regulations, the general permit, and certificates of inclusion could be carried on without the Service having first made certain findings with respect to existing porpoise populations, the optimum sustainable population of each species of porpoise, and the effects of proposed takings on them, deemed by the Court to be required by the Act. Additionally, the Court found that the Service had erred in not stating, as a condition of the general permit, the numbers of animals that were permitted to be killed pursuant thereto.

The Service appealed the order of the District Court, and requested a further stay of the order pending the disposition of this appeal. The request was initially denied, but the Service sought a stay of the order from the Court of Appeals for the District of Columbia Circuit. By affidavit submitted in conjunction with this request, on May 28, 1976, Robert W. Schoning, Director, NMFS, stated:

> The District Court has indicated that the Agency, although acting in good faith, acted improperly in the issuance of the general permit without a specific limitation at the time of issuance. Therefore, if a stay of the order of the District Court is granted pending appeal, the Agency will forthwith impose a quota for the full 1976 season of 78,000 porpoises as the total number of porpoises which may be killed by the U.S. fleet in connection with commercial fishing for tuna by setting or porpoise. This figure represents:
>
> (a) The best estimate of agency scientists as to the total kill of porpoise by U.S. fishermen this season within reasonable confidence limits;
>
> (b) A substantial reduction from the 1975 total kill of 134,217, and as well from the 1974 kill of 97,800;
>
> (c) A level of mortality well below the threshold (94,000) established by the Agency for 1976; and
>
> (d) A level of mortality which will further assure that existing population stocks will not be diminished (agency scientists have previously indicated that, if up to 195,000 porpoises were killed annually, the rate of change in the existing populations would be low (plus or minus 2 percent)).

The Court of Appeals subsequently granted a stay of the District Court's order until further order by the Court of Appeals. In view of the opportunity to continue research efforts resulting from the Court's action, the Service is initiating efforts to increase the number of scientific observers placed aboard tuna purse seine vessels and to maintain the ongoing cooperative gear testing program on commercial vessels. Additionally, the Service intends to honor the commitment to establish a quota for the 1976 season made to the Court in the affidavit of May 28, 1976, cited above. In light of the fact that the regulations amended on December 5, 1975 remain in effect pursuant to the stay, the Service hereby amends § 216.24(d)(2)(i)(A) of these regulations so as to limit to 78,000 the porpoises that may be killed pursuant to the 1976 general permit (which also remains valid pending further judicial action). Since this amendment is prescribed under sanction of a Court of the United States, it is effective immediately, in accordance with the provisions of 5 U.S.C. § 553(d).

Dated: June 8, 1976.

ROBERT W. SCHONING,
Director.

Accordingly, 50 CFR 216.24(d)(2)(i)(A) is amended to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(d) * * *

(2) *Encircling gear; yellowfin tuna purse seining.* (i)(A): A certificate holder may take marine mammals, so long as such taking is an incidental occurrence in the course of normal commercial fishing operations, except that no certificate holder shall encircle pure schools of striped dolphin (*Stenella coeruleoalba*). The number of all other stocks or species of marine mammals that may be killed by all certificate holders in the course of commercial fishing operations shall not exceed 78,000. The Director shall determine, on the basis of all evidence available to him, the date upon which this number will be reached or exceeded, and shall prohibit thereafter the encircling of any marine mammal by purse seine in the course of commercial fishing operations. Notice of the Director's determination shall be published in the FEDERAL REGISTER not less than 30 days prior to the date upon which the prohibition is to become effective.

* * * * *

[FR Doc.76-16994 Filed 6-10-76;8:45 am]

PART 245—OFFSHORE SHRIMP FISHERIES

Interim Regulations Adopted

On April 22, 1976, there were published in the FEDERAL REGISTER (41 FR 16805) interim regulations setting forth the requirements of issuing permits and the required receipt of said permits by officials of the Federative Republic of Brazil prior to commencement of fishing operations and amendments to various sections of the existing regulations. Interested persons were given the opportunity to submit, not later than May 24, 1976, data, views, and recommendations regarding the notice.

No comments have been received, and the interim regulations are hereby adopted as final regulations without change.

Effective date: June 11, 1976.

Signed at Washington, D.C., on June 7, 1976.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.76-16983 Filed 6-10-76;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 54—GRADING AND INSPECTION OF DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF; AND UNITED STATES SPECIFICATIONS FOR CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND UNITED STATES CLASSES, STANDARDS AND GRADES WITH RESPECT THERETO

Voluntary Grading

Under authority contained in the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087, 7 U.S.C. 1621 et seq.), the United States Department of Agriculture hereby revises the regulations in 7 CFR Part 70 to provide for the voluntary grading of poultry products and rabbit products. Accordingly, the present regulations providing for the voluntary grading of domestic rabbits in 7 CFR Part 54 would be revoked simultaneously with the effective date of the revision to 7 CFR Part 70. In addition, regulations governing the inspection of rabbit and poultry products in 9 CFR Parts 354 and 362, respectively (administered by the Animal and Plant Health Inspection Service, USDA) would be made effective simultaneously with the effective date of the revisions herein and the current regulations pertaining to the inspection of rabbit and poultry products in 7 CFR Parts 54 and 70 would be revoked.

STATEMENT OF CONSIDERATIONS

A notice of rulemaking to revise the regulations in Part 70 to incorporate provisions for the voluntary grading of poultry products and the voluntary grading of rabbit products was published in the March 8, 1976, issue of the FEDERAL REGISTER (41 FR 9982–9996).

The notice of rulemaking provided for the filing of written data, views, or comments with respect to the proposed revision of Part 70 not later than April 15, 1976. Four letters were received within the prescribed time, of which one was limited to a request for further information and two were general comments favoring the proposed revision. The fourth letter received from a rabbit processing company contained a number of comments proposing modifications to the rulemaking proposal. These comments have been carefully reviewed and adopted in part, as specified below.

The first point raised in the comments concerns the use of the word "domestic" in describing rabbits asserting that it could imply "native to" rather than "tame" or "domesticated" and thus could fail to adequately differentiate between farm-raised domesticated rabbits and wild rabbits. For a rabbit to be eligible for grading under the proposed regulations, it must be "domesticated" or "tame" as a farm-raised animal would be. Accordingly, to eliminate possible confusion the comment is adopted and all reference to "domestic" has been removed from the regulations. In lieu of the term "domestic," rabbit has been defined in § 70.1 to include only "domesticated rabbit."

Another comment concerns the omission from the proposal of a definition of "giblets," edible organs, with reference to rabbits. In view of the fact that this revision combines the grading regulations for both poultry and rabbit products, and the fact that the proposal contained a definition of poultry "giblets," the comment is adopted to the extent that section 70.1 now contains a definition of rabbit "giblets."

Further, a comment suggests that the term "Rump" more appropriately describes the rabbit part than the term "Back" that was set forth in the proposal. Accordingly, the word "Back" in § 70.310(e)(4) and all other references to "Back" have been changed to "Rump."

Reference in the proposal is made in the rabbit grade standards to interior fat in the carcass or part. A comment calls attention to the fact that such reference is appropriate for carcasses but not for parts since most of the parts would be separated from the interior fat. Based upon the fact that interior fat is usually not associated with rabbit parts, the comment is adopted and reference to interior fat in rabbit parts has been deleted in §§ 70.320(e), 70.321(c), and 70.322(c).

The word "skin" is used in the proposal in connection with freezing defects for rabbits. A comment suggests use of another term since the skin of a rabbit is removed with the pelt in the dressing operation. Accordingly, in §§ 70.320(d) and 70.321(d) the word "skin" is changed to "outer layer of flesh."

Several comments were not adopted. One suggested expanding the terms used to describe rabbit classes. This point is denied since there is no evidence that the present classes of "Fryer or Young Rabbit" and "Roaster or Mature Rabbit" are not adequate. However, within these classes, the use of words such as "broiler" or "stewer" would be approved as appropriate for young or mature rabbits, respectively. Another comment was to eliminate the word "old" in describing class, on the basis that the term had not been used before, but, in fact, this term has been in the class description for some time. Accordingly, there is no reason to justify its removal. Several other comments were raised concerning the administration of the rabbit grading program. These are not directly related to the revision of the regulations and, therefore, need not be discussed in this statement.

After consideration of all relevant matters, including the proposal set forth in the notice and comments received in response thereto, the regulations providing for the voluntary grading of rabbits in 7 CFR Part 54 are hereby revoked and the regulations providing for the voluntary grading of poultry products and rabbit products are hereby revised as proposed except to the extent that certain modifications have been made in accordance with the comments adopted above and minor editorial corrections have been made.

The revised regulations are as follows:

1. Part 54 is removed.
2. Part 70 is revised as follows:

Subpart A—Grading of Poultry Products and Rabbit Products

GENERAL

Sec.
70.1 Definitions.
70.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.
70.3 Administration.
70.4 Grading services available.
70.5 Nondiscrimination.

BASIS OF SERVICE

70.10 Grading service.
70.11 Continuous grading service.
70.12 Supervision.
70.13 Ready-to-cook poultry and rabbits and specified poultry food products; eligibility.
70.14 Squabs and domesticated game birds; eligibility.
70.15 Equipment and facilities to be furnished for use of graders in performing service on a resident basis.
70.16 Prerequisites to grading.
70.17 Accessibility of products.
70.18 Schedule of operation of official plants.

PERFORMANCE OF SERVICES

70.20 Licensed or authorized graders.
70.21 Suspension of license; revocation.
70.22 Surrender of license.
70.23 Identification.
70.24 Financial interest of graders.
70.25 Political activity.

APPLICATION FOR GRADING SERVICE

70.30 Who may obtain grading service.
70.31 How application for service may be made; conditions of service.
70.32 Filing of application.
70.33 Authority of applicant.
70.34 Application for grading service in official plants; approval.
70.35 Rejection of application.
70.36 Withdrawal of application.
70.37 Order of service.
70.38 Suspension or withdrawal of plant approval for correctable cause.

DENIAL OF SERVICE

70.40 Debarment.
70.41 Misrepresentation, deceptive, or fraudulent acts or practices.
70.42 Use of facsimile forms.
70.43 Willful violation of the regulations.
70.44 Interfering with a grader or employee of Service.
70.45 Misleading labeling.
70.46 Miscellaneous.

IDENTIFYING AND MARKING PRODUCTS

70.50 Approval of official identification and wording on labels.
70.51 Marking graded products.
70.52 Prerequisites to packaging ready-to-cook poultry or rabbits identified with consumer grademarks.
70.54 Retention authorities.
70.55 Check grading officially identified product.

REPORTS

70.60 Report of grading work.
70.61 Information to be furnished to graders.
70.62 Report of violations.

FEES AND CHARGES

Sec.
70.70 Payment of fees and charges.
70.71 On a fee basis.
70.72 Fees for appeal grading, laboratory analyses, or examination or review of a grader's decision.
70.73 Laboratory analysis.
70.74 Fees for additional copies of grading certificates.
70.75 Travel expenses and other charges.
70.76 Charges for continuous poultry grading performed on a nonresident basis.
70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.
70.78 Fees or charges for grading service performed under cooperative agreement.

GRADING

70.80 General.
70.81 Ready-to-cook poultry and rabbits and specified poultry food products.

GRADING CERTIFICATES

70.90 Forms.
70.91 Issuance and disposition.
70.92 Advance information.

APPEAL OF A GRADING OR DECISION

70.100 Who may request an appeal grading or review of a grader's decision.
70.101 Where to file an appeal.
70.102 How to file an appeal.
70.103 When an application for an appeal grading may be refused.
70.104 Who shall perform the appeal.
70.105 Procedures for appeal gradings.
70.106 Appeal grading certificates.

SANITARY REQUIREMENTS, FACILITIES, AND OPERATING PROCEDURES

70.110 Minimum standards for sanitation, facilities, and operating procedures in official plants.

Subpart B—United States Classes, Standards, and Grades for Poultry

UNITED STATES CLASSES OF READY-TO-COOK POULTRY

70.200 General.
70.201 Chickens.
70.202 Turkeys.
70.203 Ducks.
70.204 Geese.
70.205 Guineas.
70.206 Pigeons.

UNITED STATES STANDARDS FOR QUALITY OF READY-TO-COOK POULTRY AND SPECIFIED POULTRY FOOD PRODUCTS

Sec.
70.210. General.

STANDARDS FOR QUALITY OF READY-TO-COOK POULTRY

70.220 A Quality.
70.221 B Quality.
70.222 C Quality.

STANDARDS FOR QUALITY OF SPECIFIED POULTRY FOOD PRODUCTS

70.230 Poultry roast—A Quality.
70.231 Boneless poultry breast and thigh—A Quality.

UNITED STATES GRADES FOR READY-TO-COOK POULTRY AND SPECIFIED POULTRY FOOD PRODUCTS

70.240 General.

UNITED STATES CONSUMER GRADES FOR READY-TO-COOK POULTRY AND SPECIFIED POULTRY FOOD PRODUCTS

Sec.
70.250 U.S. Grade A.
70.251 U.S. Grade B.
70.252 U.S. Grade C.

UNITED STATES READY-TO-COOK GRADE FOR FURTHER PROCESSING

70.260 U.S. Grade A—For Further Processing.

UNITED STATES PROCUREMENT GRADES FOR READY-TO-COOK POULTRY

70.270 U.S. Procurement Grade I.
70.271 U.S. Procurement Grade II.

Subpart C—United States Classes, Standards, Rabbits

UNITED STATES CLASSES OF READY-TO-COOK RABBITS

70.300 General.
70.301 Fryer or young rabbit.
70.302 Roaster or mature rabbit.

UNITED STATES STANDARDS FOR QUALITY OF READY-TO-COOK RABBITS

70.310 General.

STANDARDS FOR QUALITY

70.320 A Quality.
70.321 B Quality.
70.322 C Quality.

UNITED STATES CONSUMER GRADES FOR READY-TO-COOK RABBITS

70.330 U.S. Grade A.
70.331 U.S. Grade B.
70.332 U.S. Grade C.

AUTHORITY: 60 Stat. 1087, 7 U.S.C. 1621 et seq.

Subpart A—Grading of Poultry Products and Rabbit Products

GENERAL

§ 70.1 Definitions.

Unless the context otherwise requires, the following terms shall have the following meaning:

"Acceptable" means suitable for the purpose intended and acceptable to the Service.

"Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621 et seq.) or any other act of Congress conferring like authority.

"Administrator" means the Administrator of the Agricultural Marketing Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated or to whom there may hereafter be delegated the authority to act in his stead.

"Applicant" means any interested person who requests any grading service.

"Carcass" means any poultry or rabbit carcass.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind.

"Condition" means any condition, including but not being limited to, the state of preservation, cleanliness, or soundness of any product; or any condition, including but not limited to the processing, handling, or packaging which affects such product.

"Condition and wholesomeness" means the condition of any product and its healthfulness and fitness for human food.

"Department" means the United States Department of Agriculture.

"Free from protruding pinfeathers" means that a poultry carcass is free from protruding pinfeathers which are visible to a grader during an examination of the carcass at normal operating speeds. However, a carcass may be considered as being free from protruding pinfeathers if it has a generally clean appearance (especially on the breast), and if not more than an occasional protruding pinfeather is in evidence during a more careful examination of the carcass.

"Giblets" means the following poultry organs when properly trimmed and washed: the liver from which the bile sac has been removed, the heart from which the pericardial sac has been removed, and the gizzard from which the lining and contents have been removed. With respect to rabbits "giblets" means the liver from which the bile sac has been removed and the heart from which the pericardial sac has been removed.

"Grader" means any Federal or State employee or the employee of a local jurisdiction or cooperating agency to whom a license has been issued by the Secretary to investigate and certify in accordance with the regulations in this part the class, quality, quantity, or condition of products.

"Grading" or "grading service" means: (1) The act whereby a grader determines, according to the regulations in this part the class, quality, quantity, or condition of any product by examining each unit thereof or each unit of the representative sample thereof drawn by a grader, and issues a grading certificate with respect thereto, except that with respect to grading service performed on a resident basis, the issuance of a grading certificate shall be pursuant to a request therefor by the applicant or the Service; (2) the act whereby the grader identifies, according to the regulations in this part, the graded product; (3) with respect to any official plant, the act whereby a grader determines that the product in such plant was processed, handled, and packaged in accordance with § 70.110, or (4) any regrading or any appeal grading of a previously graded product.

"Grading certificate" means a statement, either written or printed, issued by a grader, pursuant to the regulations in this part, relative to the class, quality, quantity, or condition of a product.

"Holiday" or "Legal Holiday" shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, title 5, of the United States Code.

"Identify" means to apply official identification to products or the containers thereof.

"National supervisor" means (1) the officer in charge of the poultry grading service of the Agricultural Marketing Service, and (2) other officers and employees of the Department designated by the officer in charge of the poultry grading service of the Agricultural Marketing Service.

"Office of grading" means the office of any grader.

"Official plant" or "official establishment" means one or more buildings or parts thereof comprising a single plant in which the facilities and methods of operation therein have been approved by the Administrator as suitable and adequate for grading service and in which grading is carried on in accordance with the regulations in this part.

"Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

"Poultry" means any kind of domesticated bird, including, but not being limited to, chickens, turkeys, ducks, geese, pigeons, and guineas.

"Poultry food product" means any article of human food or any article intended for or capable of being so used, which is prepared or derived in whole or in substantial part, from any edible part or parts of poultry.

"Poultry product" means any ready-to-cook poultry carcass or part therefrom or any specified poultry food product.

"Poultry grading service" means the personnel who are actively engaged in the administration, application, and direction of poultry and rabbit grading programs and services pursuant to the regulations in this part.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Rabbit" means any domesticated rabbit whether live or dead.

"Rabbit product" means any ready-to-cook rabbit carcass or part therefrom.

"Ready-to-cook poultry" means any dressed poultry from which the protruding pinfeathers, vestigial feathers (hair or down as the case may be), head, shanks, crop, oil gland, trachea, esophagus, entrails, reproductive organs, and lungs have been removed, and with or without the giblets, and which is ready to cook without need of further processing. Ready-to-cook poultry also means any cut-up or disjointed portion of such poultry, or any edible part thereof.

"Ready-to-cook rabbit" means any rabbit which has been slaughtered for human food, from which the head, blood, skin, feet, and inedible viscera have been removed, that is ready to cook without need of further processing. Ready-to-cook bit also means any cut-up or disjointed portion of rabbit or any edible part thereof.

"Regional director" means any employee of the Department in charge of poultry grading service in a designated geographical area.

"Regulations" means the provisions of this entire part and such United States classes, standards, and grades for products as may be in effect at the time grading is performed.

"Secretary" means the Secretary of the Department, or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

"Service" means the Agricultural Marketing Service of the Department.

"Soundness" means freedom from external evidence of any disease or condition which may render a carcass or product unfit for food.

"State supervisor" or "Federal-State supervisor" means any authorized and designated individual who is in charge of the poultry grading service in a State.

§ 70.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks, or other identification and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain misrepresentations concerning the grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed in this section shall have the respective meaning specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this part to certify with respect to the sampling, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) "Official mark" means the grademark and any other mark, or any variations in such marks, approved by the Administrator and authorized to be affixed to any product or affixed to or printed on the packaging material of any product, stating that the product was graded or indicating the appropriate U.S. Grade or condition of the product, or for maintaining the identity of products graded under this part, including but not limited to, those marks set forth in § 70.51.

(d) "Official identification" means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been officially graded and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

§ 70.3 Administration.

The Administrator shall perform for and under the supervision of the Secretary such duties as are prescribed in the regulations in this part and as the Secretary may require in the administration of the regulations in this part. The Administrator is authorized to waive for limited periods any particular provisions of the regulations to permit experimentation so that new procedures and grading techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations. The Agricultural Marketing Service and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this part.

§ 70.4 Grading services available.

The regulations in this part provide for the following kinds of service; and any one or more of the different services applicable to official plants may be rendered in an official plant:

(a) Grading of ready-to-cook poultry and rabbits in an official plant or at other locations with adequate facilities.

(b) Grading of specified poultry food products in official plants.

§ 70.5 Nondiscrimination.

The conduct of all services and the licensing of graders and inspectors under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

Basis of Service

§ 70.10 Grading service.

Any grading service in accordance with the regulations in this part shall be for class, quality, quantity, or condition or any combination thereof. Grading service with respect to determination of quality of products shall be on the basis of United States classes, standards, and grades as contained in Subparts B and C of this part. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications or specifications of the applicant, and such service, when approved by the Administrator, shall be rendered on the basis of such specifications.

§ 70.11 Continuous grading service.

Except as otherwise approved by the regional director, continuous grading

service in an official plant may be rendered only when a majority of the grader's time each month is utilized in performing grading for quality on the basis of the U.S. standards set forth in Subparts B and C of the regulations in this part.

§ 70.12 Supervision.

All grading service shall be subject to supervision at all times by the responsible State supervisor, regional director, and national supervisor. Such service shall be rendered in accordance with instructions issued by the Administrator where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders are available. Whenever the supervisor of a grader has evidence that such grader incorrectly graded a product, such supervisor shall take such action as is necessary to correct the grading and to cause any improper grademarks which appear on the product or containers thereof to be corrected prior to shipment of the product from the place of initial grading.

§ 70.13 Ready-to-cook poultry and rabbits and specified poultry food products; eligibility.

Only ready-to-cook poultry and rabbits and specified poultry food products which are inspected and passed by the poultry inspection service of the U.S. Department of Agriculture or by any other official inspection system acceptable to the Department may be graded.

§ 70.14 Squabs and domesticated game birds; eligibility.

Squabs and domesticated game birds (including, but not being limited to, quail, pheasants, and wild species of ducks and geese raised in captivity) may be graded under the regulations in this part, only if they have been inspected and passed by the poultry inspection service of the U.S. Department of Agriculture or have been inspected by any other official inspection system acceptable to the Department.

§ 70.15 Equipment and facilities to be furnished for use of graders in performing service on a resident basis.

Such equipment and facilities shall include but not be limited to:

(a) An accurate metal stem thermometer.

(b) A drill with a steel bit to drill holes in frozen product for inserting the metal thermometer stem to determine temperature.

(c) Scales graduated in ounces or less for weighing individual birds and test weights for such scales.

(d) Scales graduated in ounces for weighing bulk containers of poultry and test weights for such scales.

(e) Furnished adequate office space, a desk equipped with a satisfactory locking device, lockers or cabinets suitable for the protection and storage of official supplies and facilities suitable for graders to change clothing.

§ 70.16 Prerequisites to grading.

Grading of products shall be rendered pursuant to the regulations in this part and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

§ 70.17 Accessibility of products.

Each product for which grading service is requested shall be so placed as to disclose fully its class, quality, quantity, and condition as the circumstances may warrant.

§ 70.18 Schedule of operation of official plants.

Grading operating schedules for services performed pursuant to §§ 70.76 and 70.77 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the period of Monday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if a grader is available. Sundays may not be approved in any tour of duty. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

PERFORMANCE OF SERVICES

§ 70.20 Licensed or authorized graders.

(a) Any person who is a Federal or State employee, the employee of a local jurisdiction, or the employee of a cooperating agency possessing proper qualifications as determined by an examination for competency and who is to perform grading service under this part may be licensed by the Secretary as a grader.

(b) All licenses issued by the Secretary shall be countersigned by the officer in charge of the poultry grading service of the Agricultural Marketing Service or any other designated officer of such Service.

(c) Any person who is employed by any official plant and possesses proper qualifications as determined by the Administrator may be authorized to grade poultry and/or rabbits on the basis of the U.S. classes, standards, and grades under the supervision of a grader. No person to whom such authorization is granted shall have authority to issue any grading certificates, grading memoranda, or other official documents; and all products graded by any such person shall thereafter be check graded by a grader.

§ 70.21 Suspension of license; revocation.

Pending final action by the Secretary, any person authorized to countersign a license to perform grading service may, whenever he deems such action necessary to assure that any grading services are properly performed, suspend any license to perform grading service issued pursuant to this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons, the licensee may file an appeal in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be further suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license to perform grading service is revoked.

§ 70.22 Surrender of license.

Each license which is suspended or revoked shall immediately be surrendered by the licensee to the office of grading serving the area in which he is located. Upon termination of the services of a licensed grader, the licensee shall surrender his license immediately for cancellation.

§ 70.23 Identification.

Each grader shall have in his possession at all times, and present upon request while on duty, the means of identification furnished by the Department to such person.

§ 70.24 Financial interest of graders.

No grader shall render service on any product in which he is financially interested.

§ 70.25 Political activity.

All graders are forbidden, during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of §§ 70.20 through 70.25 will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

APPLICATION FOR GRADING SERVICE

§ 70.30 Who may obtain grading service.

An application for grading service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

§ 70.31 How application for service may be made; conditions of service.

(a) *Noncontinuous grading service on a fee basis.* An application for any noncontinuous grading service on a fee basis may be made in any office of grading or with any grader at or nearest the place

where the service is desired. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If the application for grading service is made orally, the office of grading or the grader with whom such application is made or the Administrator may require that the application be confirmed in writing.

(b) *Continuous grading service on a resident basis or continuous grading service on a nonresident basis.* An application for continuous grading service on a resident basis or for continuous grading service on a nonresident basis must be made in writing on forms approved by the Administrator and filed with the Administrator. Such forms may be obtained at the national, regional, or State grading office. In making application, the applicant agrees to comply with the terms and conditions of the regulations (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit.

§ 70.32 Filing of application.

An application for grading service shall be regarded as filed only when made pursuant to the regulations in this part.

§ 70.33 Authority of applicant.

Proof of the authority of any person applying for grading service may be required at the discretion of the Administrator.

§ 70.34 Application for grading service in official plants; approval.

Any person desiring to process and pack products in a plant under grading service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. An application for grading service to be rendered in an official plant shall be approved according to the following procedure: *Survey.* When application has been filed for grading service, as aforesaid, the State supervisor or his assistant shall examine the grading office, facilities, and equipment and specify any additional facilities or equipment needed for the service. When the plant survey for poultry or rabbit grading has been completed and approved in accordance with the regulations in this part, service may be installed.

§ 70.35 Rejection of application.

Any application for grading service may be rejected by the Administrator (a) whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which the service is made available; (b) whenever the product is owned by or located on the premises of a person currently denied the benefits of the Act; (c) where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant, is currently denied the benefits of the Act, or was responsible in whole or in part for the current denial of the benefits of the Act to any person; (d) where the Administrator determines that the application is an attempt on the part of a person currently denied the benefits of the Act to obtain grading service; (e) whenever the applicant, after an initial survey has been made in accordance with § 70.34, fails to bring the grading facilities and equipment into compliance with the regulations within a reasonable period of time; or (f) notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of the service. Each such applicant shall be promptly notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

§ 70.36 Withdrawal of application.

Any application for grading service may be withdrawn by the applicant at any time before the service is performed upon payment by the applicant, of all expenses incurred by the Service in connection with such application.

§ 70.37 Order of service.

Grading service shall be performed, insofar as practicable and subject to the availability of qualified graders, in the order in which applications therefor are made, except that precedence may be given to any application for an appeal grading.

§ 70.38 Suspension or withdrawal of plant approval for correctable cause.

(a) Any plant approval given pursuant to the regulations in this part may be suspended by the Administrator for (1) failure to maintain grading facilities and equipment in a satisfactory state of repair, sanitation, or cleanliness; (2) the use of operating procedures which are not in accordance with the regulations in this part; or (3) alterations of grading facilities or equipment which have not been approved in accordance with the regulations in this part.

(b) Whenever it is feasible to do so, written notice in advance of a suspension shall be given to the person concerned and shall specify a reasonable period of time in which corrective action must be taken. If advance written notice is not given, the suspension action shall be promptly confirmed in writing and the reasons therefor shall be stated, except in instances where the person has already corrected the deficiency. Such service, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as a grader can be made available. During such period of suspension, grading service shall not be rendered. However, the other provisions of the regulations pertaining to providing service on a resident basis will remain in effect unless such service is terminated in accordance with the provisions of this part.

(c) If the grading facilities or methods of operation are not brought into compliance within a reasonable period of time as specified by the Administrator, he shall initiate withdrawal action pursuant to the Rules of Practice Governing Withdrawal of Inspection and Grading Service (7 CFR Part 50), and the operator shall be afforded an opportunity for an oral hearing upon his written request in accordance with such Rules of Practice, with respect to the merits or validity of the withdrawal action, but any suspension shall continue in effect pending the outcome of such hearing unless otherwise ordered by the Administrator. Upon withdrawal of grading service in an official plant, the plant approval shall also become terminated, and all labels, seals, tags, or packaging material bearing official identification shall, under the supervision of a person designated by the service, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the service.

(d) In any case where grading service is withdrawn under this § 70.38, the person concerned may thereafter apply for grading service as provided in §§ 70.30 through 70.37 of these regulations.

DENIAL OF SERVICE

§ 70.40 Debarment.

The acts or practices set forth in §§ 70.41 through 70.46, or the causing thereof, may be deemed sufficient cause for the debarment by the Administrator of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The rules of practice governing withdrawal of grading services, set forth in Title 7, Part 50 of the Code of Federal Regulations, shall be applicable to such a debarment action.

§ 70.41 Misrepresentation, deceptive, or fraudulent acts or practices.

Any willful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(a) The making or filing of any application for any grading service, appeal or regarding service;

(b) The making of the product accessible for grading;

(c) The making, issuing, or using, or attempting to issue or use any grading certificate, symbol, stamp, label, seal, or identification, authorized pursuant to the regulations in this part;

(d) The use of the terms "United States" or "U.S." in conjunction with the grade of the product;

(e) The use of any of the aforesaid terms or any official stamp, symbol, label, seal, or identification in the labeling or advertising of any product.

§ 70.42 Use of facsimile forms.

Using or attempting to use a form which simulates in whole or in part any certificate, symbol, stamp, label, seal, or identification authorized to be issued or used under the regulations in this part.

§ 70.43 Willful violation of the regulations.

Any willful violation of the regulations in this part or the Act.

§ 70.44 Interfering with a grader or employee of Service.

Any interference with or obstruction or any attempted interference or obstruction of, or assault upon any grader, licensee, or employee of the Service in the performance of his duties. The giving or offering, directly or indirectly, of any money, loan, gift, or anything of value to an employee of the Service, or the making or offering of any contribution to or in any way supplementing the salary, compensation, or expenses of an employee of the Service, or the offering or entering into a private contract or agreement with an employee of the Service for any services to be rendered while employed by the Service.

§ 70.45 Misleading labeling.

The use of the terms "Government Graded" and "Federal-State Graded" or terms of similar import in the labeling or advertising of any product without stating in the labeling or advertisement the U.S. grade of the product as determined by an authorized grader.

§ 70.46 Miscellaneous.

The existence of any of the conditions set forth in § 70.35 constituting a basis for the rejection of an application for grading service.

IDENTIFYING AND MARKING PRODUCTS

§ 70.50 Approval of official identification and wording on labels.

Any label or packaging material which bears any official grade identification shall be used only in such a manner as the Administrator may prescribe, and such labeling or packaging materials, including the wording used on such materials, shall be approved in accordance with and conform with the provisions of this Part 70 and the applicable provisions of §§ 381.115 through 381.141 of 9 CFR Part 381, Poultry Inspection Regulations. Labeling requirements for ready-to-cook rabbits, except for the product name, shall be the same as for ready-to-cook poultry. For ready-to-cook rabbits the class name shall be shown on the label. The appropriate designation, "young," "mature," or "old," may be used as a prefix to the word rabbit" in lieu of the class name.

§ 70.51 Marking graded products.

(a) *Information required on grademark.* Except as otherwise authorized by the Administrator, each grademark, which is to be used, shall include the letters "USDA" and the U.S. Grade of the product it identifies, such as "U.S. A Grade," and such information shall be printed in a light color on a dark field. In addition, a term, such as "Federal-State Graded," or "Government Graded," may be used adjacent to but not within the grademark.

(b) *Form of official identification symbol and grademark.* (1) The shield set forth in Figure 1, containing the letters "USDA" shall be the official identification symbol for purposes of this part, and when used, imitated, or simulated in any manner in connection with poultry or rabbits, shall be deemed prima facia to constitute a representation that the product has been officially graded for the purposes of § 70.2.

FIGURE 1

(2) Except as otherwise authorized, the grademark permitted to be used to officially identify consumer graded poultry and rabbit products, shall be of the form and design indicated in Figure 2 or 3 of this section. The shield shall be of sufficient size so that the print and other information contained therein is distinctly legible and in approximately the same proportion and size as shown in Figures 2 and 3.

FIGURE 2

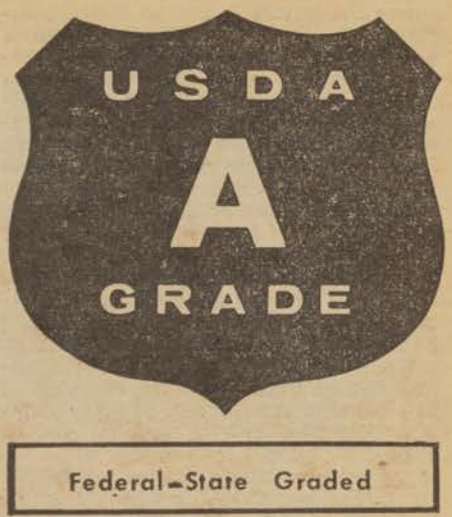


FIGURE 3

(c) *Products that may be individually grade marked.* The grademarks set forth in Figures 2 and 3 may be applied individually to ready-to-cook poultry and rabbits and specified poultry food products for which consumer grades are provided in Subparts B and C of this chapter, or to the containers in which such products are enclosed for the purpose of display and sale to household consumers, only when such products qualify for the particular grade indicated in accordance with the consumer grades.

(d) *Identification of U.S. Grade A—For Further Processing.* The grademark indicated in Figure 4, below, is restricted to turkeys meeting the requirements of § 70.260. The grademark may be applied only to master shipping containers and not to individual birds. The block containing the words "For Further Processing" in Figure 4 shall be located as indicated and shall be at least as wide and at least ¼ as high as the height of the grademark. The words "For Further Processing" shall be in the same boldness of type as the wording in the grademark.

FIGURE 4

§ 70.52 Prerequisites to packaging ready-to-cook poultry or rabbits identified with consumer grademarks.

The official identification of any graded product as provided in §§ 70.50 and 70.51 shall be done only under the supervision of a grader. The grader shall have supervision over the use and handling of all material bearing any official identification.

§ 70.54 Retention authorities.

A grader may use retention tags or other devices and methods as approved by the Administrator for the identification and control of poultry or rabbit products which are not in compliance with the regulations or are held for further examination. Any such item shall not be released until in compliance with the regulations and retention identification shall not be removed by anyone other than a grader.

§ 70.55 Check grading officially identified product.

Officially identified poultry or rabbit products may be subject to final check grading prior to their shipment. Such product found not to be in compliance with the assigned official grade shall be placed under a retention tag until it is regraded to comply with the grade assigned or until the official identification is removed.

REPORTS

§ 70.60 Report of grading work.

Reports of the work of grading carried on within official plants shall be forwarded to the Administrator by the grader in such manner as may be specified by the Administrator.

§ 70.61 Information to be furnished to graders.

When grading service is performed within an official plant, the applicant for such grading shall furnish to the grader rendering such service such information as may be required for the purposes of §§ 70.60 through 70.62.

§ 70.62 Reports of violations.

Each grader shall report, in the manner prescribed by the Administrator, all violations of and noncompliance with the Act and the regulations in this part of which he has knowledge.

FEES AND CHARGES

§ 70.70 Payment of fees and charges.

(a) Fees and charges for any grading service shall be paid by the interested party making the application for such service in accordance with the applicable provisions of this section and §§ 70.71 through 70.78 inclusive. If so required by the grader, such fees and charges shall be paid in advance.

(b) Fees and charges for any grading service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the Agricultural Marketing Service and remitted promptly to the Service.

(c) Fees and charges for any grading under a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

§ 70.71 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service (other than for an appeal grading) performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $14.00 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $18.48 per hour. Information on legal holidays is available from the supervisor.

§ 70.72 Fees for appeal grading, laboratory analyses, or examination or review of a grader's decision.

(a) The fee to be charged for any appeal grading or laboratory analysis or examination shall be based on the hourly rates as specified in § 70.71(b) or (c). If the result of the appeal grading or laboratory analysis or examination discloses that a material error was made in the original grading, analysis or examination, no fee will be charged.

(b) No fee shall be charged for the appeal under § 70.101(a) of the grader's decision, unless special travel was necessary to perform the appeal service and the grader's decision was upheld on the appeal. In such cases, the fee shall be based on the hourly rates as specified in § 70.71 (b) or (c).

§ 70.73 Laboratory analysis.

Fees and charges for any laboratory analysis or examination performed by the Poultry Division in connection with the grading of poultry or poultry products, or rabbits or rabbit products made under this part shall be assessed and collected in accordance with the provisions for fees and charges for such services as contained in Part 55 of this chapter.

§ 70.74 Fees for additional copies of grading certificates.

Additional copies, other than those provided for in §§ 70.91 and 70.106, of any grading certificates may be supplied to any interested party upon payment of a fee of $2.00 for each set of five or fewer copies.

§ 70.75 Travel expenses and other charges.

Charges are to be made to cover the cost of travel and other expenses incurred by the Service in connection with rendering grading service. Such charges shall include the cost of transportation, per diem, and any other expenses. Expenses are to be charged on an appeal certificate regardless of the grading results. Ten percent of the total expenses shall be added to cover administrative costs of the Department. The minimum expense charge shall be $0.50 per certificate.

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

Fees to be charged and collected for grading service on a nonresident grading basis shall be those provided in this section. The fees to be charged for any appeal grading shall be as provided in § 70.72.

(a) *Charges.* The charges for the grading of poultry and edible products therof shall be paid by the applicant for the service and shall include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to the Agricultural Marketing Service, U.S. Department of Agriculture (hereinafter referred to as "AMS"). Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills will be rendered by the 10th day following the end of the billing period in which the service was rendered and are payable upon receipt. (1) A charge to cover the actual cost to AMS for the travel (including the cost of movement of household goods and dependents) and per diem with respect to each grader who is transferred from an official station to the designated headquarters when service is inaugurated. (2) A charge for the salary and other costs, as specified in this subparagraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders or a combination of Federal and State graders are used, by averaging the salary rates paid to each full-time Federal or State grader assigned to such plants. There will be two base salary rates—one for grading service performed at the GS–7 level and one for grading service performed at the GS–9 level. Charges to plants are as follows:

(i) For all regular hours of work scheduled and approved as an established tour of duty for a plant, the regular rate charge will be made. The regular rate charge will be determined by adding an amount to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments,

certain moving costs, and related servicing costs.

(ii) All hours worked by an assigned grader or another grader in excess of the approved tour of duty, or worked on a nonscheduled workday, or actually worked on a holiday in excess of the tour of duty, will be considered as overtime. The charge for such overtime will be 150 percent of the grader's base salary rate.

(iii) For work performed on a holiday which is within the established tour of duty approved for a plant, the added charge will be the same as the grader's base rate.

(iv) For work performed between 6 p.m. and 6 a.m., night differential charges (for regular, overtime, or holiday hours worked during this period) will be at the applicable rates established plus 10 percent of the base rate.

(v) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in § 70.71.

(vi) For work performed by an employee of another Federal agency on a part-time basis for the Poultry Division, AMS, the charge will be the established hourly rate agreed to between the two agencies for cross-utilized employees.

(3) A charge of 110 percent of any expenses incurred (including travel and per diem costs) by each grader assigned while performing grading service at the applicant's request.

(4) An administrative service charge equal to 25 percent of the first grader's salary costs and 15 percent of each additional assigned grader's salary costs.

(b) *Other provisions.* (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader with such information as may be necessary for the performance of the grading service.

(2) AMS will provide, as available, an adequate number of graders to perform the grading service. The number of graders required will be determined by AMS based on the expected demand for service.

(3) The grading service shall be provided at designated locations and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;

(ii) Thirty (30) days' written notice by either the applicant or AMS specifying the date of suspension, withdrawal or termination;

(iii) One (1) day's written notice by AMS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service; or

(iv) Action taken by AMS pursuant to the provisions of §§ 70.38 or 70.40.

(4) Graders will be required to confine their activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by AMS: *Provided,* That in no instance may the graders assume the duties of management.

(5) When similar nonresident grading services are furnished to the same applicant under Part 55 or Part 56 of this chapter, the charges listed in this section shall not be repeated.

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

Fees to be charged and collected for any grading service, other than for an appeal grading, on a resident grading basis, shall be those provided in this section. The fees to be charged for any appeal grading shall be as provided in § 70.72.

(a) *Charges.* The charges for the grading of poultry and rabbits and edible products thereof shall be paid by the applicant for the service and shall include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to the Agricultural Marketing Service, U.S. Department of Agriculture (hereinafter referred to as "AMS"). Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills will be rendered by the 10th day following the end of the billing period in which the service was rendered and are payable upon receipt.

(1) An inauguration charge of $200 will be made at the time an application for service is signed, except when the application is required because of a change in name or ownership. If service is not installed within 6 months from the date the application is filed, or if service is inactive due to an approved request for removal of a grader(s) for a period of 6 months, the application will be considered terminated, but a new application may be filed at any time. In addition, there will be a charge of $300 if the application is terminated at the request of the applicant for reasons other than for a change in location within 12 months from the date of the inauguration of service.

(2) A charge to cover the actual cost to AMS for the travel (including the cost of movement of household goods and dependents) and per diem with respect to each grader who is transferred from an official station to the designated plant when service is inaugurated.

(3) A charge for the salary and other costs, as specified in this subparagraph, for each grader while assigned to a plant, that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders or a combination of Federal and State graders are used by averaging the salary rates paid to each full-time Federal or State grader assigned to such plants. There will be two base salary rates—one for grading service performed at the GS-7 level and one for grading service performed at the GS-9 level. Charges to plants are as follows:

(i) For all regular hours of work scheduled and approved as an established tour of duty for a plant, the regular rate charge will be made. The regular rate charge will be determined by adding an amount to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs.

(ii) All hours worked by an assigned grader or another grader in excess of the approved tour of duty, or worked on a nonscheduled workday, or actually worked on a holiday in excess of the tour of duty will be considered as overtime. The charge for such overtime will be 150 percent of the grader's base salary rate plus an added 10 percent for administrative overhead charges.

(iii) For work performed on a holiday which is within the established tour of duty approved for a plant, the added charge will be the same as the grader's base rate plus an added 10 percent for administrative overhead charges.

(iv) For work performed between 6 p.m. and 6 a.m., night differential charges (for regular, overtime, or holiday hours worked during this period) will be at the applicable rates established plus 10 percent of the base rate.

(v) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in § 70.71.

(vi) For work performed by an employee of another Federal agency on a part-time basis for the Poultry Division, AMS, the charge will be the established hourly rate agreed to between the two agencies for cross-utilized employees.

(4) A charge for the actual cost to AMS for any other expenses incurred by AMS (including travel and per diem costs) plus an added 10 percent for administrative overhead charges:

(i) For each grader, other than a relief grader, who performs work on a day with an established tour of duty.

(ii) For each grader normally assigned to the plant, while performing grading service at the applicant's request outside his official plant.

(5) A charge at the hourly rates specified in § 70.71, plus actual travel expenses incurred by AMS for intermediate surveys to firms without grading service in effect.

(6) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following:

(i) Total pounds per billing period multiplied by $.00014, except that the minimum charge per billing period shall

be $80 [1] and the maximum charge shall be $625.

(7) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $80 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

(b) *Other provisions.* (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader with such information as may be necessary for the performance of the grading service. (2) AMS will provide, as available, an adequate number of graders to perform the grading service. The number of graders required will be determined by AMS based on the expected demand for service. (3) The grading service shall be provided at the designated plant and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;

(ii) Thirty (30) days' written notice by either the applicant or AMS specifying the date of suspension, withdrawal, or termination;

(iii) One (1) day's written notice by AMS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service; or

(iv) Action taken by AMS pursuant to the provisions of §§ 70.38 or 70.40.

(4) Graders will be required to confine their activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by AMS: *Provided*, That in no instance may the graders assume the duties of management.

§ 70.78 Fees or charges for grading service performed under cooperative agreement.

Fees or charges to be made to an applicant for any grading service which differ from those listed in §§ 70.70 through 70.77, shall be provided for by a cooperative agreement.

Grading

§ 70.80 General.

Whenever grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of containers indicated in the following table and footnote. All of the poultry or rabbits in the sample containers drawn shall be examined with the exception of individual birds weighing under 6 pounds in bulk containers indicated in the footnote. (Minimum number of containers comprising a representative sample.) [2]

Containers in lot:	*Containers in sample*
3 or less	All
4 to 20	4
21 to 100	6
101 to 500	8
501 to 1,000	15
1,001 to 2,000	25
2,001 to 4,000	40
Over 4,000	60

§ 70.81 Ready-to-cook poultry and rabbits and specified poultry food products.

(a) Ready-to-cook poultry or rabbit carcasses or parts or specified poultry food products may be graded only if they have been inspected and certified by the poultry inspection service of the U.S. Department of Agriculture, or inspected and passed by any other inspection system which is acceptable to the Department.

(b) Only when ready-to-cook poultry carcasses or parts, including those used in the fabrication of poultry food products, have been graded on an individual basis by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader, and when fabrication of the poultry food products has been done under supervision of a grader, may the container or the individual carcass or part or poultry food product be identified with the appropriate official letter grademark. Checkgrading will be accomplished in accordance with a statistical sampling plan prescribed by the Administrator. Grading with respect to quality factors for freezing defects and appearance of the finished products may be done on a sample basis in accordance with a plan prescribed by the Administrator.

(c) Only when ready-to-cook rabbit carcasses or parts have been graded on an individual basis by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader, may the container or the individual carcass or part be identified with the appropriate official letter grademark. Checkgrading will be accomplished in accordance with a statistical sampling plan prescribed by the Administrator. Grading with respect to quality factors for freezing defects and appearance of the finished products may be done on a sample basis in accordance with a plan prescribed by the Administrator.

Grading Certificates

§ 70.90 Forms.

Grading certificates (including appeal grading certificates and regrading certificates) shall be issued on forms approved by the Administrator.

§ 70.91 Issuance and disposition.

(a) *Resident grading basis.* Certificates will be issued only upon a request therefor by the applicant or the Service. When requested, a grader shall issue a certificate covering product graded by him. In addition, a grader may issue a grading certificate covering product graded in whole or in part by another grader when the grader has knowledge that the product is eligible for certification based on personal examination of the product or official grading records.

(b) *Other than resident grading.* Each grader shall, in person or by his authorized agent, issue a grading certificate covering each product graded by him. A grader's name may be signed on a grading certificate by a person other than the grader if such person has been designated as the authorized agent of such grader by the national supervisor: *Provided*, That the certificate is prepared from an official memorandum of grading signed by the grader: *And provided further*, That a notarized power of attorney authorizing such signature has been issued to such person by the grader and is on file in the office of grading. In such case, the authorized agent shall sign both his own and the grader's name e.g., "John Doe by Richard Roe."

(c) The original and a copy of each grading certificate, issued pursuant to §§ 70.90 through 70.92, and not to exceed two additional copies thereof if requested by the applicant prior to issuance shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for grading program records. Additional copies of any such certificate may be furnished to any interested party, as provided in § 70.74.

§ 70.92 Advance information.

Upon the request of an applicant, all or part of the contents of any grading certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

Appeal of a Grading or Decision

§ 70.100 Who may request an appeal grading or review of a grader's decision.

An appeal grading may be requested by any interested party who is dissatisfied with the determination by a grader of the class, quality, quantity, or condition of any product as evidenced by the USDA grademark and accompanying label, or as stated on a grading certificate, and a review may be requested by the operator of an official plant with respect to a grader's decision on any other matter relating to grading in an official plant.

§ 70.101 Where to file an appeal.

(a) *Appeal from resident grader's grading or decision in an official plant.* Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product which was graded by a grader in an official plant and has not left such plant, and the operator of any official plant who is not satisfied with a decision made by a grader or any other matter relating to grading in such plant, may request an appeal grading or review of the decision by filing such request with the grader's immediate supervisor.

(b) *All other appeal requests.* Any interested party who is not satisfied with

[1] Also applies where an approved application is in effect and no product is handled.

[2] For large bulk containers containing poultry (combo bins, tanks, etc.) where individual birds weigh over 6 pounds, the representative sample may be reduced by one-half. Where individual birds weigh under 6 pounds, 100 birds may be selected from each container in the representative sample.

the determination of the class, quality, quantity, or condition of product which has left the official plant where it was graded, or which was graded other than in an official plant, may request an appel grading by filing such request with the regional director in the area where the product is located or with the Chief of the Grading Branch.

§ 70.102 How to file an appeal.

Any request for an appeal grading or review of a grader's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the reasons for requesting the appeal service, and a description of the product or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be returned to the appeal grader assigned to make the appeal grading.

§ 70.103 When an application for an appeal grading may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request for an appeal grading are frivolous or not substantial, or that the quality or condition of the product has undergone a material change since the original grading, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal grading may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

§ 70.104 Who shall perform the appeal.

(a) An appeal grading or review of a decision requested under § 70.101(a) shall be made by the grader's immediate supervisor or by a licensed grader assigned by the immediate supervisor other than the grader whose grading or decision is being appealed.

(b) Appeal gradings requested under § 70.101(b) shall be performed by a grader other than the grader who originally graded the product.

(c) Whenever practical, an appeal grading shall be conducted jointly by two graders. The assignment of the grader(s) who will make the appeal grading requested under §70.101(b) shall be made by the regional director or the Chief of the Grading Branch.

§ 70.105 Procedures for appeal gradings.

(a) When all of the originally graded and identified samples are available, the appeal sample shall consist of such samples plus an equal number of samples.

(b) When the original samples are not available, the appeal sample size for the lot shall consist of double the samples required in § 70.80.

(c) Poultry or rabbits in an unfrozen state must be adequately protected and kept in good condition until the appeal grading is performed.

(d) Overwraps on frozen poultry or rabbits shall be removed from all birds or rabbits in the sample prior to appeal grading for quality or to determine the class.

(e) When the appeal is based on grading or class determination factors, each frozen carcass shall be defrosted prior to conducting the appeal grading. Whether defrosting poultry or rabbit carcasses for other types of appeals will be required by the appeal grader, will depend upon the reason for the appeal.

§ 70.106 Appeal grading certificates.

Immediately after an appeal grading is completed, an appeal certificate shall be issued to show that the original grading was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal grader assigns a different grade to the lot, the existing grademark shall be changed or obliterated as necessary. When the appeal grader assigns a different class or quantity designation to the lot, the labeling shall be corrected.

SANITARY REQUIREMENTS, FACILITIES, AND OPERATING PROCEDURES

§ 70.110 Minimum standards for sanitation, facilities, and operating procedures in official plants.

(a) The minimum requirements for sanitation, facilities, and operating procedures in official plants shall be the applicable provisions stated in 9 CFR Part 381 for poultry, and for rabbits the requirements shall be the applicable provisions stated in 9 CFR Part 382.

(b) With respect to grading services, there shall be a minimum of 50-foot candles of light intensity at grading stations; and acceptable means, when necessary, of maintaining control and identity of products segregated for quality, class, condition, weight, lot, or any other factor which may be used to distinguish one type of product from another.

Subpart B—United States Classes, Standards, and Grades for Poultry

UNITED STATES CLASSES OF READY-TO-COOK POULTRY

§ 70.200 General.

The provisions of §§ 70.200 through 70.206 apply to individual carcasses of ready-to-cook poultry in determining the kind of poultry and its class. The kinds of poultry are as follows: Chickens, turkeys, ducks, geese, guineas, and pigeons.

§ 70.201 Chickens.

The following are the various classes of chickens:

(a) *Rock Cornish game hen or Cornish game hen.* A Rock Cornish game hen or Cornish game hen is a young immature chicken (usually 5 to 6 weeks of age), weighing not more than 2 pounds ready-to-cook weight, which was prepared from a Cornish chicken or the progeny of a Cornish chicken crossed with another breed of chicken.

(b) *Rock Cornish fryer, roaster, or hen.* A Rock Cornish fryer, roaster, or hen is the progeny of a cross between a purebred Cornish and a purebred Rock chicken, without regard to the weight of the carcass involved; however, the term "fryer," "roaster," or "hen," shall apply only if the carcasses are from birds with ages and characteristics that qualify them for such designation under paragraphs (c) and (d) of this section.

(c) *Broiler or fryer.* A broiler or fryer is a young chicken (usually under 13 weeks of age), of either sex, that is tender-meated with soft, pliable, smooth-textured skin and flexible breastbone cartilage.

(d) *Roaster or roasting chicken.* A bird of this class is a young chicken (usually 3 to 5 months of age), of either sex, that is tender-meated with soft, pliable, smooth-textured skin and breastbone cartilage that may be somewhat less flexible than that of a broiler or fryer.

(e) *Capon.* A capon is a surgically unsexed male chicken (usually under 8 months of age) that is tender-meated with soft, pliable, smooth-textured skin.

(f) *Hen, fowl, or baking or stewing chicken.* A bird of this class is a mature female chicken (usually more than 10 months of age) with meat less tender than that of a roaster or roasting chicken and nonflexible breastbone tip.

(g) *Cock or rooster.* A cock or rooster is a mature male chicken with coarse skin, toughened and darkened meat, and hardened breastbone tip.

§ 70.202 Turkeys.

The following are the various classes of turkeys:

(a) *Fryer-roaster turkey.* A fryer-roaster turkey is a young immature turkey (usually under 16 weeks of age), of either sex, that is tender-meated with soft, pliable, smooth-textured skin, and flexible breastbone cartilage.

(b) *Young turkey.* A young turkey is a turkey (usually under 8 months of age) that is tender-meated with soft, pliable smooth-textured skin, and breastbone cartilage that is somewhat less flexible than in a fryer-roaster turkey. Sex designation is optional.

(c) *Yearling turkey.* A yearling turkey is a fully matured turkey (usually under 15 months of age) that is reasonably tender-meated and with reasonably smooth-textured skin. Sex designation is optional.

(d) *Mature turkey or old turkey (hen or tom).* A mature or old turkey is an old turkey of either sex (usually in excess of 15 months of age) with coarse skin and toughened flesh.

(e) For labeling purposes, the designation of sex within the class name is optional, and the two classes of young turkeys may be grouped and designated as "young turkeys."

§ 70.203 Ducks.

The following are the various classes of ducks:

(a) *Broiler duckling or fryer duckling.* A broiler duckling or a fryer duckling is a young duck (usually under 8 weeks of age), of either sex, that is tender-meated and has a soft bill and a soft windpipe.

(b) *Roaster duckling.* A roaster duckling is a young duck (usually under 16 weeks of age), of either sex, that is tender-meated and has a bill that is not completely hardened and a windpipe that is easily dented.

(c) *Mature duck or old duck.* A mature duck or an old duck is a duck (usually over 6 months of age), of either sex, with toughened flesh, hardened bill, and hardened windpipe.

§ 70.204 Geese.

The following are the various classes of geese:

(a) *Young goose.* A young goose may be of either sex, is tender-meated, and has a windpipe that is easily dented.

(b) *Mature goose or old goose.* A mature goose or old goose may be of either sex and has toughened flesh and hardened windpipe.

§ 70.205 Guineas.

The following are the various classes of guineas:

(a) *Young guinea.* A young guinea may be of either sex, is tender-meated, and has a flexible breastbone cartilage.

(b) *Mature guinea or old guinea.* A mature guinea or an old guinea may be of either sex, has toughened flesh, and a hardened breastbone.

§ 70.206 Pigeons.

The following are the various classes of pigeons:

(a) *Squab.* A squab is a young, immature pigeon of either sex, and is extra tender-meated.

(b) *Pigeon.* A pigeon is a mature pigeon of either sex, with coarse skin and toughened flesh.

UNITED STATES STANDARDS FOR QUALITY OF READY-TO-COOK POULTRY AND SPECIFIED POULTRY FOOD PRODUCTS

§ 70.210 General.

(a) The United States standards for quality contained in §§ 70.210 through 70.231 are applicable as indicated in the headings with respect to said sections, to individual carcasses of ready-to-cook poultry, to parts of ready-to-cook poultry as described in paragraph (e) of this section, and to individual units of the specified poultry food products.

(b) Carcasses, parts, or poultry food products found to be unsound, unwholesome, or otherwise unfit for human food in whole or in part, shall not be given any of the quality designations specified in §§ 70.210 through 70.231.

(c) In interpreting the respective requirements specified in §§ 70.210 through 70.222 for A quality, B quality, and C quality, the intensity, aggregate area involved, and locations of (1) discolorations (whether or not caused by dressing operations); (2) bruises; (3) exposed flesh (resulting from cuts, tears, and missing skin); (4) pinfeathers; and (5) freezing defects, as such defects individually, or in combination, detract from the general appearance, shall be considered in determining the particular quality of an individual carcass or part.

(d) A ready-to-cook carcass which has a defect may be graded after the defective portion has been removed. The fact that a portion has been removed, will not be considered in determining the quality of the balance of the carcass if the remaining portion of the carcass is to be disjointed and packed as parts or used in the fabrication of poultry food products. Poultry parts which have been properly cut as described in paragraph (e) of this section may be graded after they have been cut from the carcass, if the class is known and the parts are not misshapen or have nearly the same appearance as prior to cutting from the carcass.

(e) The standards of quality are applicable to poultry parts cut in the manner described in paragraphs (e)(1) through (16) of this section. Similar parts cut in a manner other than described in paragraphs (e)(1) through (16) of this section may be grade identified only when approved by the Administrator upon his determination that the labeling for such parts accurately describes the product. Requests for such approval shall be made to the national supervisor.

(1) "Breasts" shall be separated from the back at the shoulder joint and by a cut running backward and downward from that point along the junction of the vertebral and sternal ribs. The ribs may be removed from the breasts, and the breasts may be cut along the breastbone to make two approximately equal halves; or the wishbone portion, as described in paragraph (e)(3) of this section, may be removed cutting the remainder along the breastbone to make three parts. Pieces cut in this manner may be substituted for lighter or heavier pieces for exact weight-making purposes, and the package may contain two or more of such parts without affecting the appropriateness of the labeling as e.g., "chicken breasts." Neck skin shall not be included with the breasts, except that "turkey breasts" may include neck skin up to the whisker.

(2) "Breasts with ribs" shall be separated from the back at the junction of the vertebral ribs and back. Breasts with ribs may be cut along the breastbone to make two approximately equal halves; or the wishbone portion, as described in paragraph (e)(3) of this section, may be removed before cutting the remainder along the breastbone to make three parts. Pieces cut in this manner may be substituted for lighter or heavier pieces for exact weightmaking purposes, and the package may contain two or more of such parts without affecting the appropriateness of the labeling as "breasts with ribs." Neck skin shall not be included.

(3) "Wishbones" (Pulley Bones), with covering muscle and skin tissue, shall be severed from the breast approximately halfway between the end of the wishbone (hypocledium) and from point of the breastbone (cranial process of the sternal crest) to a point where the wishbone joins the shoulder. Neck skin shall not be included with the wishbone.

(4) "Drumsticks" shall be separated from the thigh by a cut through the knee joint (femorotibial and patellar joint) and from the hock joint (tarsal joint).

(5) "Thighs" shall be disjointed at the hip joint and may include the pelvic meat, but shall not include the pelvic bones. Back skin shall not be incuded.

(6) "Legs" shall include the whole leg, i.e., the thigh and the drumstick, whether jointed or disjointed. Back skin shall not be included.

(7) "Wings" shall include the entire wing with all muscle and skin tissue intact, except that the wingtip may be removed.

(8) "Backs" that are officially identified shall meet the applicable provisions of §§70.220, 70.221, and 70.222.

(9) "Halves" are prepared by making a full-length back and breast split of an eviscerated poultry carcass so as to produce approximately equal right and left sides.

(10) "Quarters" consist of the entire eviscerated poultry carcass, which has been cut into four equal parts, but excluding the neck.

(11) "Breast quarter" consists of half a breast with the wing and a portion of the back attached.

(12) "Breast quarter without wing" consists of a front quarter of a poultry carcass, from which the wing has been removed.

(13) "Leg quarter" consists of a poultry thigh and drumstick, with a portion of the back attached.

(14) "Thigh with back portion" consists of a poultry thigh with back portion attached.

(15) "Legs with pelvic bone" consists of a poultry leg with adhering meat and skin and pelvic bone.

(16) "Wing drummette" consists of the humerus (first portion) of a poultry wing with adhering skin and meat attached.

STANDARDS FOR QUALITY OF READY-TO-COOK POULTRY

§ 70.220 A Quality.

(a) *Conformation.* The carcass or part is free of deformities that detract from its appearance or that affect the normal distribution of flesh. Slight deformities, such as slightly curved or dented breastbones and slightly curved backs, may be present.

(b) *Fleshing.* The carcass has a well developed covering of flesh considering the kind, class, and part.

(1) The breast is moderately long and deep, and has sufficient flesh to give it a rounded appearance with the flesh carrying well up to the crest of the breastbone along its entire length.

(2) The leg is well fleshed and moderately thick and wide at the knee and hip joint area, and has a well-rounded,

plump appearance with the flesh carrying well down toward the hock and upward to the hip joint area.

(3) The drumstick is well fleshed and moderately thick and wide at the knee joint, and has a well-rounded, plump appearance with the flesh carrying well down toward the hock.

(4) The thigh is well to moderately fleshed.

(5) The wing is well to moderately fleshed.

(c) *Fat covering.* The carcass or part, considering the kind, class, and part, has a well-developed layer of fat in the skin. The fat is well distributed so that there is a noticeable amount of fat in the skin in the areas between the heavy feather tracts.

(d) *Defeathering.* The carcass or part has a clean appearance, especially on the breast. The carcass or part is free of pinfeathers, diminutive feathers, and hair which are visible to the grader.

(e) *Exposed flesh.* Parts are free of exposed flesh, resulting from cuts, tears, and missing skin (other than slight trimming on the edge). The carcass is free of these defects on the breast and legs. Elsewhere, the carcass may have exposed flesh due to slight cuts, tears, and areas of missing skin, provided that the aggregate of the areas of flesh exposed does not exceed the area of a circle of the diameter as specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	1 lb, 8 oz	None	¾ in.
Over 1 lb, 8 oz	6 lb	do	1¼ in.
Over 6 lb	16 lb	do	2 in.
Over 16 lb	None	do	3 in.

(f) *Disjointed and broken bones and missing parts.* Parts are free of broken bones. The carcass is free of broken bones and has not more than one disjointed bone. The wing tips may be removed at the joint, and in the case of ducks and geese, the parts of the wing beyond the second joint may be removed, if removed at the joint and both wings are so treated. The tail may be removed at the base. Cartilage separated from the breastbone is not considered as a disjointed or broken bone.

(g) *Discolorations of the skin and flesh.* The carcass or part is practically free of such defects. Discolorations due to bruising shall be free of clots (discernible clumps of red or dark cells). Evidence of incomplete bleeding, such as more than an occasional slightly reddened feather follicle, is not permitted. Flesh bruises and discolorations of the skin, such as "blue back," are not permitted on the breast or legs of the carcass, or on these individual parts, and only lightly shaded discolorations are permitted elsewhere. The total areas affected by flesh bruises, skin bruises, and discolorations, such as "blue back," singly, or in any combination, shall not exceed one-half of the toal aggregate area of permitted discoloration. The aggregate area of all discolorations for a part shall not exceed that of a circle one-fourth inch in diameter for poultry weighing up to 6 pounds and one-half inch in diameter for poultry weighing over 6 pounds. The aggregate area of all discolorations for a carcass shall not exceed the area of a circle of the diameter as specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	1 lb, 8 oz	½ in	1 in.
Over 1 lb, 8 oz	6 lb	1 in	2 in.
Over 6 lb	16 lb	1½ in	2½ in.
Over 16 lb	None	2 in	3 in.

(h) *Freezing defects.* With respect to consumer packaged poultry, parts, or specified poultry food products, the carcass, part, or specified poultry food product is practically free from defects which result from handling or occur during freezing or storage. The following defects are permitted if they, alone or in combination, detract only very slightly from the appearance of the carcass, part, or specified poultry food product:

(1) Slight darkening over the back and drumsticks, provided the frozen bird or part has a generally bright appearance;

(2) Occasional pockmarks due to drying of the inner layer of skin (derma) (however, none may exceed the area of a circle one-eighth inch in diameter for poultry weighing 6 pounds or less and one-fourth inch in diameter for poultry weighing over 6 pounds);

(3) Occasional small areas showing a thin layer of clear or pinkish colored ice.

(i) *Backs.* A quality backs shall meet all applicable provisions of this section pertaining to parts, and shall include the meat contained on the ilium (oyster), pelvic meat and skin and vertebral ribs and scapula with meat and skin.

§ 70.221 B Quality.

(a) *Conformation.* The carcass or part may have moderate deformities, such as a dented, curved, or crooked breast, crooked back or misshapen legs or wings, which do not materially affect the distribution of flesh or the appearance of the carcass or part.

(b) *Fleshing.* The carcass has a moderate covering of flesh considering the kind, class, and part.

(1) The breast has a substantial covering of flesh with the flesh carrying up to the crest of the breastbone sufficiently to prevent a thin appearance.

(2) The leg is fairly thick and wide at the knee and hip joint area, and has sufficient flesh to prevent a thin appearance.

(3) The drumstick has a sufficient amount of flesh to prevent a thin appearance with the flesh carrying fairly well down toward the hock.

(4) The thigh has a sufficient amount of flesh to prevent a thin appearance.

(5) The wing has a sufficient amount of flesh to prevent a thin appearance.

(c) *Fat covering.* The carcass or part has sufficient fat in the skin to prevent a distinct appearance of the flesh through the skin, especially on the breast and legs.

(d) *Defeathering.* The carcass or part may have a few nonprotruding pinfeathers or vestigial feathers which are scattered sufficiently so as not to appear numerous. Not more than an occasional protruding pinfeather or diminutive feather shall be in evidence under a careful examination.

(e) *Exposed flesh.* Parts may have exposed flesh resulting from cuts, tears and missing skin, provided that not more than a moderate amount of the flesh normally covered by skin is exposed. The carcass may have exposed flesh resulting from cuts, tears, and missing skin, provided that the aggregate of the areas of flesh exposed does not exceed the area of a circle of the diameter as specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	1 lb., 8 oz	¾ in	1½ in.
Over 1 lb., 8 oz	6 lb	1½ in	3 in.
Over 6 lb	16 lb	2 in	4 in.
Over 16 lb	None	3 in	5 in.

Notwithstanding the foregoing, a carcass meeting the requirements of A quality for fleshing may be trimmed to remove skin and flesh defects, provided that no more than one-third of the flesh is exposed on any part, and the meat yield of any part is not appreciably affected.

(f) *Disjointed and broken bones and missing parts.* Parts may be disjointed, but are free of broken bones. The carcass may have two disjointed bones, or one disjointed bone and one nonprotruding broken bone. Parts of the wing beyond the second joint may be removed at a joint. The tail may be removed at the base. The back may be trimmed in an area not wider than the base of the tail and extending from the tail to the area halfway between the base of the tail and the hip joints.

(g) *Discolorations of the skin and flesh.* The carcass or part is free of serious defects. Discoloration due to bruising shall be free of clots (discernible clumps of red or dark cells). Evidence of incomplete bleeding shall be no more than very slight. Moderate areas of discoloration due to bruises in the skin or flesh and moderately shaded discoloration of the skin, such as "blue back" are permitted, but the total areas affected by such discolorations, singly or in any combination, may not exceed one-half of the total aggregate area of permitted discoloration. The aggregate area of all discolorations for a part shall not exceed the area of a circle having a diameter of one-half inch for poultry weighing up to 1 pound, 8 ounces; 1 inch for poultry weighing over 1 pound, 8 ounces, but not more than 6 pounds; and 1½ inches for poultry weighing over 6 pounds. The aggregate area of all discolorations for a carcass shall not exceed the area of a circle of the diameter as specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	1 lb., 8 oz	1 in	2 in.
Over 1 lb., 8 oz	6 lb	2 in	3 in.
Over 6 lb	16 lb	2½ in	4 in.
Over 16 lb	None	3 in	5 in.

(h) *Freezing defects.* With respect to consumer packaged poultry, parts, or specified poultry food products, the carcass, part or specified poultry food product may have moderate defects which result from handling or occur during freezing or storage. The skin and flesh shall have a sound appearance, but may lack brightness. The carcass or part may have a few pockmarks due to drying of the inner layer of skin (derma). However, no single area of overlapping pockmarks may exceed that of a circle one-half inch in diameter. Moderate areas showing layers of clear pinkish or reddish colored ice are permitted.

(i) *Backs.* B quality backs shall meet all applicable provisions of this section pertaining to parts, and shall include either the meat contained on the ilium (oyster) and meat and skin from the pelvic bones or the vertebral ribs and scapula with meat and skin.

§ 70.222 C quality.

(a) A part that does not meet the requirements for A or B quality may be of C quality if the flesh is substantially intact.

(b) A carcass that does not meet the requirements for A or B quality may be C quality. Both wings may be removed or neatly trimmed. Trimming of the breast and legs is permitted, but not to the extent that the normal meat yield is materially affected. The back may be trimmed in an area not wider than the base of the tail and extending from the tail to the area between the hip joints.

(c) C quality backs shall include the meat and skin from the pelvic bones, except that the meat contained in the ilium (oyster) may be removed. The verbal ribs and scapula with meat and skin may also be removed, but the remaining portion must have the skin substantially intact.

Standards for Quality of Specified Poultry Food Products

§ 70.230 Poultry roast—A quality.

The standard of quality contained in this section is applicable to raw poultry products labeled in accordance with 9 CFR Part 381 as ready-to-cook "Rolls," "Roasts," or with words of similar import.

(a) The deboned poultry meat used in the preparation of the product shall be from young poultry of A quality with respect to fleshing and fat covering.

(b) All tendons, cartilage, large blood vessels, blood clots, and discolorations shall be trimmed from the meat.

(c) All pinfeathers, bruises, hair, discolorations, and blemishes, shall be removed from the skin, and where necessary, excess fat shall be removed from the skin covering the crop area or other areas.

(d) Seventy-five percent or more of the outer surface of the product shall be covered with skin, whether attached to the meat or used as a wrap. The skin shall not appreciably overlap at any point. The combined weight of the skin and fat used to cover the outer surface and that used as a binder shall not exceed 15 percent of the total net weight of the product.

(e) The product shall be fabricated in such a manner that each slice remains substantially intact (does not separate into more than three parts) when sliced warm after cooking. This may be accomplished by use of large pieces of poultry or by use of approved binders.

(f) Seasoning or flavor enhancers, if used, shall be uniformly distributed.

(g) Product shall be fabricated or tied in such a manner that it will retain its shape after defrosting and cooking.

(h) Packaging shall be neat and attractive.

(i) Product shall be practically free of weepage after packaging and/or freezing, and if frozen, shall have a bright, desirable color.

(j) Product packaged in an oven-ready container shall meet all the requirements of paragraphs (a) through (i) of this section, except that with respect to skin covering, the exposed surface of the roast need not be covered with skin. If skin is used to cover the exposed surface, it may be whole or emulsified. Additionally, for roasts packaged in oven-ready containers, comminuted (mechanically deboned) meat may be substituted in part for skin, but may not exceed 8 percent of the total weight of the product.

§ 70.231 Boneless poultry breast and thigh—A quality.

The standards of quality contained in this section are applicable to raw poultry products labeled as ready-to-cook boneless poultry breasts or thighs, or as read-to-cook boneless poultry breast

fillets or thigh fillets, or with words of similar import.

(a) The breast or thigh shall be cut as specified in § 70.210(e) (1), (2), or (5), respectively.

(b) Prior to deboning, the breast or thigh shall meet the A quality requirements for ready-to-cook poultry parts as specified in § 70.220 (a), (b), (c), (d), (e), and (g).

(c) The bone or bones shall be removed in a neat manner without undue mutilation of adjacent muscle.

UNITED STATES GRADES FOR READY-TO-COOK POULTRY AND SPECIFIED POULTRY FOOD PRODUCTS

§ 70.240 General.

(a) All terms in the United States standards for quality set forth in §§ 70.210 through 70.231 shall, when used in §§ 70.240 through 70.271, have the same meaning as when used in said standards.

(b) The U.S. Grades for Ready-To-Cook Poultry and Specified Poultry Food Products are applicable to poultry of the kinds and classes set forth in §§ 70.200 through 70.206 when the carcasses or parts, including those used in the fabrication of poultry food products, have been graded in accordance with § 70.20 on an individual basis or on the basis of each carcass in a representative sample, whichever is applicable in accordance with paragraph (c) or (d) of this section, and when fabrication of the poultry food products has been done under the supervision of a grader.

(c) United States Consumer Grades for ready-to-cook poultry and poultry food products may be assigned only when each carcass or part, including those used in the fabrication of poultry food products, has been (1) graded on an individual basis, and (2) graded and identified in an unfrozen state.

(d) U.S. Procurement Grades may be assigned to ready-to-cook poultry when graded as a lot on the basis of an examination of each carcass or part in the lot or each carcass in a representative sample thereof. Such ready-to-cook poultry carcasses or parts may be graded in a frozen or unfrozen state.

UNITED STATES CONSUMER GRADES FOR READY-TO-COOK POULTRY AND SPECIFIED POULTRY FOOD PRODUCTS

§ 70.250 U.S. Grade A.

A lot of ready-to-cook poultry, parts, or poultry food products consisting of one or more ready-to-cook carcasses or parts, or individual units of poultry food products of the same kind and class, each of which conforms to the requirements for A quality as specified in this part, may be designated as U.S. Grade A.

§ 70.251 U.S. Grade B.

A lot of ready-to-cook poultry or parts consisting of one or more ready-to-cook carcasses or parts of the same kind and class, each of which conforms to the requirements for B quality or better may be designated as U.S. Grade B.

§ 70.252 U.S. Grade C.

A lot of ready-to-cook poultry or parts consisting of one or more ready-to-cook carcasses or parts of the same kind and class, each of which conforms to the requirements for C quality or better, may be designated as U.S. Grade C.

UNITED STATES READY-TO-COOK GRADE FOR FURTHER PROCESSING

§ 70.260 U.S. Grade A—for further processing.

Any lot of ready-to-cook poultry composed of one or more turkey carcasses may be designated as "U.S. Grade A—For Further Processing" when each carcass in the lot meets the requirements for U.S. A quality as described in this subpart, with the following exceptions: (a) Exposed flesh and discolorations of the skin and flesh may be as described for U.S. B quality in this subpart; (b) any number of disjointed bones are permitted; (c) part or all of one or both wings may be missing when severed at a joint, and (d) the back may be trimmed in an area not wider than the base of the tail and extending from the tail to the area between the hip joints.

UNITED STATES PROCUREMENT GRADES FOR READY-TO-COOK POULTRY

§ 70.270 U.S. Procurement Grade I.

Any lot of ready-to-cook poultry composed of one or more carcasses of the same kind and class may be designated and identified as U.S. Procurement Grade I when: (a) 90 percent or more of the carcasses in such lot meet the requirements of A quality, with the following exceptions: (1) Fat covering and conformation may be as described in this subpart for B quality; (2) trimming of skin and flesh to remove defects is permitted to the extent that not more than one-third of the flesh is exposed on any part, and the meat yield of any part is not appreciably affected; (3) discoloration of the skin and flesh may be as described in this subpart for B quality; (4) one or both drumsticks may be removed if the part is severed at the joint; (5) the back may be trimmed in an area not wider than the base of the tail and extending to the area between the hip joints; (6) the wings or parts of wings may be removed if severed at a joint; and (b) the balance of the carcasses meet the same requirements, except they may have only a moderate covering of flesh.

§ 70.271 U.S. Procurement Grade II.

Any lot of ready-to-cook poultry of the same kind and class which fails to meet the requirements of U.S. Procurement Grade I may be designated and identified as U.S. Procurement Grade II, provided that (a) trimming of flesh from any part does not exceed 10 percent of the meat; and (b) portions of a carcass weighing not less than one-half of the whole carcass may be included, if the portion approximates in percentage the meat to bone yield of the whole carcass.

Subpart C—United States Classes, Standards and Grades for Rabbits

UNITED STATES CLASSES OF READY-TO-COOK RABBITS

§ 70.300 General.

For the purpose of §§ 70.300 through 70.302, the classes of ready-to-cook rabbits are fryer or young rabbit and roaster or mature rabbit.

§ 70.301 Fryer or young rabbit.

A fryer or young rabbit is a young rabbit carcass weighing not less than 1½ pounds and rarely more than 3½ pounds processed from a rabbit usually less than 12 weeks of age. The flesh of a fryer or young rabbit is tender and fine grained, and of a bright pearly pink color.

§ 70.302 Roaster or mature rabbit.

A roaster or mature rabbit is a mature or old rabbit carcass of any weight, but usually over 4 pounds processed from a rabbit usually 8 months of age or older. The flesh of a roaster or mature rabbit is more firm and coarse grained, and the muscle fiber is slightly darker in color and less tender, and the fat may be more creamy in color than that of a fryer or young rabbit.

UNITED STATES STANDARDS FOR QUALITY OF READY-TO-COOK RABBITS

§ 70.310 General.

(a) The United States standards for quality contained in §§ 70.320 through 70.322 are applicable to individual carcasses of ready-to-cook rabbits and parts as described in paragraph (e) of this section.

(b) Carcasses or parts found to be unsound, unwholesome, or unfit for food shall not be included in any of the quality designations specified in §§ 70.320 through 70.322.

(c) In interpreting the respective requirements specified in §§ 70.320 through 70.322 for A quality, B quality, and C quality, (1) the intensity of coagulation due to incomplete bleeding, (2) freedom from foreign material, (3) broken bones, flesh bruises, defects, and deformities, and (4) freezing defects, as such defects individually or in combination, detract from the general appearance, shall be considered in determining the particular quality of an individual carcass or part.

(d) A ready-to-cook carcass which has a defect may be graded after the defective portion has been removed. The fact that a portion has been removed will not be considered in determining the quality of the balance of the carcass, if the remaining portion of the carcass is to be disjointed and packed as parts. Rabbit parts which have been properly cut as described in paragraph (e) of this section may be graded after they have been cut from the carcass, if the class is known and the parts are not misshapen, or have nearly the same appearance as prior to cutting from the carcass.

(e) The standards of quality are applicable to rabbit parts cut in the man-

ner described in paragraphs (e) (1) through (5) of this section. Similar parts cut in a manner other than as described in paragraphs (e) (1) through (5) of this section may be grade identified only when approved by the Administrator upon his determination that the labeling for such parts accurately describes the product. Requests for such approval shall be made to the National Supervisor.

(1) "Forelegs" shall be removed by cutting straight across the backbone at the eighth or ninth thoracic vertebra. The legs are divided by a lengthwise cut along the backbone to produce two approximately equal halves.

(2) "Ribs" shall be removed by cutting straight across the backbone between the third and fourth lumbar vertebrae. The rib section is further divided by a lengthwise cut along the backbone.

(3) "Loin" is separated from the rump by cutting straight across the backbone between the sixth and seventh lumbar vertebrae. There is no further division of this part.

(4) "Rump" is separated from the hind legs by cutting on a straight line from the base of the tail to a point approximately one-half inch above the stifle joint. There is no further division of the rump.

(5) "Hind legs" need no further division after separation from the rump.

STANDARDS FOR QUALITY

§ 70.320 A quality.

(a) The carcass or part (1) is free from evidence of incomplete bleeding such as more than an occasional slight coagulation in a vein, (2) is free from any evidence of reddening of the flesh due to fluid in the connective tissues, (3) is free from all foreign material (including, but not being limited to, hair, dirt, and bone particles) and from crushed bones caused by removing the head or the feet, and (4) Is free from broken bones, flesh bruises, defects, and deformities. Ends of leg bones may be broken due to removing the feet.

(b) The carcass: (1) Is short, thick, well-rounded, and full-fleshed, (2) has a broad back, broad hips, and broad, deep-fleshed shoulders, and firm muscle texture, and (3) has a fair quantity of interior fat in the crotch and over the inner walls of the carcass, and a moderate amount of interior fat around the kidneys.

(c) The part: (1) is full-fleshed and (2) has firm muscle texture.

(d) *Freezing defects.* With respect to consumer packaged rabbit carcasses or parts, they are practically free from defects which result from handling or occur during freezing or storage. The following defects are permitted if they, alone or in combination, detract only very slightly from the appearance of the carcass or part: (1) Slight darkening provided the frozen carcass or part has a generally bright appearance, (2) occasional pockmarks due to drying of the outer layer of flesh and (3) occasional small areas showing a thin layer of clear or pinkish colored ice.

§ 70.321 B quality.

(a) The carcass or part: (1) is free of evidence of incomplete bleeding such as more than an occasional slight coagulation in a vein, (2) is free from any evidence of reddening of the flesh due to fluid in the connective tissues, (3) is free from all foreign material (including, but not being limited to, hair, dirt, and bone particles) and from crushed bones caused by removing the head or the feet, and (4) is free from broken bones and practically free from bruises, defects, and deformities. Ends of leg bones may be broken due to removing the feet.

(b) The carcass: (1) Is short, thick, fairly well-rounded and fairly well-fleshed, (2) has a fairly broad back, fairly broad hips, and fairly broad and deep-fleshed shoulders, and fairly firm muscle texture, and (3) has at least a small amount of interior fat in the crotch and over the inner walls of the carcass with a small amount of interior fat around the kidneys.

(c) The part: (1) Is fairly well-fleshed, and (2) has fairly firm muscle texture.

(d) *Freezing defects.* With respect to consumer packaged rabbit carcasses or parts, they may have moderate defects which result from handling or occur during freezing or storage. The flesh shall have a sound appearance but may lack brightness. The carcass or part may have a few pockmarks due to drying of the outer layer of flesh. Moderate areas showing layers of clear, pinkish, or reddish colored ice are permitted.

§ 70.322 C quality.

(a) The carcass or part that does not meet the requirements for A or B quality may be of C quality, and such carcass or part: (1) May show very slight evidence of reddening of the flesh due to blood in the connective tissues, (2) is free from all foreign material (including, but not being limited to, hair, dirt, and bone particles) and from crushed bones caused by removing the head or feet, and (3) may have moderate bruises of the flesh, moderate defects, and moderate deformities; may have not more than one broken bone in addition to broken ends of leg bones due to removal of the feet; and may have a small portion of the carcass or part removed because of serious bruises. Discoloration due to bruising in the flesh shall be free of clots (discernible clumps of dark or red cells).

(b) The carcass: (1) May be long, rangy, and fairly well-fleshed, (2) may have thin, narrow back and hips, and soft flabby muscle texture, and (3) may show very little evidence of exterior fat.

(c) The part: (1) Is fairly well-fleshed, and (2) has soft, flabby muscle texture.

UNITED STATES CONSUMER GRADES FOR READY-TO-COOK RABBITS

§ 70.330 U.S. Grade A.

A lot of ready-to-cook rabbit carcasses or parts, consisting of one or more ready-to-cook carcasses or parts of the same kind and class, each of which conforms to the requirements for A quality as specified in this part, may be designated as U.S. Grade A.

§ 70.331 U.S. Grade B.

A lot of ready-to-cook rabbit carcasses or parts, consisting of one or more ready-to-cook carcasses or parts of the same kind and class, each of which conforms to the requirements for B quality as specified in this part, may be designated as U.S. Grade B.

§ 70.332 U.S. Grade C.

A lot of ready-to-cook rabbit carcasses or parts, consisting of one or more ready-to-cook carcasses or parts of the same kind and class, each of which conforms to the requirements for C quality as specified in this part, may be designated as U.S. Grade C.

NOTE: The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Issued at Washington, D.C. on June 3, 1976, to become effective July 15, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc.76-16587 Filed 6-10-76;8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. 23]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Implementation

On January 30, 1976, there was published in the FEDERAL REGISTER (41 FR 4596) a proposed amendment to the regulations governing the National School Lunch Program. The main purpose of the proposed amendment was the implementation of Pub. L. 94-105.

On May 4, 1976, regulations implementing a portion of the proposed amendments were published in the FEDERAL REGISTER establishing the eligibility of residential child care institutions to participate in the Program and allowing State agencies, other than State educational agencies, to administer the Program.

The purpose of this amendment is to implement the remaining provisions of the proposed amendment: (1) To provide that senior high school students not be required to accept more than three of the five food items comprising the Type A lunch; (2) to eliminate butter or fortified margarine from the meal patterns; and (3) to limit Federal reimbursement for lunches served in excess of the number of children. All of the comments received on these proposals have been carefully considered. The most substantive comments and recommendations affecting portions of the proposed regulations, together with the resulting changes in the proposal or reasons for not accepting the suggestions are set forth below.

Seventy-five respondents of 108 opposed the provision that senior high

school students shall not be required to accept offered foods which they do not intend to consume. Many of the respondents opposed to this provision took the position that the nutritional integrity of the Type A lunch should not be disturbed. Opposition focused upon the diminished nutrition provided by less than the complete Type A lunch. Also, the administrative and operational problems which would be encountered in implementing such a policy were cited. Since Congress mandated the provision that senior high school students not be required to accept offered foods which they do not intend to consume, the Department will reflect this mandate in the regulations.

Several comments were received which suggested that, while senior high school students not be required to take all the items of a Type A lunch, a specific item such as a fruit, vegetable, or milk must be taken. However, there was no consensus among the respondents as to which item should be compulsory. In recognition of the varying preferences of students and of the nutritive value of the food items within the Type A lunch relative to each other, the Department will retain the provision that three unspecified items be taken.

Thirteen respondents of 33 commented in favor of the elimination of the butter/margarine requirement from the lunch pattern, while twenty respondents were opposed. Those in favor included State School Food Service Directors, local school personnel, concerned citizens, and a professional nutrition association. Comments supporting the elimination of this requirement were that the nutritional adequacy of the Type A lunch pattern could be maintained without a butter/margarine requirement; there was a need to reduce the amount of fat in the diet; and that food waste was increased by the inclusion of butter/margarine in lunches, such as some cold sandwiches with salad, fruit, and milk, which have no menu items in which butter/margarine is an acceptable ingredient.

Respondents objecting to the elimination of this requirement generally addressed the nutrient contribution of butter/margarine. However, such respondents did not consider the nutrient contribution of the other components of the total meal. A few respondents opposed the elimination of butter/margarine since these foods contribute to the palatability of the diet.

The Department will retain the provision that butter/fortified margarine be eliminated based on the following considerations:

The elimination of this requirement will have no detrimental effect on the nutritional integrity of the meal.

The expected decrease in energy level is insignificant and a reduction in the consumption of fat is consistent with current nutrition knowledge indicating possible undesirable effects of excess fat in the diet.

Data indicate that butter/margarine will continue to be used to provide palatable lunches even though there is no requirement.

Forty-one respondents of 45 opposed the limitation of Federal reimbursement to one lunch per child per day. Several variations of the proposed concept were offered. There was no clear consensus in terms of recommendations as to what was the best approach. However, there was general agreement that the regulations as proposed create problems, to wit, (1) children in need of the additional nutrition provided by a second lunch would be denied the additional lunch; (2) the provision could not be administered at the local level and would result in ill will among students and school administrators. Moreover, it was felt there was no acknowledgement of problems associated with forecasting food production in relation to participation trends.

Inasmuch as the proposed concept was found to be objectionable to a considerable number of respondents, the Department is issuing regulations which are consistent with its philosophy limiting Federal reimbursement to one lunch per child per day, but which also will reflect a practical approach to situations in which lunches have been prepared in excess of one lunch per child. This approach will acknowledge fluctuations in participation brought about by sickness, absenteeism, and other factors. The regulations will require that School Food Authorities plan and prepare lunches in accordance with participation trends, with the objective of providing one lunch per child per day. School Food Authorities must maintain records which will demonstrate positive action toward this objective. However, in order to allow some latitude where excessive lunches are prepared, yet remain consistent with the Department's philosophy, reimbursement will be allowed for more than one lunch per child where it can be demonstrated by School Food Authorities that lunches were planned on the basis of one lunch per child per day. However, reimbursement cannot be claimed for free and reduced price lunches in excess of the number of children approved for free and reduced price meals.

Accordingly, this part is amended as set forth below:

1. In § 210.2, paragraph (q–1) is revised to read as follows:

§ 210.2 Definitions.

* * * * *

(q–1) "Senior high school students" means students (1) of a high school grade level as determined by State and local educational agencies, and (2) enrolled in a school as defined in paragraph (o)(1) of this section.

* * * * *

2. In § 210.10, paragraph (a)(2)(v) is deleted, in paragraphs (b)(3)(i) and (ii), the words "; and one-half teaspoon of butter or fortified margarine" are deleted, and a new paragraph (a)(4) is added as follows:

§ 210.10 Requirements for lunches.

* * * * *

(a) * * *

(4) Senior high school students shall be offered the complete Type A lunch pattern listed in paragraph (a)(2) of this section. Such students must choose at least three of the five food items contained within the four food components of the Type A lunch, but the choice of fewer than all five items shall not relieve nonneedy students from paying the full price of the Type A lunch or those students determined eligible for reduced price lunches under Part 245 of this chapter from paying the reduced price charge.

* * * * *

3. In § 210.11, paragraph (a) is revised to read as follows:

§ 210.11 Reimbursement payments.

(a) State agencies, or FNSROs where applicable, shall make reimbursement payments to schools only in connection with lunches meeting the requirements of § 210.10. General cash-for-food assistance payments shall be used to assist schools in financing the cost of obtaining food. Special cash assistance payments shall be used to assist schools in financing the cost of providing free and reduced price lunches served to children eligible for such lunches. School Food Authorities shall plan for and prepare lunches on the basis of participation trends, with the objective of providing one lunch per child per day. Production and participation records shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of lunches needed and to reduce the resultant waste, any excess lunches that are prepared may be served to eligible children and may be claimed for reimbursement unless the State agency, or FNSRO where applicable, determines that the School Food Authority has failed to plan and prepare lunches with the objective of providing one lunch per child per day. In no event shall the School Food Authority claim or be eligible for special cash assistance reimbursement for free and reduced price meals in excess of the number of children approved for free and reduced price meals.

* * * * *

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: This amendment shall become effective on June 3, 1976.

Dated: June 3, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76–16646 Filed 6–10–76;8:45 am]

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

[Valencia Orange Reg. 531]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period June 11–17, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.831 Valencia Orange Regulation 531.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to improve. Prices f.o.b. for the week ending June 3 were $3.23 a carton on 249 cars as compared with $3.00 per carton on 197 cars during the prior week. Track and rolling supplies at 161 cars were up 11 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation on or before July 12, 1976, because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 8, 1976.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 11, 1976, through June 17, 1976, are hereby fixed as follows:

(i) District 1: 292,000 cartons;

(ii) District 2: 358,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: June 9, 1976.

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

[FR Doc.76-17145 Filed 6-10-76;8:45 am]

[Lemon Reg. 43]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period June 13–19, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.343 Lemon Regulation 43.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is still only fair this week. Average f.o.b. price was $6.08 per carton the week ended June 5, 1976, compared to $6.15 per carton the previous week. Track and rolling supplies at 237 cars were up 62 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current

week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 8, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period June 13, 1976, through June 19, 1976, is hereby fixed at 250,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: June 10, 1976.

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

[FR Doc.76-17805 Filed 6-10-76;11:52 am]

[Lime Reg. 2]

PART 911—LIMES GROWN IN FLORIDA

Limitation of Handling

This regulation fixes the quantity of Florida limes that may be shipped to fresh market during the weekly regulation period June 13–19, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 911. The quantity of limes so fixed was arrived at after consideration of the total available supply of Florida limes, the quantity currently available for market, lime prices, and the relationship of season average returns to the parity price for Florida limes.

§ 911.302 Lime Regulation 2.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 37 FR 10497), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Florida Lime Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of limes that may be marketed during the ensuing week stems from the production and marketing situation confronting the Florida lime industry.

(i) The committee has submitted its recommendation with respect to the quantity of limes which it deems advisable to be handled during the succeeding week. Such recommendation results from consideration of the factors enumerated in the order. The committee further reports the fresh market demand for limes continues about unchanged from last week. Fresh shipments for the weeks ended June 5, 1976, and May 29, 1976, were 19,449 bushels and 28,826 bushels, respectively.

(ii) Having considered the recommendation and information submitted by the committee, and other available information the Secretary finds that the quantity of limes which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Florida limes, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such limes; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 8, 1976.

(b) *Order.* (1) The quantity of limes grown in Florida which may be handled during the period June 13, 1976, through June 19, 1976, is hereby fixed at 32,000 bushels.

(2) As used in this section, "handled" and "limes" have the same meaning as when used in said amended marketing agreement and order, and "bushel" means 55 pounds of limes.

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

Dated: June 9, 1976.

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

[FR Doc.76-17146 Filed 6-10-76;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

[FmHA Instruction 441.3]

PART 1831—OPERATING LOANS

Operating Loan Processing

MISCELLANEOUS AMENDMENTS

Section 1831.32 of Subpart B of Part 1831, Title 7, Code of Federal Regulations (37 FR 14858; as amended at 38 FR 14155) is amended. Paragraph (v) (7) is revised to add language allowing for a change in notice requirements for secured parties holding an interest in inventory property; paragraph (v)(11) is revised to make reference to the necessity of issuing State Supplements to provide for the 1972 version of the UCC, if it has been adopted in a particular State. These amendments are being published without notice of proposed rulemaking because they merely recognize changes in State laws in those States which have adopted the Model UCC. For that reason public notice and procedure thereon is unnecessary.

In § 1831.32 paragraphs (v)(7) and (v)(11) are amended by adding a sentence to the end of each paragraph to read as follows:

§ 1831.32 Loan forms and routines.

* * * * *

(v) *Taking security instruments.* * * *

(7) *Additional actions required to perfect a purchase money interest in inventory.* * * * When determined necessary by the State Director and OGC, a State Supplement will be issued to further explain the requirements for perfecting a purchase money security interest in inventory.

* * * * *

(11) *Requirements by State Office.* * * * State Supplements will also be issued when considered necessary by the State Director and OGC to reflect any State Statutory changes in its version of the UCC.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; Sec. 10 P.L. 93-357, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Effective date. These amendments are effective on June 11, 1976.

Dated: May 28, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-17061 Filed 6-10-76;8:45 am]

[FmHA Instruction 441.2]

PART 1832—EMERGENCY LOANS

Emergency Loan Policies, Procedures and Authorizations

MISCELLANEOUS AMENDMENT

Section 1832.33 of Subpart A of Part 1832, Title 7, Code of Federal Regulations (40 FR 42321) is amended. Paragraph (a)(7) is revised to add language pertaining to a change in notice requirements for several parties holding an interest in inventory property in accordance with 1972 amendments to the Uniform Commercial Code. This amendment is published without notice of proposed rulemaking because it merely recognizes changes in State laws in those States which have adopted the Model UCC. For that reason, public notice and procedures thereon are unnecessary.

As amended, § 1832.33(a)(7) is amended by adding a sentence to the end of this paragraph as follows:

§ 1832.33 Taking security instruments.

(a) *Chattels and crops.* * * *

(7) *Perfecting a purchase money security interest in inventory.* * * * When determined necessary by the State Director and OGC, a State Supplement will be issued to further explain the requirements for perfecting a purchase money security interest in inventory.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; Sec. 10 P.L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Effective date. This amendment is effective on June 11, 1976.

Dated: May 28, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-17060 Filed 6-10-76;8:45 am]

Title 9—Animals and Animal Products

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

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Area Quarantined

This amendment excludes Hillsborough County in New Hampshire from the areas quarantined by the regulations in 9 CFR Part 76, as amended, because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded area, but the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded area. No areas in the continental United States remain under quarantine.

Accordingly, Part 76, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases is hereby amended in the following respect:

§ 76.2 [Amended]

In § 76.2, paragraph (e)(2) relating to the State of New Hampshire is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date: The foregoing amendment shall become effective June 4, 1976.

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

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

Done at Washington, DC, this 4th day of June 1976.

J. M. HEJL,
Deputy Administrator,
Veterinary Services.

[FR Doc.76-16721 Filed 6-10-76;8:45 am]

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Change in Disease Status of Switzerland; Swine Vesicular Disease

The purpose of these amendments is to add Switzerland to the list of countries considered to be free of swine vesicular disease.

Statement of considerations. These amendments will add Switzerland to the list of countries in § 94.12(a) which are considered to be free of swine vesicular disease, and to the list of countries in § 94.13 which are declared to be free of swine vesicular disease in § 94.12(a) but which supplement their national meat supply by the importation of fresh, chilled, or frozen meat of swine from countries where swine vesicular disease is considered to exist; or which have a common border with such countries; or which have certain trade practices that are less restrictive than are acceptable to the United States.

On basis of a review of documents submitted by the responsible authorities of Switzerland and an on-site inspection made by a Veterinary Services veterinarian, it has been determined that Switzerland is free of swine vesicular disease. Switzerland, however, has common borders with countries where swine vesicular disease is considered to exist.

Accordingly, Part 94, Title 9, Code of Federal Regulations, is hereby amended as follows:

§ 94.12 [Amended]

1. In § 94.12(a) the name of "Switzerland" is added immediately after the reference to "Rumania."

§ 94.13 [Amended]

2. In § 94.13, in the first sentence of the introductory paragraph the name of "Switzerland," is added immediately after the reference to "Yugoslavia,".

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (31 U.S.C. 111, 134a, 134b, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date: The foregoing amendments shall become effective June 11, 1976.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the introduction and dissemination of the contagion of swine vesicular disease, and they must be made effective immediately to be of maximum benefit to affected persons.

It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 8th day of June 1976.

PIERRE A. CHALOUX,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.76-17059 Filed 6-10-76;8:45 am]

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

MEAT AND POULTRY INSPECTION

Sanitary Requirements for Vehicles

• Purpose. The purpose of this document is to amend the Federal meat in-

spection regulations and the poultry products inspection regulations to clarify the sanitary requirements for vehicles which carry meat or poultry products. •

This amendment is issued pursuant to the authority contained in section 14 of the Poultry Products Inspection Act, as amended (21 U.S.C. 463), and in sections 21 and 24 of the Federal Meat Inspection Act, as amended (21 U.S.C. 621, 624), Part 381 of the poultry products inspection regulations (9 CFR Part 381.190) and Parts 308 and 325 of the Federal meat inspection regulations (9 CFR Parts 308.12, 325.1).

Statement of Considerations.—A total of 22 comments were received pursuant to a notice of rulemaking published in the FEDERAL REGISTER (38 FR 27069) concerning the proposal to amend the regulations to clarify the requirement that trucks and other means of conveyance used to carry meat or poultry products be clean and sanitary to insure against possible adulteration of such products.

Six favored the proposal. Four of these were from private citizens who saw it as a positive step toward further assuring that consumers receive only wholesome food. One was from a wholesale meat dealers' association supporting the proposal as a means of cleaning up the trucks it observed delivering meat to its members. One was from a USDA employee favoring it as a means of assigning definite authority to inspectors to control the cleanliness of vehicles transporting meat and poultry products.

Three comments opposed the proposal. All three were from poultry industry groups who felt the proposal generally was giving the USDA too much authority and control over the physical condition of vehicles transporting meat and poultry. The Department believes it must have the right to reject unclean or otherwise unacceptable vehicles to prevent the possible adulteration of such products during transit. There is ample authority in the Federal meat and poultry products inspection Acts to support this action; however, the regulations are not clear in this respect. These amendments clarify this matter and place the regulated industry on notice of its responsibility to prevent adulteration of meat, meat food products and poultry products by assuring that conveyances which are utilized to transport such products are clean and sanitary.

Some of the criteria for determining whether product moved in a conveyance could become adulterated are included in the regulation.

One State Department of Agriculture questioned whether the proposal was meant to apply to the transportation of meat carcasses by custom farm slaughterers for the owner thereof. The regulation will apply to the transportation of meat carcasses by custom farm slaughterers for the owners thereof as custom slaughterers are not exempt from the adulteration requirements set forth in the Federal Meat Inspection Act.

Twelve comments favored the proposal in principle, but objected to some parts of it or questioned the possible interpretation of some of the language. Ten of these comments were from poultry processors and poultry industry organizations. The major point made in these comments was that poultry products are packaged prior to transportation and are, therefore, protected from adulteration or contamination. They point out that, under this circumstance, the requirement that such products be transported in a closed vehicle would work a hardship on direct purchasers of poultry products such as schools, hospitals, etc., who pick up poultry in pickup trucks, school buses, station wagons, etc., which would not meet the requirements set forth in the proposal. The National Canners' Association pointed out that all their members' products are hermetically sealed in containers and are amply protected against outside contamination or adulteration. Each of these twelve commenters felt a provision should be included to allow packaged products to be hauled in open or partially open conveyances. The Department agrees that it is not necessary for product which is sufficiently wrapped, packaged, or otherwise enclosed to prevent adulteration by airborne contaminants to be shipped in a completely enclosed conveyance, and the proposal has been changed accordingly in regard to both meat and poultry products.

The comments also expressed concern that so-called "nit picking" and "red tagging" of vehicles would result in processors being unable to get anyone to haul their products. To the extent that such concern is justified, the Department deems that it is outweighed by the interest of the consumer in sanitary conditions for transportation of meat and poultry products.

The original proposal appeared to require that vehicles used to transport meat and poultry products be airtight. Such a requirement is impractical and was not intended. That requirement has been restated to require only tight fitting doors and other covers.

In addition, several changes have been made in the proposal to clarify the meaning and intent of these amendments.

Therefore, Parts 308 and 325 of the meat inspection regulations and Part 381, Subpart S, of the poultry products inspection regulations are amended as set forth below:

PART 308—SANITATION

1. The Table of Contents is amended to reflect the new section heading for § 308.12 to read as follows:

§ 308.12 Second-hand tubs, barrels, and other containers.

2. Paragraph (b) of § 308.12 is revoked, and the "(a)" designation is deleted.

PART 325—TRANSPORTATION

1. The Table of Contents of Part 325 is amended to reflect a new section heading for § 325.1, and § 325.1 is amended by changing the section heading and by adding a new paragraph (c) as follows:

§ 325.1 Transactions in commerce prohibited without official inspection legend or certificate; exceptions; and vehicle sanitation requirements.

* * * * *

(c) No person, engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, meat or meat food products capable of use as human food, or importing such articles, shall transport, offer for transportation, or receive for transportation in commerce or in any State designated under § 331.2 of this subchapter, any such meat or meat food product which is capable of use as human food and is not wrapped, packaged, or otherwise enclosed to prevent adulteration by airborne contaminants, unless the railroad car, truck, or other means of conveyance in which the product is contained or transported is completely enclosed with tight fitting doors or other covers for all openings. In all cases, the means of conveyance shall be reasonably free of foreign matter (such as dust, dirt, rust, or other articles or residues), and free of chemical residues, so that product placed therein will not become adulterated. Any cleaning compound, lye, soda solution, or other chemical used in cleaning the means of conveyance must be thoroughly removed from the means of conveyance prior to its use. Such means of conveyance onto which product is loaded, being loaded, or intended to be loaded, shall be subject to inspection by an inspector at any official establishment. The decision whether or not to inspect a means of conveyance in a specific case, and the type and extent of such inspection shall be at the Program's discretion and shall be adequate to determine if product in such conveyance is, or when moved could become, adulterated. Circumstances of transport that can be reasonably anticipated shall be considered in making said determination. These include, but are not limited to, weather conditions, duration and distance of trip, nature of product covering, and effect of restowage at stops en route. Any means of conveyance found upon such inspection to be in such condition that product placed therein could become adulterated shall not be used until such condition which could cause adulteration is corrected. Product placed in any means of conveyance that is found by the inspector to be in such condition that the product may have become adulterated shall be removed from the means of conveyance and handled in accordance with § 318.2(d) of this subchapter.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

4. The Table of Contents of Part 381, Subpart S, is amended to reflect a new heading for § 381.190, and § 381.190 is amended by changing the section heading and by adding a new paragraph (c) as follows:

§ 381.190 Transactions in slaughtered poultry and other poultry products restricted; vehicle sanitation requirements.

* * * * *

(c) No person, engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, poultry products capable of use as human food, or importing such articles, shall transport, offer for transportation, or receive for transportation, in commerce or in any State designated under § 381.221, any poultry product which is capable of use as human food and is not wrapped, packaged, or otherwise enclosed to prevent adulteration by airborne contaminants, unless the railroad car, truck, or other means of conveyance in which the product is contained or transported is completely enclosed with tight fitting doors or other covers for all openings. In all cases, the means of conveyance shall be reasonably free of foreign matter (such as dust, dirt, rust, or other articles or residues), and free of chemical residues, so that product placed therein will not become adulterated. Any cleaning compound, lye, soda solution, or other chemical used in cleaning the means of conveyance must be thoroughly removed from the means of conveyance prior to its use. Such means of conveyance onto which product is loaded, being loaded, or intended to be loaded, shall be subject to inspection by an inspector at any official establishment. The decision whether or not to inspect a means of conveyance in a specific case, and the type and extent of such inspection shall be at the Inspection Service's discretion and shall be adequate to determine if poultry product in such conveyance is, or when moved could become, adulterated.

Circumstances of transport that can be reasonably anticipated shall be considered in making said determination. These include, but are not limited to, weather conditions, duration and distance of trip, nature of product covering, and effect of restowage at stops en route. Any means of conveyance found upon such inspection to be in such condition that poultry product placed therein could become adulterated shall not be used until such condition which could cause adulteration is corrected. Poultry product placed in any means of conveyance that is found by the inspector to be in such condition that the poultry product may have become adulterated shall be removed from the means of conveyance and handled in accordance with § 381.145(b).

(Secs. 21 and 24, 34 Stat. 1264, as amended, 21 U.S.C. 621, 624; Sec. 14, 71 Stat. 441, as amended, 21 U.S.C. 463; 37 F.R. 28464, 28477)

It does not appear that further public participation in rulemaking proceedings on these amendments would make additional information available to the Department which would alter the decision in this matter. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice or other public rulemaking proceedings on these amendments are impracticable and unnecessary.

These amendments shall become effective September 9, 1976.

Done at Washington, D.C., on June 7, 1976.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.76-16886 Filed 6-10-76;8:45 am]

PART 314—HANDLING AND DISPOSAL OF CONDEMNED OR OTHER INEDIBLE PRODUCTS AT OFFICIAL ESTABLISHMENTS

Parasitic Liver Handling

• Purpose. The purpose of this docket is to change requirements for special treatment of livers condemned because of certain parasites. •

Pursuant to authority contained in the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), this document amends § 314.10 of the Federal meat inspection regulations (9 CFR 314.10) to allow certain condemned and denatured livers to be removed from official establishments without cooking or freezing, to require others to be destroyed, and to eliminate unnecessary certification requirements in connection with their transportation.

Statement of Considerations. On November 13, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 52854) regarding this matter. Interested persons were given 60 days in which to submit to the Hearing Clerk of the Department views and comments concerning the proposed amendment.

The Department received six written comments; four supported the amendment, one opposed it, and one wanted to be sure that the requirement that abscesses be removed would be enforced. Those supporting the amendment represented three meatpackers and an industry association. The one opposition comment was received from a consumer advocate who was concerned about parasitism in young children who might consume pet food. These parasites are destroyed by the ordinary processing to which commercial pet foods are subjected, so there is no danger of transmission to either children or pets. This regulation will be enforced to assure that only properly trimmed livers are allowed to leave official establishments.

One of the proponents requested that the parasitic livers be packed separately from normal livers. Livers allowed to leave official establishments under this regulation will be denatured and labeled as an inedible product to readily distinguish them from inspected and passed livers.

No new information was presented in the comments which would require changing the regulation as proposed. Therefore, after considering all the relevant information available to the Department, including comments received pursuant to the notice, § 314.10 is adopted as set forth in the proposal.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 37 FR 28464, 28477.)

It does not appear that further public rulemaking procedure on these amendments would make additional relevant information available to the Department which would alter the decision in this matter. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found that further rulemaking proceedings are impracticable and unnecessary.

This amendment shall become effective June 11, 1976.

Done at Washington, D.C. June 7, 1976.

F. J. MULHERN,
Administrator Animal and Plant Health Inspection Service.

Section 314.10 is revised to read as follows:

§ 314.10 Livers condemned because of parasitic infestation and for other causes; conditions for disposal for purposes other than human food.

(a) Livers condemned on account of hydatid cysts shall be disposed of by tanking pursuant to the provisions of § 314.1 of this subchapter if condemned at official establishments having facilities for tanking; otherwise they shall be destroyed pursuant to the provisions of § 314.3 of this subchapter.

(b) Livers condemned because of parasites other than hydatid cysts; and livers condemned because of telangiectasis, angioma, "sawdust" condition, cirrhosis, carotenosis, or other nonmalignant change, benign abscesses, or contamination, when these conditions are not associated with infectious diseases in the carcasses, may be shipped from an official establishment only for purposes other than human food, and only if all tissue affected with abscesses is removed and destroyed within the establishment, and all livers are processed and denatured, with any agent prescribed in § 325.13(a)(1) or (2) or (5), and in accordance with § 325.13(a)(6) of this subchapter. This provision for movement from an official establishment is made solely under the Federal Meat Inspection Act and is not intended to relieve or modify any other applicable requirements under any other law regarding the movement of such articles, for purposes other than use as human food.

(c) Livers condemned because of conditions described in paragraph (b) of this section shall be in containers plainly marked "inedible".

[FR Doc.76-16887 Filed 6-10-76;8:45 am]

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Official Marks, Devices, and Certificates; Export Certificates; Certification Procedures; Citation Change for Voluntary Poultry Inspection

• *Purpose:* The purpose of this document is to change the citations to the

voluntary poultry inspection regulations contained in the meat inspection regulations and the poultry products inspection regulations. ●

Statement of Considerations: Pursuant to the authority contained in the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), and the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.), the Animal and Plant Health Inspection Service is amending the Federal meat inspection regulations (9 CFR Part 318) and the poultry products inspection regulations (9 CFR Part 381) to change the citations to the voluntary poultry inspection regulations which are amended in this issue of the FEDERAL REGISTER.

Accordingly, the meat inspection regulations and the poultry products inspection regulations (9 CFR Parts 318 and 381) are amended as follows:

§ 318.6 [Amended]

1. In § 318.6(b)(9) of the meat inspection regulations (9 CFR 318.6(b)(9)), the words "or 70" are deleted, and the words "362 or" are added immediately after the phrase "9 CFR Part".

§ 381.107 [Amended]

2. In § 381.107 of the poultry products inspection regulations (9 CFR 381.107), the footnote emblem "1" is deleted after the number "362", and Footnote 1 is deleted in its entirety.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; Sec. 14, 71 Stat. 441, as amended, 21 U.S.C. 463; 37 FR 28464, 28477.)

These amendments merely change a regulation citation and do not involve a change in policy. They do not substantially affect any member of the public. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public rulemaking procedures concerning these amendments are impracticable and unnecessary.

These amendments shall become effective July 15, 1976.

Done at Washington, D.C., on June 9, 1976.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.76-17118 Filed 6-10-76;8:45 am]

PART 354—VOLUNTARY INSPECTION OF RABBITS AND EDIBLE PRODUCTS THEREOF

Voluntary Rabbit Inspection Regulations

● *Purpose:* The purpose of this document is to transfer regulations governing the voluntary inspection of rabbits and rabbit products from 7 CFR Part 54 to 9 CFR Part 354 with minor changes. ●

Statement of Considerations: Voluntary Inspection of Rabbits and Rabbit Products is available under the Agricultural Marketing Act of 1946. Such rabbits and rabbit products, when produced under the voluntary inspection program, are certified by the Department and carry the mark of Federal inspection.

The provisions for grading and inspection services for rabbits, which may be requested and rendered on a fee basis, are provided for in 7 CFR Part 54. These services are referred to as "voluntary." At one time, such grading and inspection services were rendered by the same Agency of the Department—the Consumer and Marketing Service.

However, Secretary's Memorandum No. 1762, Supplement 1, dated March 22, 1972, and a notice published in the FEDERAL REGISTER on March 28, 1972 (37 FR 6327-6328), announced that effective April 2, 1972, the name of the Consumer and Marketing Service would be changed to the Agricultural Marketing Service, and the Animal and Plant Health Inspection Service would be formed. The Poultry Division, which administers grading service functions, was placed in the Agricultural Marketing Service. The Meat and Poultry Inspection Program, which administers the inspection functions, was placed in the Animal and Plant Health Inspection Service. Since the programs responsible for administering the voluntary grading and inspection services are in separate Agencies, it is impractical to have the voluntary grading and inspection regulations codified together.

This amendment would separate those portions of 7 CFR Part 54 that deal with inspection activities, and codify them in Title 9, Chapter III, Subchapter B, as a new Part 354. For clarity, and to achieve congruity with the rabbit grading regulations, the terms "rabbit" and "giblets" have been defined. These new definitions do not change the interpretation that has been given to these terms in the past. Other minor, nonsubstantive changes have been made for clarification.

Therefore, all provisions in 7 CFR Part 54 concerning the voluntary inspection of rabbits are hereby revoked. Contemporaneously with this action, the Agricultural Marketing Service is transferring all provisions in 7 CFR Part 54 concerning the grading of rabbits to 7 CFR Part 70 (see FR Doc. 76-16587, appearing under title 7 in the Rules and Regulations section of this issue).

Therefore, the Table of Contents for Title 9, Chapter III, Subchapter B, is amended to show a new Part 354, and regulations to appear in Part 354 are issued to read as follows:

GENERAL

Sec.
354.1 Definitions.
354.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

ADMINISTRATION

354.3 Administration.

BASIS OF SERVICE

354.10 Inspection service.
354.12 Eligibility.
354.13 Supervision.
354.14 Authority to waive provisions of § 354.12.

PERFORMANCE OF SERVICES

Sec.
354.20 Licensed or authorized inspectors.
354.21 Suspension of license; revocation.
354.22 Surrender of license.
354.23 Identification.
354.24 Financial interest of inspectors.
354.25 Political activity.
354.26 Schedule of operation of official plants.

APPLICATION FOR INSPECTION SERVICE

354.30 Who may obtain inspection service.
354.31 How application for service may be made; conditions of resident service.
354.32 Filing of application.
354.33 Authority of applicant.
354.34 Application for inspection service in official plants; approval.
354.35 Rejection of application.
354.36 Withdrawal of application.
354.38 Suspension of plant approval.

VIOLATIONS

354.45 Denial of service.
354.46 Misrepresentation; deceptive or fraudulent acts or practices.
354.47 Use of facsimile forms.
354.48 Willful violation of the regulations.
354.49 Interfering with an inspector or employee of Service.
354.51 Miscellaneous.

OTHER APPLICABLE REGULATIONS

354.53 Other applicable regulations.

IDENTIFYING AND MARKING PRODUCTS

354.60 Approval of official identification.
354.62 Inspection mark with respect to product.
354.63 Marking inspected products.
354.64 Form of official identification.
354.65 Form of inspection mark.

SUPERVISION OF MARKING AND PACKAGING

354.70 Evidence of label approval.
354.71 Affixing of official identification.
354.72 Packaging.
354.73 Retention labels.
354.74 Prerequisites to inspection.
354.75 Accessibility of products.
354.76 Time of inspection in an official plant.

REPORTS

354.90 Report of inspection work.
354.91 Information to be furnished to inspectors.
354.92 Reports of violations.

FEES AND CHARGES

354.100 Payment of fees and charges.
354.101 On a fee basis.
354.105 Fees for additional copies of inspection certificates.
354.106 Travel expenses and other charges.
354.107 Continuous inspection performed on a resident basis.
354.109 Fees or charges for inspection service performed under cooperative agreement.
354.110 Disposition of fees for inspection made under cooperative agreement.

INSPECTION PROCEDURES; ANTE-MORTEM INSPECTIONS

354.120 Manner of handling products in an official plant.
354.121 Ante-mortem inspection.
354.122 Condemnation on ante-mortem inspection.
354.123 Segregation of suspects on ante-mortem inspection.
354.124 Quarantine of diseased rabbits.

POST-MORTEM INSPECTION

Sec.
354.125 Evisceration.
354.126 Carcasses held for further examination.
354.127 Condemnation and treatment of carcasses.
354.128 Certification of carcasses.

DISPOSITION OF DISEASED RABBIT CARCASSES AND PARTS

354.129 General.
354.130 Diseases or conditions evident which require condemnation.
354.131 Decomposition.
354.132 Disposal of condemned carcasses and parts.

REINSPECTION AND INGREDIENTS

354.133 Reinspection of edible products; ingredients.

APPEALS

354.134 Appeal inspections, how made.

INSPECTION CERTIFICATES

354.140 Forms of inspection certificates.
354.141 Issuance and disposition of rabbits inspection certificates.
354.142 Food product inspection certificates; issuance and disposition.
354.143 Export certificates; issuance and disposition.
354.144 Advance information.

BASIS OF ACCEPTABILITY OF OTHER OFFICIAL INSPECTION SYSTEMS

354.160 General.
354.161 Requirements as to manner of inspection.
354.162 Determining compliance with § 354.161.

SANITARY REQUIREMENTS

GENERAL

354.210 Minimum standards for sanitation, facilities, and operating procedures in official plants.

BUILDINGS AND PLANT FACILITIES

354.220 Buildings.
354.221 Rooms and compartments.
354.222 Floors, walls, ceilings, etc.
354.223 Drainage and plumbing.
354.224 Water supply.
354.225 Lavatory accommodations.
354.226 Lighting and ventilation.

EQUIPMENT AND UTENSILS

354.230 Equipment and utensils.
354.231 Accessibility.
354.232 Restrictions on use.

MAINTENANCE OF SANITARY CONDITIONS AND PRECAUTIONS AGAINST CONTAMINATION OF PRODUCTS

354.240 General.
354.241 Cleaning of rooms and compartments.
354.242 Cleaning of equipment and utensils.
354.243 Operations and procedures.
354.244 Temperatures and cooling and freezing procedures.
354.245 Vermin.
254.246 Exclusion of diseased persons.
354.247 Table showing types of materials.

AUTHORITY: Secs. 203, 205; 60 Stat. 1087, 1090; 7 U.S.C. 1622, 1624; 37 FR 28464, 28477.

GENERAL

§ 354.1 Definitions.

Unless the context otherwise requires, the following terms shall have the following meaning:

(a) "Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U.S.C. 1621 et seq.) or any other act of Congress conferring like authority.

(b) "Acceptable" means suitable for the purpose intended and acceptable to the Service.

(c) "Administrator" means the Administrator of the Animal and Plant Health Inspection Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

(d) "Applicant" means any interested party who requests any inspection service.

(e) "Area supervisor" means any employee of the Department in charge of rabbit inspection service in a designated geographical area.

(f) "Carcass" means any rabbit carcass.

(g) "Circuit supervisor" or "technical supervisor" means the officer in charge of the rabbit inspection service in a circuit consisting of a group of stations within an area.

(h) "Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind.

(i) "Condition" means any condition, including, but not being limited to, the state of preservation, cleanliness, or soundness, of any product or the processing, handling, or packaging which may affect such product.

(j) "Condition and wholesomeness" means the condition of any product, its healthfulness and fitness for human food.

(k) "Department" means the United States Department of Agriculture.

(l) "Edible product" means any product derived from ready-to-cook domestic rabbits.

(m) "Giblets" means the liver from which the bile sac has been removed and the heart from which the pericardial sac has been removed.

(n) "Holiday" or "legal holiday" shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, title 5, of the United States Code.

(o) "Identify" means to apply official identification to products or to containers thereof.

(p) "Inspected and certified" or "certified" means, with respect to any product, that it has undergone an inspection and was found, at the time of such inspection, to be sound, wholesome, and fit for human food.

(q) "Inspection", "inspection service", or "inspection of products for condition and wholesomeness" means any inspection by an inspector to determine, in accordance with the regulations in this Part, (1) the condition and wholesomeness of rabbits, or (2) the condition and wholesomeness of any edible product at any state of the preparation or packaging thereof in the official plant where inspected and certified, or (3) the condition and wholesomeness of any previously inspected and certified product if such product has not lost its identity as an inspected and certified product.

(r) "Inspection certificate" means a statement, either written or printed, issued by an inspector, pursuant to the regulations in this Part, relative to the condition and wholesomeness of products.

(s) "Inspector" means any person who is licensed by the Secretary to investigate and certify, in accordance with the regulations in this Part, the condition and wholesomeness of products. An inspector is an employee of the Department or of a State; he may be a graduate veterinarian or a layman.

(t) "Interested party" means any person financially interested in a transaction involving any inspection.

(u) "National supervisor" means (1) the officer in charge of the rabbit inspection service of the Animal and Plant Health Inspection Service, and (2) other officers or employees of the Department designated by the officer in charge of the rabbit inspection service of the Animal and Plant Health Inspection Service.

(v) "Official plant" means one or more buildings or parts thereof, comprising a single plant in which the facilities and methods of operation therein have been approved by the Administrator as suitable and adequate for operation under inspection service and in which inspection is carried on in accordance with the regulations in this Part.

(w) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(x) "Potable water" means water that has been approved by the State health authority as safe for drinking and suitable for food processing.

(y) "Product" means ready-to-cook cooked rabbits, or edible products derived therefrom.

(z) "Rabbit" means any domesticated rabbit, whether live or dead.

(aa) "Rabbit inspection service" means the personnel who are engaged in the administration, application, and direction of rabbit inspection programs and services pursuant to the regulations in this Part.

(bb) "Ready-to-cook domestic rabbit" means any rabbit which has been slaughtered for human food, from which the head, blood, skin, feet, and inedible viscera have been removed, that is ready to cook without need of further processing. Ready-to-cook rabbit also means any cut-up or disjointed portion of rabbit or any edible part thereof, as described in this paragraph.

(cc) "Regulations" means the provisions of this entire Part as may be in effect at the time inspection is performed.

(dd) "Secretary" means the Secretary of the Department, or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(ee) "Service" means the Animal and Plant Health Inspection Service of the Department.

(ff) "Station supervisor" means any authorized individual who is designated

to supervise rabbit inspection service in a large official plant or in a group of several small plants.

§ 354.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain misrepresentations concerning the inspection of agricultural products under said section. For the purposes of said subsection and the provisions in this Part, the terms listed in this section shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this Part to certify with respect to the inspection or class or condition of products.

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of inspecting or sampling, pursuant to this Part, any processing or plant operation report made by an authorized person in connection with inspecting or sampling under this Part, and any report made by an authorized person of services performed pursuant to this Part.

(c) "Official mark" means the inspection mark, and any other mark, or any variations in such marks, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was inspected, or indicating the condition of the product, or for the purpose of maintaining the identity of products inspected under this Part, including, but not limited to, that set forth in § 354.65.

(d) "Official identification" means any symbol, stamp, label, or seal indicating that the product has been officially inspected and/or indicating the class or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

ADMINISTRATION

§ 354.3 Administration.

The Administrator shall perform, for and under the supervision of the Secretary, such duties as are prescribed in the regulations in this Part and as the Secretary may require in the administration of the regulations in this Part. The Administrator is authorized to waive for limited periods any particular provisions of the regulations to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and, at the same time, to assure full compliance with the spirit and intent of the regulations. The Animal and Plant Health Inspection Service and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this Part.

BASIS OF SERVICE

§ 354.10 Inspection service.

Any inspection service in accordance with the regulations in this Part shall be for condition and wholesomeness.

§ 354.12 Eligibility.

(a) Only rabbits which are processed in official plants in accordance with the regulations in this Part may be inspected.

(b) All rabbits that are eviscerated in an official plant where inspection service is maintained shall be inspected for condition and wholesomeness and no dressed rabbits or uninspected products shall be brought into such official plant.

§ 354.13 Supervision.

All inspection service shall be subject to supervision at all times by the station supervisor, circuit supervisor, area supervisor, and national supervisor. Such service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite inspectors are available.

§ 354.14 Authority to waive provisions of § 354.12.

The Administrator is authorized to waive the provisions of § 354.12 which pertain to the entry of uninspected edible products into official plants in specific instances where rabbits are to be brought into compliance with a law under the provisions of a court order. Such rabbits shall be handled in an official plant in accordance with such procedures as the Administrator may prescribe to insure proper segregation and identity of the rabbits or rabbit products until they are shipped from the official plant.

PERFORMANCE OF SERVICES

§ 354.20 Licensed or authorized inspectors.

(a) Any person who is a Federal or State employee or the employee of a local jurisdiction possessing proper qualifications as determined by an examination for competency, and who is to perform inspection service under this Part may be licensed or otherwise authorized by the Secretary as an inspector.

(b) All licenses issued by the Secretary shall be countersigned by the officer in charge of the rabbit inspection service of the Animal and Plant Health Inspection Service or any other designated officer of such Service.

§ 354.21 Suspension of license; revocation.

Pending final action by the Secretary, any person authorized to countersign a license to perform inspection service may, whenever he deems such action necessary to assure that any inspection service is properly performed, suspend any license to perform inspection service issued pursuant to this Part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons, the licensee may file an appeal in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be further suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license to perform inspection service is revoked.

§ 354.22 Surrender of license.

Each license which is suspended, or revoked, or has expired shall promptly be surrendered by the licensee to his immediate superior. Upon termination of the services of a licensed inspector, the licensee shall promptly surrender his license to his immediate superior.

§ 354.23 Identification.

Each inspector shall have in his possession at all times, and present upon request while on duty, the means of identification furnished by the Department to such person.

§ 354.24 Financial interest of inspectors.

No inspector shall render service on any product in which he is financially interested.

§ 354.25 Political activity.

All inspectors are forbidden, during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of §§ 354.20 to 354.25 will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 354.26 Schedule of operation of official plants.

Inspection operating schedules for services performed pursuant to § 354.107 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the period of Monday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if an inspector is

available. Sundays may not be approved in any tour of duty. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Inspectors are to be notified by management 1 day in advance of any change in the hours inspection service is requested.

APPLICATION FOR INSPECTION SERVICE

§ 354.30 Who may obtain inspection service.

An application for inspection service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

§ 354.31 How application for service may be made; conditions of resident service.

(a) On a fee basis. An application for any inspection service on a fee basis may be made in any office of inspection or with any inspector at or nearest the place where the service is desired. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If the application for inspection service is made orally, the office of inspection or the inspector with whom the application is made, or the Administrator, may require that the application be confirmed in writing.

(b) On a resident inspection basis. An application for resident inspection service must be made in writing on forms approved by the Administrator and filed with the Administrator. Such forms may be obtained at the national, area, or State inspection office. In making application, the applicant agrees to comply with the terms and conditions of the regulations (including, but not being limited to, such instructions governing inspection of products as may be issued from time to time by the Administrator). No member of or delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit.

§ 354.32 Filing of application.

An application for inspection service shall be regarded as filed only when made pursuant to the regulations in this Part.

§ 354.33 Authority of applicant.

Proof of the authority of any person applying for inspection service may be required at the discretion of the Administrator.

§ 354.34 Application for inspection service in official plants; approval.

Any person desiring to process and pack products in a plant under inspection service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. An application for inspection service to be rendered in an official plant shall be approved according to the following procedure:

(a) Initial survey. When application has been filed for inspection service as aforesaid, the area supervisor, or his assistant, shall examine the plant, premises, and facilities and shall specify any additional facilities required for the service. Appeals with respect to any such specification may be made to the national supervisor.

(b) Drawings and specifications to be furnished in advance of construction or alterations. (1) Four copies of drawings or blueprints showing the features specified herein shall be submitted to the Administrator. The drawings or blueprints shall be legible, made with sharp, clear lines, and properly drawn to scale, and shall consist of floor plans and a plot plan.

(2) The plot plan shall show such features as the limits of the plant's premises, locations in outline of buildings on the premises, one point of the compass, and roadways and railroads serving the plant.

(3) The floor plan shall show all space to be included in the official plant. If rooms or compartments shown on the drawings or blueprints are not to be included as part of the official plant, this shall be clearly indicated thereon.

(4) The sheets of paper on which drawings or blueprints are made shall not exceed a size 34" x 44". The drawings other than of the plot plan shall be made to a scale of ⅛" per foot, except that additional plans for some areas showing detail may be drawn to a scale of ¼" per foot. The plot plan may be drawn to a scale of not less than 1/32" per foot. The drawings shall indicate the scale used and shall also indicate the floor shown (e.g., basement, first, or second).

(c) Features required to be shown on floor plan. The following features shall be shown on the floor plan:

(1) The principal pieces of equipment drawn to scale in the proper locations.

(2) The name of the firm and the address of the plant by street and street number, or by other means properly identifying the location of the plant.

(3) One point of the compass.

(4) The doors and openings for passageways, designating those which are self-closing or permanently closed.

(5) All floor drain openings and gutter drains.

(6) Lavatories in toilet and processing rooms (lavatories which are other than hand-operated shall be so designated on the drawings or blueprints).

(7) All steam and hot and cold water outlets for cleanup purposes.

(8) Ice-making and storage facilities.

(9) The point at which live rabbits are hung on the conveyor line, the point at which the ready-to-cook rabbits are removed, and any intermediate transfer points.

(10) The routes of the edible and inedible products.

(11) The location of fresh air inlets, exhaust fans, and hoods.

(d) Specifications. Specifications covering the following items shall accompany the drawings:

(1) Height of ceilings.

(2) Type of ceilings—open or closed.

(3) Finish of ceilings; for example—cement plaster, metal, marine plywood, cement, asbestos board, etc.

(4) Finish of walls; for example—cement plaster, glazed tile, glaze brick, glass blocks, etc.

(5) Screens—indicate whether all outside openings are screened or provided with other suitable devices against entrance of flies or other insects.

(6) Finish of floors—concrete, brick, mastic material, etc.

(7) Drainage—indicate the amount of slope of floors to the drains in processing rooms, coolers, toilets, and refuse rooms, and give description of trapping and venting of drainage lines and of floor drain openings. Indicate size of drainage lines and whether house drainage lines and toilet soil lines are separate to a point outside of buildings.

(8) Heating—indicate type.

(9) Water supply—indicate whether public or private water supply, or both, and specify in terms of gallons of water available per minute for the processing needs of the plant. Also indicate whether or not a nonpotable water supply is used for any purpose in the plant and, if so, specify such uses.

(10) Hot water facilities—specify facilities such as boilers, storage tanks, mixing valves, etc., and indicate the size and number of boilers and storage tanks.

(11) Specify number of men and number of women who will use each toilet room.

(12) Sewage disposal—indicate whether city sewer, cesspool, sedimentation tank, etc.

(13) Approximate rate of production—indicate hourly rate of slaughter and evisceration for rabbits.

(e) Rooms and compartments which must be included in the official plant. The official plant shall include employees' toilet and dressing rooms, office space for the inspectors, storerooms for supplies, refuse rooms, and rooms, compartments, or passageways where rabbits or any ingredients to be used in the preparation of products under inspection will be handled or kept. It also may include other rooms or compartments located in the buildings comprising the official plant.

(f) Changes in drawings or blueprints. When changes are proposed in areas for which drawings or blueprints have been previously approved, one of the following types of revised drawings or blueprints shall be submitted for review and consideration.

(1) A completely revised sheet or sheets showing proposed alterations or additions, or

(2) Approved pasters of the proposed changes which may be affixed to the affected areas on the previously approved drawings or blueprints in a manner not obscuring essential data. Paster drawings and blueprints shall be prepared to

the same scale and presented on a background similar to that of the originally approved drawing or blueprint.

(g) Final survey and plant approval. Prior to the inauguration of the inspection service, a final survey of the plant and premises shall be made by the area supervisor or his assistant to determine if the plant is constructed and facilities are installed in accordance with the approved drawings and the regulations in this Part. The plant may be approved by the Administrator only when these requirements have been met, except that conditional approval for a specified limited time may be granted only under emergency conditions of restricted availability of facilities and construction materials, provided practices suitable to the Administrator are employed to effect adequate sanitary conditions in the plant.

§ 354.35 Rejection of application.

Any application for inspection service may be rejected by the Administrator:

(a) Whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which the service is made available;

(b) Whenever the product is owned by or located on the premises of a person currently denied the benefits of the Act;

(c) Where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of the Act to any person;

(d) Where the Administrator determines that the application is an attempt on the part of a person currently denied the benefits of the Act to obtain inspection service;

(e) Whenever the applicant, after an initial survey has been made in accordance with § 354.34(a), fails to bring the plant, facilities, and operating procedures into compliance with the regulations within a reasonable period of time; or

(f) Notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of the service. Each such applicant shall be promptly notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

§ 354.36 Withdrawal of application.

Any application for inspection service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by the Service in connection with such application.

§ 354.38 Suspension of plant approval.

(a) Any plant approval given pursuant to the regulations in this Part may be suspended by the Administrator for:

(1) Failure to maintain plant and equipment in a satisfactory state of repair;

(2) The use of operating procedures which are not in accordance with the regulations in this Part; or

(3) Alterations of buildings, facilities, or equipment which cannot be approved in accordance with the regulations in this Part.

(b) During such period of suspension, inspection service shall not be rendered. However, the other provisions of the regulations pertaining to providing service on a resident basis will remain in effect unless such service is terminated in accordance with the provisions of this Part. If the plant facilities or methods of operation are not brought into compliance within a reasonable period of time, to be specified by the Administrator, the service shall be terminated. Upon termination of inspection service in an official plant pursuant to the regulations in this Part, the plant approval shall also become terminated, and all labels, seals, tags or packaging material bearing official identification shall, under the supervision of a person designated by the Service, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Service.

VIOLATIONS

§ 354.45 Denial of service.

(a) The acts or practices set forth in §§ 354.46 through 354.51 or the causing thereof may be deemed sufficient cause, for the debarment, by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period after notice and opportunity for hearing has been afforded.

(b) Whenever the Administrator has reason to believe that any person or his employee, agent, or representative has flagrantly or repeatedly committed any of the acts or practices specified in §§ 354.46 to 354.51, he may, without hearing, direct that the benefits of the Act be denied such person, including any agents, officers, subsidiaries, or affiliates of such person, pending investigation and hearing and shall give notice thereof by registered mail. A written petition for reconsideration of such interim denial may be filed with the Administrator by any person so denied the benefits of the Act within 10 days after notice of the interim denial. Such petition shall state specifically the errors alleged to have been made by the Administrator in denying the benefits of the Act pending investigation and hearing. Within 20 days following the receipt of such petition for reconsideration, the Administrator shall reinstate the benefits of the Act or notify the petitioner of the reasons for continued interim denial.

§ 354.46 Misrepresentation; deceptive or fraudulent acts or practices.

Any willful misrepresentation or any deceptive or fraudulent act or practice made or committed by any person in connection with:

(a) The making or filing of any application for any inspection service;

(b) The making of the product accessable for inspection;

(c) The making, issuing, or using, or attempting to issue or use any inspection certificate, symbol, stamp, label, seal or identification, authorized pursuant to the regulations in this Part;

(d) The use of the terms "U.S. Inspected" or "Government Inspected", or any term of similar import in the labeling or advertising of any product.

§ 354.47 Use of facsimile forms.

Using or attempting to use a form which simulates, in whole or in part, any certificate, symbol, stamp, label, seal or identification authorized to be issued or used under the regulations in this Part.

§ 354.48 Willful violation of the regulations.

Any willful violation of the regulations in this Part or the Act.

§ 354.49 Interfering with an inspector or employee of Service.

Any interference with or obstruction or any attempted interference or obstruction of or assault upon any inspector or employee of the Service in the performance of his duties. The giving or offering directly or indirectly of any money, loan, gift, or anything of value to an employee of the Service or the making or offering of any contribution to or in any way supplementing the salary, compensation, or expenses of an employee of the Service, or the offering or entering into a private contract or agreement with an employee of the Service for any services to be rendered while employed by the Service.

§ 354.51 Miscellaneous.

The existence of any of the conditions set forth in § 354.35 constituting a basis for the rejection of an application for inspection service.

OTHER APPLICABLE REGULATIONS

§ 354.53 Other applicable regulations.

Compliance with the regulations in this Part shall not excuse failure to comply with any other Federal or any State or municipal applicable laws or regulations.

IDENTIFYING AND MARKING PRODUCTS

§ 354.60 Approval of official identification.

(a) Any label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No

label or packaging material bearing official identification may be used unless finished copies or samples of such labels and packaging material have been approved by the Administrator. No label bearing official identification shall be printed for use until the printer's final proof has been approved by the Administrator, and no label, other than labels for shipping containers or containers for institutional packs, bearing any official identification shall be used until finished copies or samples of such labels have been approved by the Administrator. Final approval may be given to printer's final proof or photostatic copies of labels for shipping containers or containers for institutional packs, and no such labels shall be used until such proofs or copies have been approved by the Administrator. A label which bears official identification shall not bear any statement that is false or misleading, and if labels in the name of the same packer or distributor, or bearing the same brand name, are used on the same or similar products which are prepared from products which are not inspected, the diameter of the inspection mark used on labels for inspected products shall be equal to at least one-tenth of the length of the label, plus at least one-tenth of the width of the label. If the labeling is printed or otherwise applied directly to the container, the principal display panel of such container shall, for this purpose, be considered as the label.

§ 354.62 Inspection mark with respect to product.

The Administrator is authorized to prescribe and approve the form of the inspection mark that may be used.

§ 354.63 Marking inspected products.

(a) Wording and form of inspection mark. Except as otherwise authorized, the inspection mark permitted to be used with respect to inspected and certified edible products shall include wording as follows: "Inspected for Wholesomeness by U.S. Department of Agriculture." This wording shall be contained within a circle in the form and arrangement shown in § 354.65. The appropriate plant number of the official plant shall be included in the circle unless it appears elsewhere on the packaging material. The Administrator may approve the use of abbreviations of such inspection mark, and such approved abbreviations shall have the same force and effect as the inspection mark. The inspection mark or approved abbreviation thereof, as the case may be, may be applied to the inspected and certified edible product or to the packaging material of such product. When the inspection mark, or the approved abbreviation thereof, is used on packaging material, it shall be printed on such material or on a label to be affixed to the packaging material and the name of the packer or distributor of such product shall be printed on the packaging material or label, as the case may be, except that on shipping containers and containers for institutional packs, the inspection marks may be stenciled on the container and, when the inspection mark is so stenciled, the name and address of the packer or distributor may be applied by the use of a stencil or a rubber stamp. Notwithstanding the foregoing, the name and address of the packer or distributor, if appropriately shown elsewhere on the packaging material, may be omitted from insert labels which bear an official identification if the applicable plant number is shown.

(b) Wording on labels. Each trade label to be approved for use pursuant to §§ 354.60 to 354.64 with respect to any inspected and certified edible product shall bear the true name of the edible product, the name and address of the packer or distributor thereof, and in prominent letters and figures of uniform size, the inspection mark, as aforesaid, and the label shall also bear, in such manner as may be prescribed or approved by the Administrator, the plant number, if any, of the official plant in which such product was inspected and certified. The class of the rabbits shall be shown on the label. The appropriate designation "young", "mature", or "old" may be used as a prefix to the word "rabbit" in lieu of the class name.

(c) Labels in foreign languages. Any trade label to the affixed to a container of any edible products for foreign commerce may be printed in a foreign language. However, the inspection mark shall appear on the label in English, but, in addition, may be literally translated into such foreign language. Each such trade label which is to be printed in a foreign language must be approved pursuant to §§ 354.60 to 354.64.

(d) Unauthorized use or disposition of approved labels.

(1) Labels approved for use pursuant to §§ 354.60 to 354.64 shall be used only for the purpose for which approved and shall not otherwise be disposed of from the plant for which approved except with written approval of the Administrator. Any unauthorized use or disposition of approved labels or labels bearing official identification may result in cancellation of the approval and denial of the use of labels bearing official identification or denial of the benefits of the Act pursuant to the provisions of § 354.60.

(2) The use of simulations or imitations of any official identification by any person is prohibited.

(e) Rescindment of approved labels. Once a year, or more often if requested, each applicant shall submit to the Administrator a list in triplicate of approved labels that have become obsolete, accompanied with a statement that such approvals are no longer desired. The approvals shall be identified by the date of approval and the name of product or other designation showing the class of material.

§ 354.64 Form of official identification.

The form prescribed in § 354.65 is subject to the requirements of §§ 354.60 to 354.64, Identifying and Marking Products.

§ 354.65 Form of inspection mark.

The inspection mark approved for use on inspected and certified edible products shall be contained within a circle and include the following wording: "Inspected for Wholesomeness by U.S. Department of Agriculture." The form and arrangement of such wording shall be as indicated in the example below. The plant number of the official plant shall be set forth if it does not appear on the packaging material.

SUPERVISION OF MARKING AND PACKAGING

§ 354.70 Evidence of label approval.

No inspector shall authorize the use of official identification for any inspected product unless he has on file evidence that such official identification or packaging material bearing such official identification has been approved in accordance with the provisions of §§ 354.60 to 354.64.

§ 354.71 Affixing of official identification.

(a) No official identification or any abbreviation, copy, or representation thereof may be affixed to or placed on or caused to be affixed to or placed on any product or container thereof except by an inspector or under the supervision of an inspector. All such products shall have been inspected and certified. The inspector shall have supervision over the use and handling of all material bearing any official identification.

(b) Each container of inspected and certified products to be shipped from one official plant to another official plant for further processing shall be marked for identification and shall show the following information:

(1) The name of the inspected and certified products in the container;

(2) The name and address of the packer or distributor of such products;

(3) The net weight of the container;

(4) The inspection mark permitted to be used pursuant to the regulations in this Part unless the containers are sealed or otherwise identified in such manner as may be approved by the Administrator; and

(5) The plant number of the official plant where the products were packed.

§ 354.72 Packaging.

No container which bears or may bear any official identification or any abbrevi-

ation or copy or representation thereof may be filled in whole or in part except with edible products which were inspected and cretified and are, at the time of such filing, sound, wholesome, and fit for human food. All such filling of containers shall be under the supervision of an inspector.

§ 354.73 Retention labels.

An inspector may use such labels, devices, and methods as may be approved by the Administrator for the identification of:

(a) Products which are held for further examination, and

(b) All equipment and utensils which are to be held for proper cleaning.

§ 354.74 Prerequisites to inspection.

Inspection of products shall be rendered pursuant to the regulations in this Part and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

§ 354.75 Accessibility of products.

Each product for which inspection service is requested shall be so arranged so as to permit adequate determination of its class, quantity, and condition as the circumstances may warrant.

§ 354.76 Time of inspection in an official plant.

The inspector who is to perform the inspection in an official plant shall be informed, in advance, by the applicant of the hours when such inspection is desired. Inspectors shall have access at all times to every part of any official plant to which they are assigned.

REPORTS

§ 354.90 Report of inspection work.

Reports of the work of inspection carried on within official plants shall be forwarded to the Administrator by the inspector in such manner as may be specified by the Administrator.

§ 354.91 Information to be furnished to inspectors.

When inspection service is performed within an official plant, the applicant for such inspection shall furnish to the inspector rendering such service such information as may be required for the purposes of §§ 354.90 to 354.92.

§ 354.92 Reports of violation.

Each inspector shall report, in the manner prescribed by the Administrator, all violations of and noncompliance with the Act and the regulations in this Part of which he has knowledge.

FEES AND CHARGES

§ 354.100 Payment of fees and charges.

(a) Fees and charges for any inspection shall be paid by the applicant for the service in accordance with the applicable provisions of §§ 354.100 to 354.110, both inclusive. If so required by the inspector, such fees and charges shall be paid in advance.

(b) Fees and charges for any inspection service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the Animal and Plant Health Inspection Service and remitted promptly to the Service.

(c) Fees and charges for any inspection pursuant to a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

§ 354.101 On a fee basis.

(a) Unless otherwise provided in this Part, the fees to be charged and collected for any service performed, in accordance with this Part, on a fee basis shall be based on the applicable rates specified in this section.

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be $12.40 for base time and $12.40 for overtime or holiday work.

(c) Charges for any laboratory analysis or laboratory examination of rabbits under this Part related to the inspection service shall be $19.92 per hour.

§ 354.105 Fees for additional copies of inspection certificates.

Additional copies, other than those provided for in §§ 354.141, 354.142, and 354.143, of any inspection certificates may be supplied to any interested party upon payment of a fee of $2.00 for each set of five or fewer copies.

§ 354.106 Travel expenses and other charges.

Charges are to be made to cover the cost of travel and other expenses incurred by the Service in connection with rendering inspection service. Such charges shall include the costs of transportation, per diem, and any other expenses.

§ 354.107 Continuous inspection performed on a resident basis.

(a) Except as provided in paragraph (b) of this section, the charges for inspection of rabbits and products thereof shall be those provided for in § 354.101 (b) when the inspection service is performed on a continuous year-round resident basis and the services of an inspector or inspectors are required 4 or more hours per day. When the services of an inspector are required on an intermittent basis, the charges shall be at the hourly rate provided for in § 354.101(b) plus the travel expense and other charges provided for in § 354.106.

(b) The applicant will be given credit when inspectors assigned to the applicant's official plant perform inspection for the Department of Defense on products accepted for delivery by the applicant to the Department of Defense. The amount of such credit will be based on a formula concurred in jointly by the Departments of Defense and Agriculture.

§ 354.109 Fees or charges for inspection service performed under cooperative agreement.

Fees or charges to be made to an applicant for any inspection service which differ from those listed in §§ 354.100 through 354.107 shall be provided for by a cooperative agreement.

§ 354.110 Disposition of fees for inspection made under cooperative agreement.

Fees for inspection under a cooperative agreement with any State or person shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement as may be due the United States shall be remitted to the Service.

INSPECTION PROCEDURES; ANTE-MORTEM INSPECTIONS

§ 354.120 Manner of handling products in an official plant.

Unless otherwise specified in the regulations in this Part or by the Administrator, products which are to be further processed under inspection in an official plant shall be prepared and handled in such official plant under the supervision of an inspector.

§ 354.121 Ante-mortem inspection.

An ante-mortem inspection of rabbits shall, where and to the extent considered necessary by the Administrator and under such instructions as he may issue from time to time, be made of rabbits on the day of slaughter in any official plant processing rabbits under inspection pursuant to the regulations in this Part.

§ 354.122 Condemnation on ante-mortem inspection.

Rabbits found in a dying condition on premises of an official plant shall be immediately destroyed and, together with any rabbits found dead on such premises, shall be disposed of in accordance with § 354.132. Rabbits plainly showing, on ante-mortem inspection, any disease or condition, that under §§ 354.129 to 354.131, inclusive, would cause condemnation of their carcasses on post-mortem inspection, shall be condemned. Rabbits which, on ante-mortem inspection, are condemned shall not be dressed, nor shall they be conveyed into any department of the plant where rabbit products are prepared or held. Rabbits which have been condemned on ante-mortem inspection and have been killed shall, under the supervision of an inspector of the Inspection Service, receive treatment as provided in § 354.132.

§ 354.123 Segregation of suspects on ante-mortem inspection.

All rabbits which, on ante-mortem inspection, do not plainly show, but are suspected of being affected with any disease or condition that under §§ 354.129 to 354.131, inclusive, may cause condemnation in whole or in part on post-mortem inspection, shall be segregated from the other rabbits and held for separate slaughter, evisceration, and post-mortem inspection. The inspector shall be notified when such segregated lots are presented for post-mortem inspection and inspection of such rabbits shall be conducted separately. Such procedure for the correlation of ante-mortem and post-mortem findings by

the inspector, as may be prescribed or approved by the Administrator, shall be carried out.

§ 354.124 Quarantine of diseased rabbits.

If live rabbits, which are affected by any contagious disease which is transmissible to man, are brought into an official establishment, such rabbits shall be segregated. The slaughtering of such rabbits shall be deferred and they shall be dealt with in one of the following ways:

(a) If it is determined by a veterinary inspector that further handling of the rabbits will not create a health hazard, the lot shall be subject to ante-mortem and post-mortem inspection pursuant to the regulations in this Part.

(b) If it is determined by a veterinary inspector that further handling of the rabbits will not create a health hazard, such rabbits may be released for treatment under the control of an appropriate State or Federal agency. If the circumstances are such that release for treatment is impracticable, a careful rabbit-by-rabbit ante-mortem inspection shall be made, and all rabbits found to be, or which are suspected of being, affected with the contagious disease transmissible to man shall be condemned.

POST-MORTEM INSPECTION

§ 354.125 Evisceration.

No viscera or any part thereof shall be removed from any rabbits which are to be processed under inspection in any official plant, except at the time of evisceration and inspection. Each carcass to be eviscerated shall be opened so as to expose the organs and the body cavity for proper examination by the inspector and shall be prepared immediately after inspection as ready-to-cook rabbit.

§ 354.126 Carcasses held for further examination.

Each carcass, including all parts thereof, in which there is any lesion of disease or other condition, which might render such carcass or any part thereof unfit for human food, and with respect to which a final decision cannot be made on first examination by the inspector, shall be held for further examination. The identity of each such carcass, including all parts thereof, shall be maintained until a final examination has been completed.

§ 354.127 Condemnation and treatment of carcasses.

Each carcass, or any part thereof, which is found to be unsound, unwholesome, or otherwise unfit for human food shall be condemned by the inspector and shall receive such treatment, under the supervision of the inspector, as will prevent its use for human food and preclude dissemination of disease through consumption by animals.

§ 354.128 Certification of carcasses.

Each carcass and all parts and organs thereof which are found by the inspector to be sound, wholesome, and fit for human food shall be certified as provided in this Part.

DISPOSITION OF DISEASED RABBIT CARCASSES AND PARTS

§ 354.129 General.

The carcasses or parts of carcasses of all rabbits inspected at an official establishment and found at the time of post-mortem inspection, or at any subsequent inspection, to be affected with any of the diseases or conditions named in other sections in this Part, shall be disposed of in accordance with the section pertaining to the disease or condition. Owing to the fact that it is impracticable to formulate rules for each specific disease or condition and to designate at just what stage a disease process results in an unwholesome product, the decision as to the disposal of all carcasses, parts, or organs not specifically covered by the regulations, or by instructions of the Administrator issued pursuant thereto, shall be left to the inspector in charge, and if the inspector in charge is in doubt concerning the disposition to be made, specimens from such carcasses shall be forwarded to the laboratory for diagnosis.

§ 354.130 Diseases or conditions evident which require condemnation.

(a) Carcasses of rabbits affected with or showing lesions of any of the following named diseases or conditions shall be condemned: Tularemia, anthrax, hemorrhagic septicemia, pyemia, septicemia, leukemia, acute enteritis, peritonitis, sarcomatosis, metritis, necrobacillosis (Smorl's Disease), tuberculosis, emaciation, streptobacillary pseudotuberculosis, and advanced stages of snuffles. Rabbits from pathological laboratories shall be condemned.

(b) Any organ or part of a rabbit carcass affected with a tumor shall be condemned and when there is evidence that the general condition of the rabbit has been affected by the size, position, or nature of the tumor, the whole carcass shall be condemned. In cases of malignant neoplasms involving any internal organ to a marked extent, or affecting the muscles, skeleton, or body lymph glands, even primarily, the whole carcass shall be condemned.

(c) Carcasses of rabbits showing any disease such as generalized melanosis, pseudoleukemia, and the like, which systemically affect the rabbit, shall be condemned.

(d) Any organ or part of a carcass which is badly bruised or which is affected by an abscess, or a suppurating sore, shall be condemned. Parts or carcasses which are contaminated by pus shall be condemned.

(e) Carcasses of rabbits contaminated by volatile oils, paints, poisons, gases, or other substances which affect the wholesomeness of the carcass shall be condemned.

(f) All carcasses of rabbits so infected that consumption of the meat or meat food products thereof may give rise to meat poisoning shall be condemned. This includes all carcasses showing signs of any of the following diseases: Acute inflammation of the lungs, pleura, pericardium, peritoneum or meninges; septicemia or pyemia, whether traumatic, or without evident cause; gangrenous or severe hemorrhagic enteritis or gastritis; polyarthritis and acute nephritis. Immediately after the slaughter of any rabbit so infected, the infected premises and implements used shall be thoroughly sanitized. The part or parts of any carcass coming into contact with the carcass or any part of the carcass of any rabbit covered by this section other than those affected with acute inflammation of the lungs, pleura, pericardium, peritoneum or meninges, shall be condemned.

(g) Carcasses showing any degree of icterus with a parenchymatous degeneration of organs, the result of infection or intoxication, and those which, as a result of a pathological condition, show an intense yellow or greenish-yellow discoloration without evidence of infection or intoxication shall be condemned.

(h) Carcasses of rabbits affected with mange or scab in advanced stages, or showing emaciation or extension of the inflammation to the flesh, shall be condemned. When the diseased condition is slight, the carcass may be passed for food after removal and condemnation of the affected parts.

(i) In the disposal of carcasses and parts of carcasses showing evidence of infestation with parasites not transmissible to man, the following general rules shall govern: If the lesions are localized in such manner and are of such character that the parasites and the lesions caused by them may be radically removed, the non-affected portion of the carcass, or part of the carcass, may be certified for food after the removal and condemnation of the affected portions. Where a part of a carcass shows numerous lesions caused by parasites, or the character of the infestation is such that complete extirpation of the parasites and lesions is difficult and uncertainly accomplished, or if the parasitic infestation or invasion renders the organ or part in any way unfit for food, the affected organ or part shall be condemned. Where parasites are found to be distributed in a carcass in such a manner or to be of such a character that their removal and the removal of the lesions caused by them are impracticable, no part of the carcass shall be certified for food and the entire carcass shall be condemned. Carcasses infested with a hydatid cyst or cysts (Echinococcus granulosis), transmissible to dogs and from dogs to man, shall in all cases be condemned regardless of the degree of infestation.

(j) Carcasses of rabbits showing such degree of emaciation or anemic condition as would render the meat unwholesome, and carcasses which show a slimy degeneration of the fat or a serous infiltration of the muscles shall be condemned.

§ 354.131 Decomposition.

Carcasses of rabbits deleteriously affected by post-mortem changes shall be disposed of as follows:

(a) Carcasses which have reached a state of putrefaction or stinking fermentation shall be condemned.

(b) (Reserved)

(c) Carcasses affected by types of post-mortem change which are superficial in nature may be certified for food after removal and condemnation of affected parts.

§ 354.132 Disposal of condemned carcasses and parts.

All condemned carcasses, or parts of carcasses, shall be disposed of by one of the following methods, under the supervision of an inspector of the Inspection Service: (Facilities and materials for carrying out the requirements in this section shall be furnished by the official establishment.)

(a) Steam treatment (which shall be accomplished by processing the condemned product in a pressure tank under at least 40 pounds of steam pressure) or thorough cooking in a kettle or vat for a sufficient time to effectively destroy the product for human food purposes and preclude dissemination of disease through consumption by animals. Tanks and equipment used for this purpose or for rendering or preparing inedible products shall be in rooms or compartments separate from those used for the preparation of edible products. There shall be no direct connection, by means of pipes or otherwise, between tanks containing inedible products and those containing edible products.

(b) Incineration or complete destruction by burning.

(c) Chemical denaturing, which shall be accomplished by the liberal application to all carcasses and parts thereof, of:

(1) Crude carbolic acid,

(2) Kerosene, fuel oil, or used crank case oil,

(3) Any phenolic disinfectant conforming to commercial standards CS 70–41 or CS 71–41 which shall be used in at least 2 percent emulsion or solution, or

(4) Any other substance that the Administrator approves which will decharacterize the carcasses or parts to the extent necessary to accomplish the purposes of this section.

REINSPECTION AND INGREDIENTS

§ 354.133 Reinspection of edible products; ingredients.

(a) Any inspected and certified edible product may be brought into an official plant only if the container of such product is marked for identification in the manner prescribed in § 354.71(b) and the product is reinspected by an inspector at the time it is brought into such plant. Upon reinspection, if any such product or portion thereof is found to be unsound, unwholesome, or otherwise unfit for human food, such product, or portion thereof, shall be condemned and shall receive treatment as provided in § 354.127.

(b) Any product which is prepared under inspection in an official plant shall be inspected in such plant as often as the inspector deems it necessary in order to ascertain whether such product is sound, wholesome, and fit for human food at the time such product leaves such plant. Upon any such inspection, if any such product or portion thereof is found to be unsound, unwholesome, or otherwise unfit for human food, such product or portion thereof shall be condemned and shall receive treatment as provided in § 354.127.

(c) All substances and ingredients used in the manufacture or preparation of any edible product shall be clean, sound, wholesome, and fit for human food. Liquid and frozen egg products used in the preparation of any edible product shall have been prepared under continuous inspection of the Department.

APPEALS

§ 354.134 Appeal inspections; how made.

Any person receiving inspection service may, if dissatisfied with any decision of an inspector relating to any inspection, file an appeal from such decision: *Provided*, That such appeal is filed within 48 hours from the time the decision was made. Any such appeal from a decision of an inspector shall be made to his immediate superior having jurisdiction over the subject matter of the appeal. Review of such appeal findings, when requested, shall be made by the immediate superior of the employee of the Department making the appeal inspection. The cost of any such appeal shall be borne by the applicant if the Administrator determines that the appeal is frivolous. The charges for such frivolous appeal shall be based on the hourly rates as specified in § 354.101(b).

INSPECTION CERTIFICATES

§ 354.140 Forms of inspection certificates.

Each inspection certificate issued pursuant to the regulations in this Part shall be approved by the Administrator as to form, and:

(a) Each rabbit inspection certificate shall show the class or classes of rabbits, the quantity of product contained in the respective lot, and all pertinent information concerning the condition and wholesomeness thereof;

(b) Each food product inspection certificate shall show the names of the edible products covered by such certificate, the quantity of each such product, such shipping marks as are necessary to identify such products, and all pertinent information concerning the condition and wholesomeness thereof;

(c) Each export certificate shall show the respective names of the exporter and the consignee, the destination, the shipping marks, the numbers of the export stamps attached to the edible products to be exported and covered by the certificate, and the names of such products and the total net weight thereof.

§ 354.141 Issuance and disposition of rabbits inspection certificates.

(a) Upon the request of an interested party, any inspector is authorized to issue a rabbit inspection certificate with respect to any lot of rabbits inspected by him. Each certificate shall be signed by the inspector who made the inspection covered by the certificate, and if more than one inspector participated in the inspection of the lot of rabbits, each such inspector shall sign the certificate with respect to such lot.

(b) The original and a copy of each inspection certificate, issued pursuant to §§ 354.140 to 354.144, and not to exceed two additional copies thereof if requested by the applicant prior to issuance, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the office of the area supervisor serving the area in which the inspection was performed, and the remaining copies shall be disposed of in such manner as the Administrator may approve. Additional copies of any such certificate may be furnished to any interested party as provided in § 354.105.

§ 354.142 Food product inspection certificates; issuance and disposition.

(a) Upon the request of an interested party, any inspector is authorized to issue a food product inspection certificate with respect to any inspected and certified edible product after suitable examination of the product has been made by the inspector.

(b) The original of each food product inspection certificate, and not to exceed two copies thereof, if requested, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Another copy shall be filed in the office of the regional supervisor serving the area in which such certificate was issued, and one copy shall be forwarded to the Administrator. The last named two copies shall be retained until otherwise ordered by the Administrator.

§ 354.143 Export certificates; issuance and disposition.

(a) Upon the request of an exporter, any inspector is authorized to issue an export certificate with respect to the shipment to any foreign country of any inspected and certified edible product after suitable examination of the product has been made by the inspector.

(b) Each export certificate shall be issued in quintuplicate; the original shall be delivered to the exporter who requested such certificate, and the duplicate copy shall be delivered to the agent of the railroad or other carrier transporting such products from the United States. The triplicate copy of such export certificate shall be forwarded to the Administrator; the quadruplicate copy shall be filed in the office of the regional supervisor serving the area in which such export certificate was issued, and the memorandum copy shall be retained by the inspector for filing. The last named three copies shall be retained

until otherwise ordered by the Administrator.

§ 354.144 Advance information.

Upon the request of an applicant, all or part of the contents of any inspection certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

BASIS OF ACCEPTABILITY OF OTHER OFFICIAL INSPECTION SYSTEMS

§ 354.160 General.

Any rabbit inspection system may be deemed to be acceptable to the Administrator which:

(a) Is conducted under the authority of laws, ordinances, or similar enactments of the State, county, city, or other political subdivision in which is located the official plant at which the ready-to-cook rabbits are prepared and

(b) Imposes at least the requirements set forth in § 354.161: *Provided*, That no such inspection shall be deemed acceptable to the Administrator with respect to any official plant in which ready-to-cook rabbits are prepared if he finds at any time that such requirements are not adequately enforced.

§ 354.161 Requirements as to manner of inspection.

(a) The inspection shall be conducted by an inspector who is a qualified veterinarian or under the supervision of a qualified veterinarian. All such inspectors shall be employed by the State, county, city, or other political subdivision in which the official plant is located.

(b) The inspection shall include postmortem examination of each rabbit carcass during the evisceration operation.

(c) All carcasses which show evidence of disease or any other condition which may render them unwholesome or unfit for food shall be condemned and shall be destroyed for food purposes under the supervision of an inspector. Each carcass and part thereof which has been inspected and passed or containers of carcasses or parts thereof shall bear the identifying inspection symbol of the official inspection system and the marking devices or labels shall be in the custody of the inspector at all times.

§ 354.162 Determining compliance with § 354.161.

A qualified veterinary supervisor of the rabbit inspection service shall investigate the manner of operation of the inspection system to determine the adequacy of the post-mortem examination and the compliance with the requirements contained in §§ 354.160 to 354.162 prior to approving the official plant for the inspection of ready-to-cook rabbits. This supervisor, as well as any official graders who may be stationed in the official plant, shall periodically observe the inspection operations in the official plant to determine that the requirements of §§ 354.160 to 354.162 are being met.

SANITARY REQUIREMENTS

GENERAL

§ 354.210 Minimum standards for sanitation, facilities, and operating procedures in official plants.

The provisions of §§ 354.210 to 354.247 shall apply with respect to inspection service in all official plants. The table set forth in § 354.247 indicates some of the types of material which may be used in the construction of equipment, utensils, and facilities for use in the plant.

BUILDINGS AND PLANT FACILITIES

§ 354.220 Buildings.

The buildings shall be of sound construction and kept in good repair, and shall be of such construction as to prevent the entrance or harboring of vermin.

(a) Outside openings. (1) The doors, windows, skylights, and other outside openings of the plant, except receiving rooms and live rabbit holding rooms, shall be protected by properly fitted screens or other suitable devices against the entrance of flies and other insects.

(2) Outside doors, except in receiving rooms and live rabbit holding rooms, shall be self-closing and so hung that not over ¼-inch clearance remains when closed. Screen doors shall open toward the outside of the building.

§ 354.221 Rooms and compartments.

Rooms and compartments used for edible products shall be separate and distinct from inedible products departments and from rooms where rabbits are slaughtered and skinned. Separate rooms shall be provided when required for conducting processing operations in a sanitary manner, and all rooms shall be of sufficient size to permit the installation of the necessary equipment for processing operations and the conduct of such operations in a sanitary manner.

(a) Rooms for separate operation. The official plant should have separate rooms for each of the following operations depending upon the various types of operations conducted, but, in no case, shall the receiving or holding of live rabbits or killing operations be permitted in rooms in which eviscerating operations are performed:

(1) The receiving and feeding of live rabbits.

(2) Killing and skinning operations.

(3) Eviscerating, chilling, and packing operations for ready-to-cook rabbits.

(4) Inedible products departments.

(5) Refuse room.

(b) Rooms for holding carcasses for further inspection. Rooms and compartments in which carcasses or parts thereof are held for further inspection shall be in such number and such location as the needs of the inspection in the plant may require. They shall be equipped with locks and keys and the keys shall not leave the custody of the inspector in charge of the plant. All such rooms and compartments shall be marked conspicuously with the word "retained" in letters not less than 2 inches high.

(c) Coolers and freezers. Coolers and freezers of adeuate size and capacity shall be provided to reduce the internal temperature of ready-to-cook rabbits prepared and otherwise handled in the plant to 36° F. within 24 hours unless other cooling facilities are available.

(d) Refuse rooms. Refuse rooms shall be entirely separate from other rooms in the plant, and shall have tight fitting doors and be properly ventilated.

(e) Storage and supply rooms. The storage and supply rooms shall be in good repair, kept dry, and maintained in a sanitary condition.

(f) Boiler room. The boiler room shall be a separate room, if necessary, to prevent its being a source of dirt and objectionable odors entering any room where ready-to-cook rabbits are prepared, processed, handled, and stored.

(g) Inspector's office. Furnished office space, including, but not being limited to, light, heat, and janitor service shall be provided rent free in the official plant for the exclusive use for official purposes of the inspector and the Administration. The room or rooms set apart for this purpose must meet with the approval of the regional supervisor and be conveniently located, properly ventilated, and provided with lockers or cabinets suitable for the protection and storage of supplies and with facilities suitable for inspectors to change clothing.

(h) Toilet rooms. Toilet rooms opening directly into rooms where rabbit products are exposed shall have self-closing doors and shall be ventilated to the outside of the building.

§ 354.222 Floors, walls, ceilings, etc.

(a) Floors. All floors in rooms where exposed products are prepared or handled shall be constructed of or finished with materials impervious to moisture, so they can be readily and thoroughly cleaned. The floors in killing, ice cooling, ice packing, eviscerating, cooking, boning, and cannery rooms shall be graded for complete runoff with no standing water.

(b) Walls, posts, partitions, doors. All walls, posts, partitions, and doors in rooms where exposed products are prepared or handled shall be smooth and constructed of materials impervious to moisture to a height of 6 feet above the floor to enable thorough cleaning. All surfaces above this height must be smooth and finished with moisture-resistant material.

(c) Ceilings. Ceilings must be moisture-resistant in rooms where exposed products are prepared or handled, and finished and sealed to prevent collection of dirt or dust that might sift through flooring above or fall from collecting surfaces on equipment or exposed product.

§ 354.223 Drainage and plumbing.

There shall be an efficient drainage and plumbing system for the plant and premises.

(a) Drains and gutters. All drains and gutters shall be properly installed with approved traps and vents. The drainage and plumbing system must permit the quick runoff of all water from plant buildings, and surface water around the plant and on the premises, and all such water shall be disposed of in such a manner as to prevent a nuisance or health hazard.

(b) Sewage and plant wastes. (1) The sewerage system shall have adequate slope and capacity to remove readily all waste from the various processing operations and to minimize, and if possible to prevent, stoppage and surcharging of the system.

(2) Grease traps which are connected with the sewerage system shall be suitably located but not near any edible products department or in any area where products are unloaded from or loaded into vehicles. To facilitate cleaning, such traps shall have inclined bottoms and be provided with suitable covers.

(3) Toilet soil lines shall be separate from house drainage lines to a point outside the buildings unless they are positively trapped to prevent backing up. Drainage from toilet bowls and urinals shall not be discharged into a grease catch basin.

(4) All floor drains shall be equipped with traps, constructed so as to minimize clogging, and the plumbing shall be so installed as to prevent sewerage from backing up and from flooding the floor.

(5) Floor drainage lines should be of metal and at least 4 inches in diameter and open into main drains of at least 6 inches in diameter and shall be properly vented to outside air.

(6) Where refrigerators are equipped with drains, such drains should be properly trapped and should discharge through an air gap into the sewer system. All new installations, and all replacements, or refrigerators equipped with drains shall meet these requirements.

§ 354.224 Water supply.

The water supply shall be ample, clean, and potable with adequate facilities for its distribution in the plant and its protection against contamination and pollution.

(a) Hot water at a temperature not less than 180° F. shall be available for sanitation purposes.

(b) Hose connections with steam and water mixing valves or hot water hose connections shall be provided at convenient locations throughout the plant for cleaning purposes.

(c) The refuse rooms shall be provided with adequate facilities for washing refuse cans and other equipment in the rooms; the rooms, cans, and equipment shall be cleaned after each day's use.

§ 354.225 Lavatory accommodations.

Modern lavatory accommodations and properly located facilities for cleaning utensils and hands shall be provided.

(a) Adequate lavatory and toilet accommodations, including, but not being limited to, running hot water and cold water, soap, and towels, shall be provided. Such accommodations shall be in or near toilet and locker rooms and also at such other places in the plant as may be essential to the cleanliness of all personnel handling products.

(b) Sufficient metal containers shall be provided for used towels and other wastes.

(c) An adequate number of hand washing facilities serving areas where dressed rabbits and edible products are prepared shall be operated by other than hand-operated controls, or shall be of a continuous flow type which provides an adequate flow of water for washing hands.

(d) Durable signs shall be posted conspicuously in each toilet room and locker room directing employees to wash their hands before returning to work.

(e) Toilet facilities shall be provided according to the following formula:

Persons of same sex:	*Toilet bowls required*
1 to 15, inclusive	1
16 to 35, inclusive	2
36 to 55, inclusive	[1] 3
56 to 80, inclusive	[1] 4
For each additional 30 persons in excess of 80	[1] 1

[1] Urinals may be substituted for toilet bowls but only to the extent of ⅓ of the total number of bowls stated.

§ 354.226 Lighting and ventilation.

There shall be ample light, either natural or artificial or both, of good quality and well distributed, and sufficient ventilation for all rooms and compartments to insure sanitary conditions.

(a) All rooms in which rabbits are killed, eviscerated, or otherwise processed shall have at least 30 foot candles of light intensity on all working surfaces except that at the inspection stations such light intensity shall be of 50 foot candles. In all other rooms, there shall be provided at least 5 foot candles of light intensity when measured at distance of 30 inches from the floor.

(b) All rooms shall be adequately ventilated to eliminate objectionable odors and minimize moisture condensation.

EQUIPMENT AND UTENSILS

§ 354.230 Equipment and utensils.

Equipment and utensils used for the preparation, processing, or other handling of any product in the plant shall be suitable for the purpose intended and shall be of such material and construction as will facilitate their thorough cleaning and insure cleanliness in the preparation and handling of products.

(a) Live rabbit holding pens shall be so constructed as to allow satisfactory ante-mortem examination and to permit proper cleaning.

(b) Metal refuse containers shall be provided, and such containers shall be kept covered.

(c) Insofar as it is practical, equipment and utensils shall be made of metal or other impervious material. Trucks and receptacles used for handling inedible products shall be of similar construction and shall be conspicuously and distinctly marked and shall not be used for handling any edible products.

(d) Chilling vats or tanks used for chilling ready-to-cook rabbits shall be made of metal or other hard-surfaced impervious material.

(e) Where grading bins are used for ready-to-cook rabbits, they shall be of sufficient number and capacity to handle the grading adequately without the use of makeshift bins and all ready-to-cook rabbits shall be kept off the floor. Grading bins may be made of metal or enameled wood and shall be constructed and maintained in such a manner as to allow easy and thorough cleaning. All replacements of such bins shall, however, be of metal.

(f) Except as otherwise provided herein, all equipment and utensils used in the killing, skinning, eviscerating, chilling, and packing rooms shall be of metal or other impervious material and constructed so as to permit proper and complete cleaning.

(g) Conveyors: (1) Conveyors used in the preparation of ready-to-cook rabbits shall be of metal or other acceptable material and of such construction as to permit thorough and ready cleaning and easy identification of viscera with its carcass.

(2) Overhead conveyors shall be so constructed and maintained that they do not allow grease, oil, or dirt to accumulate on the drop chain or shackle, which shall be of noncorrosive metal.

(3) Nonmetallic belt-type conveyors used in moving edible products shall be of water-proof composition.

(h) Inspection, eviscerating, and cutting tables shall be made of metal and have coved corners and be so constructed and placed to permit thorough cleaning.

(i) In plants where no conveyors are used, each carcass shall be eviscerated in an individual metal tray of seamless construction.

(j) Water spray washing equipment shall be used for washing carcasses inside and out.

(k) Watertight metal receptacles shall be used for entrails and other waste resulting from preparation of ready-to-cook rabbits.

(l) Watertight trucks and receptacles for holding or handling diseased carcasses and diseased parts of carcasses shall be so constructed as to be readily and thoroughly cleaned; such trucks and receptacles shall be marked in a conspicuous manner with the word "condemned" in letters not less than 2 inches high and, when required by the inspector

in charge, shall be equipped with facilities for locking and sealing.

(m) Freezing rooms should be adequately equipped to freeze ready-to-cook rabbits solid in less than 48 hours. Ready-to-cook rabbits should be frozen at temperatures of −10° F. to −40° F. and should be stored at 0° F. or below, with the temperature maintained as constant as possible. Freezing room should be equipped with floor racks or pallets and fans to insure air circulation.

(n) Cooling racks should be made of metal and be readily accessible for thorough washing and cleaning. All replacements of cooling racks shall be made of metal.

(o) Trucks and receptacles in which carcasses or parts thereof are held for further inspection shall be in such number and such location as the needs of the inspection in the plant may require. They shall be equipped for locking by means of lock and key and the key shall not leave the custody of the inspector in charge of the plant. Such trucks and receptacles shall be marked conspicuously with the word "retained" in letters not less than 2 inches high.

§ 354.231 Accessibility.

All equipment shall be so placed as to be readily accessible for all processing and cleaning operations.

§ 354.232 Restrictions on use.

Equipment and utensils used in the official plant shall not be used outside the official plant except under such conditions as may be prescribed or approved by the national supervisor, and equipment used in the preparation of any article (including, but not being limited to, animal food) from inedible material shall not be used outside of the inedible products department except under such conditions as may be prescribed or approved by the national supervisor.

MAINTENANCE OF SANITARY CONDITIONS AND PRECAUTIONS AGAINST CONTAMINATION OF PRODUCTS

§ 354.240 General.

The premises shall be kept free from refuse, waste materials, and all other sources of objectionable odors and conditions.

§ 354.241 Cleaning of rooms and compartments.

Rooms, compartments, or other parts of the official plant shall be kept clean and in sanitary condition.

(a) All blood, offal, rabbits or parts of rabbits too severely damaged to be salvaged and all discarded containers and other materials shall be completely disposed of daily.

(b) All windows, doors, and light fixtures in the official plant shall be kept clean.

(c) All docks and rooms shall be kept clean and free from debris and unused equipment and utensils.

(d) Live rabbit receiving docks and receiving rooms shall be of such construction as readily to permit their thorough cleaning, and such docks and rooms should be kept clean at all times.

(e) Floors in live rabbit holding rooms shall be cleaned with such regularity as may be necessary to maintain them in a sanitary condition.

(f) The killing and skinning room shall be kept clean and free from offensive odors at all times.

(g) The walls, floors, and all equipment and utensils used in the killing and skinning room shall be thoroughly washed and cleaned after each day's operation.

(h) The floor in the killing and skinning rooms shall be cleaned frequently during killing and skinning operations and be kept reasonably free from accumulated blood, offal, water, and dirt.

(i) All equipment in the toilet room and locker room, as well as the room itself, shall be kept clean, sanitary, and in good repair.

(j) Cooler and freezer rooms shall be free from objectionable odors of any kind and shall be maintained in a sanitary condition (including, but not being limited to, the prevention of drippings from refrigerating coils onto products).

§ 354.242 Cleaning of equipment and utensils.

Equipment and utensils used for prepairing or otherwise handling any product shall be kept clean and in a sanitary condition and in good repair.

(a) Pens shall be cleaned regularly and the manure removed from the plant daily.

(b) All equipment and utensils used in the killing and skinning rooms shall be thoroughly washed and cleaned after each day's operation. The eviscerating, chilling, and packing room and equipment and utensils used therein shall be maintained in a clean and sanitary condition.

(c) Graders' and packers' gloves and grading bins shall be washed daily and used only for grading or packing, as the case may be.

(d) All crates or pens used for transporting live rabbits to the plant shall be cleaned regularly.

(e) Chilling vats or tanks, if practicable, shall be emptied after each use. They shall be thoroughly cleaned once daily and, after each cleaning operation, they shall be sanitized with such compounds or by such methods as may be approved or prescribed by the Administrator.

(f) When synchronized overhead conveyors and tray conveyors are used, the trays shall be completely washed and sanitized after being automatically emptied of inedible viscera.

(g) When a conveyor tray operation is used, each carcass shall be eviscerated in an individual metal tray of seamless construction, and such trays shall be completely washed and sanitized after each use.

(h) Tables, shelves, bins, trays, pans, knives, and all other tools and equipment used in the preparation of ready-to-cook rabbits shall be kept clean and sanitary at all times. Cleaned equipment and utensils shall be drained on racks and shall not be nested.

(i) Drums, cans, tanks, vats, and other receptacles used to hold or transport ready-to-cook rabbits shall be kept in a clean and sanitary condition.

§ 354.243 Operations and procedures.

Operations and procedures involving the preparation, storing, or handling of any product shall be strictly in accord with clean and sanitary methods.

(a) There shall be no handling or storing of materials which create an objectionable condition in rooms, compartments, or other places in the plant where any product is prepared, stored, or otherwise handled.

(b) Blood from the killing operation shall be confined to a relatively small area and kept from being splashed about the room.

(c) In the final washing, the carcass shall be passed through a system of sprays providing an abundant supply of fresh clean water.

(d) The floors in the eviscerating room shall be kept clean and reasonably dry during eviscerating operations and free of all refuse.

(e) Conveyors shall be operated at such speeds as will permit a sanitary eviscerating operation and will permit adequate inspection for condition and wholesomeness.

(f) Mechanized packaging equipment shall be maintained in good sanitary condition.

(g) All offal resulting from the eviscerating operation shall be removed as often as necessary to prevent the development of a nuisance.

(h) Paper and other material used for lining containers in which products are packaged shall be of such kinds as do not tear readily during use, but remain intact when moistened by the product. Wooden containers to be used for packaging ready-to-cook rabbits shall be fully lined except when the individual carcasses to be packaged therein are fully wrapped.

(i) Protective coverings shall be used for the product in the plant and as it is distributed from the plant, as will afford adequate protection for the product against contamination by any foreign substance (including, but not being limited to, dust, dirt, and insects), considering the means intended to be employed in transporting the product from the plant.

(j) Refuse may be moved directly to loading docks only for prompt removal.

(k) Cleanliness and hygiene of personnel: (1) All employees coming in contact with exposed edible products or edible products handling equipment shall wear clean garments and should wear caps or hair nets, and shall keep their hands clean at all times while thus engaged.

(2) Hands of employees handling edible products or edible products handling equipment shall be free of infected cuts,

boils, and open sores at all times while thus engaged.

(3) Every person, after each use of toilet or change of garments, shall wash his hands thoroughly before returning to duties that require the handling of edible products or containers therefor or edible products handling equipment.

(4) Neither smoking nor chewing of tobacco shall be permitted in any room where exposed edible products are prepared, processed, or otherwise handled.

§ 354.244 Temperatures and cooling and freezing procedures.

Temperatures and procedures which are necessary for cooling and freezing of rabbits in accordance with sound commercial practice shall be maintained in the coolers and freezers, and chilling temperatures and procedures shall also be in accordance with sound commercial practice.

(a) Cooling. Immediately after evisceration and washing of the carcass, it shall be placed in a cooling tank containing running cold tap water to remove the animal heat from the carcass. Carcasses shall not be allowed to remain in the cooling tank for longer than 1 hour.

(b) Air chilling. Immediately after the initial water chilling, the carcasses shall be placed in cooling racks and thereupon placed in a refrigerated cooler with moderate air movements and a temperature which will reduce the internal temperature of the carcasses to from 36° F. to 40° F., both inclusive, within 24 hours.

(c) Freezing. (1) When ready-to-cook rabbits are packaged in bulk or shipping containers, the carcasses should be individually wrapped or packaged in water-vapor resistant cartons or the containers should be lined with heavy water-vapor resistant paper so as to assure adequate overlapping of the lining to completely surround the carcasses and to permit unsealed closure or sealing in such a manner that water-vapor loss from the product is considerably retarded or prevented. The rabbit carcasses should receive an initial rapid freezing under such packaging, temperature, air circulation, and stacking conditions which will result in freezing the carcasses solid in less than 48 hours.

(2) Frozen ready-to-cook rabbits shall be held under conditions which will maintain the product in a solidly frozen state with temperature maintained as constant as possible.

(d) Refrigeration. Immediately after packaging, all ready-to-cook rabbits, other than those which are shipped from the plant in a refrigerated carrier, should be moved into the freezer, except that a period not exceeding 72 hours will be permitted for transportation and temporary holding before placing in the freezer provided such rabbits are held at not above 36° F.

§ 354.245 Vermin.

Every practicable precaution shall be taken to exclude flies, rats, mice, and other vermin from the official plant. Dogs, cats, and other pets shall be excluded from rooms where edible products are processed, handled, or stored.

§ 354.246 Exclusion of diseased persons.

No person affected with any communicable disease (including, but not being limited to, tuberculosis) in a transmissible stage shall be permitted in any room or compartment where exposed or unpacked edible products are prepared, processed, or otherwise handled.

§ 354.247 Table showing types of materials.

Equipment, utensils, and facilities	Iron	Stainless steel and monel metal	Aluminum	Galvanized iron
Holding pens	A	A	A	A
Overhead conveyors	A	A	A	A
Conveyor track	A	A	----------	A
Shackles	----------	A	----------	A
Shackle chain	A	A	----------	A
Eviscerating pans	----------	A	A	A
Inspection table	----------	A	A	A
Inside and outside washer	----------	A	A	A
Cooling tanks and racks	----------	A	A	A
Utensils for handling edible products	----------	A	A	A
Framework (of equipment)	A	----------	----------	----------

Key: A—Acceptable.

It does not appear that public participation in rulemaking proceedings on these amendments would make additional information available to the Department which would affect the decision in this matter. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice or other public rulemaking proceedings on this amendment are impracticable and unnecessary.

The foregoing amendment shall become effective July 15, 1976.

Done at Washington, D.C., on: June 9, 1976.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.76-17120 Filed 6-10-76;8:45 am]

PART 362—VOLUNTARY POULTRY INSPECTION REGULATIONS

Voluntary Poultry Inspection Regulations

Statement of Considerations: Prior to the passage of the Poultry Products Inspection Act in 1957, provisions were made under the Agricultural Marketing Act of 1946 (7 CFR 1621 et seq.) for the Federal inspection of poultry and poultry products. This activity was provided on a voluntary basis to the poultry industry and operated on a fee schedule. With the passage of the Poultry Products Inspection Act in 1957, inspection of certain poultry and poultry products, as defined in the Act and the regulations, became mandatory and, except for overtime and holiday service, was free to the poultry industry.

Inspection of poultry and poultry products which were not covered by the Poultry Products Inspection Act was still available on a fee basis under the Agricultural Marketing Act of 1946, as amended. Such poultry and poultry products, when produced under the voluntary inspection program, are certified by the Department and carry the mark of Federal inspection. To qualify for this service and the mark of inspection, the establishment, its facilities and equipment, and its procedures must meet the requirements of the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.), and must be, for all intents other than mandatory coverage, an official establishment. Therefore, it seems reasonable to incorporate the relevant substantive requirements of the poultry products inspection regulations into the voluntary regulations, instead of restating those requirements in other terms.

The provisions of the current voluntary poultry inspection regulations dealing with denial and withdrawal of inspection are somewhat lacking in clarity and organization. Therefore, a new section has been added based mainly upon the voluntary meat grading regulation (7 CFR 53.13), and the relevant sections of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622), and the Poultry Products Inspection Act (21 U.S.C. 456 and 467). There are only two important changes from the current regulations. The first is that, under certain circumstances, conviction of crimes involving food or a lack of integrity is a basis for denial or withdrawal of service (9 CFR 362.4(a)(1)(viii) below). This is similar to the basis for withdrawal under the Poultry Products Inspection Act (21 U.S.C. 467). The second important change is that the acts that constitute a basis for a disciplinary denial or withdrawal under the regulations will include those committed under other meat and poultry inspection programs of the Animal and Plant Health Inspection Service (9 CFR 362.4(a)(1)(i–vii) below). Presently, the acts must be committed under the voluntary poultry inspection program to constitute a basis for such withdrawal of service. Since these bases all involve wrongful acts, such a limitation does not seem reasonable.

The provisions for mandatory poultry products inspection are covered under regulations codified in 9 CFR Part 381. However, other grading and inspection services, which may be requested and rendered on a fee basis, are provided for in 7 CFR Part 70. These latter services are referred to as "voluntary." At one time, such grading and inspection services were rendered by the same Agency of the Department—that was the Consumer and Marketing Service.

However, Secretary's Memorandum No. 1762, Supplement 1, dated March 22,

1972, and a notice published in the FEDERAL REGISTER on March 28, 1972 (37 FR 6327–6328), announced that effective April 2, 1972, the name of the Consumer and Marketing Service would be changed to the Agricultural Marketing Service, and the Animal and Plant Health Inspection Service would be formed. The Poultry Division, which administers grading service functions, was placed in the Agricultural Marketing Service. The Meat and Poultry Inspection Program, which administers the inspection functions, was placed in the Animal and Plant Health Inspection Service. Since the programs responsible for administering the voluntary grading and inspection services are in separate Agencies, it is impractical to have the voluntary grading and inspection regulations codified together.

This amendment promulgates regulations that deal with the administration of voluntary inspection activities, incorporate the relevant mandatory inspection regulations by reference, and codify them in Title 9, Chapter III, Subchapter B, as a new Part 362. Therefore, all provisions in 7 CFR Part 70 concerning voluntary poultry inspection are hereby deleted. Contemporaneously with this action, the Agricultural Marketing Service is amending the grading regulations in 7 CFR Part 70. Therefore, the use of 7 CFR Part 70 is now exclusively vested in the Agricultural Marketing Service.

Therefore, Part 362 is revised as follows:

Sec.
362.1 Definitions.
362.2 Types and availability of service.
362.3 Application for service.
362.4 Denial or withdrawal of service.
362.5 Fees and charges.

AUTHORITY: Secs. 203, 205; 60 Stat. 1087, 1090; 7 U.S.C. 1622, 1624; 37 FR 28464, 28477.

§ 362.1 Definitions.

The definitions in § 381.1 are incorporated in this Part except for the definitions found in §§ 381.1(b)(2), 381.1(b)(5), 381.1(b)(26), 381.1(b)(28), 381.1(b)(40), 381.1(b)(41), 381.1(b)(42), 381.1(b)(46), and 381.1(b)(56) which are excluded in § 362.2(a). In addition to those definitions, the following definitions will be applicable to the regulations in this Part:

(a) *Act.* "Act" means the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087, as amended; 7 U.S.C. 1621 et seq.).

(b) *Inspector.* "Inspector" means any officer or employee of the Department authorized to perform any duties under the regulations in this Part.

(c) *Person.* "Person" means any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other organized business unit.

(d) *Poultry.* "Poultry" means any migratory water fowl, game bird or squab, whether live or dead.

(e) *Poultry product.* "Poultry product" means any poultry carcass or part thereof; or any human food product which is made wholly or in part from any poultry carcass or part thereof; or any human food product which is made wholly or in part from the carcass of any domesticated bird (chickens, turkeys, ducks, geese, or guineas) and is excepted from the inspection requirements of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

§ 362.2 Types and availability of service.

Upon application, in accordance with § 362.3, the following types of service may be furnished under the regulations in this part:

(a) Inspection service. An inspection and certification service for wholesomeness relating to the slaughter and processing of poultry and the processing of poultry products. All provisions of Subchapter C of this chapter shall apply to the slaughter of poultry, and the preparation, labeling, and certification of the poultry and poultry products processed under this poultry inspection service except for the following provisions: §§ 381.1(b)(2), 381.1(b)(5), 381.1(b)(26), 381.1(b)(28), 381.1(b)(40), 381.1(b)(41), 381.1(b)(42), 381.1(b)(46), 381.1(b)(56), 381.3(a), 381.6, 381.10, 381.13–381.17, 381.21, 381.29, 381.39–381.42, 381.175(a)(2), 381.175(a)(3), 381.179, 381.185–381.187, 381.192, and 381.195–381.225.

(b) Export certification service. At the request of any person intending to export any slaughtered poultry or poultry product, inspectors may make certification regarding products for human food purposes, to be exported, as meeting conditions or standards that are not imposed or are in addition to those imposed by the regulations in Part 381 of this chapter and the laws under which such regulations were issued.

§ 362.3 Application for service.

Any person who desires to receive service under the regulations in this Part for poultry or other product eligible therefor under such regulations may make application for service to the Administrator, upon an application form which will be furnished by the Administrator upon request to the Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. The application must include all the information called for by that form. In case of change of name, ownership, management, or location, a new application shall be made.

§ 362.4 Denial or withdrawal of service.

(a) *For disciplinary reasons—(1) Bases for denial or withdrawal.* An application or request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency, (i) has willfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under the regulations in this chapter; (ii) has given or attempted to give, as a loan or for any other purpose, any money, favor, or other thing of value, to any employee of the Department authorized to perform any function under the regulations in this chapter; (iii) has interfered with or obstructed, or attempted to interfere with or to obstruct, any employee of the Department in the performance of his duties under the regulations in this chapter by intimidation, threats, assaults, abuse, or any other improper means; (iv) has knowingly falsely made, issued, altered, forged, or counterfeited any official certificate, memorandum, mark, or other identification, or device for making any such mark or identification authorized or issued under this chapter; (v) has knowingly uttered, published, or used as true any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device; (vi) has knowingly obtained or retained possession of any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device, or of any carcass or poultry or product bearing any such falsely made, issued, altered, forged or counterfeited certificate, memorandum, mark, or identification; (vii) has knowingly represented that any carcass, poultry, or product has been officially inspected and passed (by an authorized inspector) under this chapter, when it had not in fact been so inspected; (viii) has, within the previous ten years, been convicted of any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food, or fraud in connection with transactions in food, or any felony indicating a lack of the integrity needed for the conduct of operations affecting the public health; (ix) has in any manner not specified in this paragraph violated subsection 203(h) of the Act:

Provided, That subdivision (vi) of this subparagraph shall not be deemed to be violated if the person in possession of any item mentioned therein notifies the inspector without delay that he has possession of such item and, in the case of an official device, surrenders it to the inspector, and, in the case of any other item, surrenders it to the inspector or destroys it or brings it into compliance with the regulations by obliterating or removing the violative features under supervision of the inspector; *And provided further,* That an application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who operates an establishment for which he has made application for service if, with the knowledge of such operator, any other person conducting any operations in such establishment has committed any of the offenses specified in paragraphs (a)(1)(i) through (ix) of this section after such application was made. Moreover, an application or a request for service made in the name of a person otherwise eligible for service under the regulations may be

rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, such a person (a) in case the service is or would be performed at an establishment operated (1) by a corporation, partnership, or other person from whom the benefits of the service are currently being withheld under this chapter, or (2) by a corporation, partnership, or other person having an officer, director, partner, or substantial investor from whom the benefits of service under this chapter are currently being withheld and who has any authority with respect to the establishment where service is or would be performed, or (b) in case the service is or would be performed with respect to any poultry or product in which any corporation, partnership, or other person within (a) (1) of this section has a contract or other financial interest.

(2) *Procedure.* All cases arising under this paragraph shall be conducted in accordance with the rules of practice governing disciplinary withdrawal of inspection service under the Act.

(b) *For correctable cause*—(1) *Basis for denial or withdrawal.* An application or request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person whose establishment does not meet the requirements as to premises, facilities, and equipment, and the operation thereof, prescribed in the regulations to prevent the distribution of adulterated poultry or poultry products, or who has not received approval of labeling and containers to be used at the establishment as required by the regulations.

(2) *Procedure.* All cases arising under this paragraph shall be conducted in accordance with the rules of practice governing conditional withdrawal of inspection service under the Act.

(c) *For miscellaneous reasons.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person, without a hearing, by the official in charge of the appropriate regional office, with the concurrence of the Regional Director (1) for administrative reasons such as the nonavailability of personnel to perform the service; (2) for the failure to pay for service; (3) in case the application or request related to birds or products which are not eligible for service under Part 362; or (4) in case the person is a partnership, corporation, or other person from whom the benefits of the service are currently being withheld under paragraph (a) of this section. Notice of such denial or withdrawal, and the reasons therefor, shall promptly be given to the person involved.

§ 362.5 Fees and charges.

(a) Fees and charges for service under the regulations in this Part shall be paid by the applicant for the service in accordance with this section, and, if required by the Administrator, the fees and charges shall be paid in advance.

(b) The fees and charges provided for in this section shall be paid by check, draft, or money order payable to the Treasurer of the United States and shall be remitted promptly to the Administrator upon furnishing to the applicant a statement as to the amount due.

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $12.40 per hour for base time, $12.40 per hour for overtime including Saturdays, Sundays, and holidays, and $19.92 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including but not limited to the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative work week.

(d) Charges may also be made to cover the cost of travel and other expenses incurred by the Service in connection with the furnishing of the service.

(Secs. 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624; 37 FR 28464, 28477.)

It does not appear that public participation in rulemaking proceedings on these amendments would make additional information available to the Department which would substantially affect this matter. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice or other public rulemaking proceedings on this amendment are impracticable and unnecessary.

The foregoing amendment shall become effective July 15, 1976.

Done at Washington, D.C., on June 9, 1976.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.76-17119 Filed 6-10-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 560-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Indefinite Suspension of Parking Management Regulations; Correction

FEDERAL REGISTER Document 75-18201 appearing at page 28713 on July 15, 1975, incorrectly identified the Maryland State implementation plan management of parking supply regulation. The number in Part 52 of Chapter I, Title 40 of the Code of Federal Regulations should read 52.1111.

Dated: June 7, 1976.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.76-17081 Filed 6-10-76;8:45 am]

[FRL 561-7; PP3F1416/R95]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Endothall

On July 25, 1973, notice was given (38 FR 19925) that Pennwalt Corp., PO Box 1297, Tacoma, WA 98401, had filed a petition (PP 3F1416) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180.293 be amended by establishing a tolerance of 0.05 part per million for residues of the herbicide endothall (7-oxabicycle[2.2.1] heptane-2,3-dicarboxylic acid) in or on the raw agricultural commodity rice arising from the use of its mono-*N*,*N*-dimethylalkylamine salt as an aquatic herbicide.

Pennwalt Corp. subsequently submitted a petition (PP 4G1449) requesting establishment of temporary tolerances for endothall in or on rice from use of its mono-*N*,*N*-dimethylalkylamine salt as an aquatic herbicide. Temporary tolerances were established as requested on condition that the pesticide be used in accordance with an experimental use permit issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136 et seq.), to accumulate information necessary to support registration. These temporary tolerances expire May 23, 1976.

The data submitted in pesticide petition 3F1416, information gathered under the experimental use program, and other relevant material have been evaluated. It is concluded that the tolerance should be established as proposed, even though a teratology requirement will not be satisfied until September 1976, since no residue is expected on rice or rice straw. The pesticide is considered useful for the purpose for which the tolerance is sought. There is no reasonable expectation of residues in meat, milk, poultry, and eggs, and 40 CFR 180.6(a)(3) applies. The tolerance established by amending the regulations will protect the public health. Therefore, 40 CFR 180.293 is revised as set forth below.

Any person adversely affected by this regulation, on or before July 12, 1976 may file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 1019, East Tower, 401 M St. SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective June 11, 1976, Part 180, Subpart C, is amended by revising § 180.293 as follows.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2).)

Dated: June 8, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Program.

§ 180.293 Endothall; tolerances for residues.

Tolerances are established for residues of the pesticide endothall (7-oxabicyclo [2.2.1] heptane-2,3-dicarboxylic acid) from use of its mono-*N,N*-dimethylalkylamine salt wherein the alkyl group is the same as in the fatty acid of coconut oil in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Cottonseed	0.1
Potatoes	0.1
Rice, grain	0.05 (N)
Rice, straw	0.05 (N)

[FR Doc.76-17260 Filed 6-10-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 100]

CORAL BAY, ST. JOHN, VIRGIN ISLANDS

Proposal to Close Port of Entry

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed amendment of 8 CFR 100.4(c)(2) pertaining to Ports of Entry for aliens arriving by vessel or by land transportation.

It is proposed to close the port at Coral Bay, St. John, V.I., due to the fact that only three or four inspections are performed there each month. These inspections can conveniently be performed by Service personnel located at Cruz Bay, St. John, V.I.

In accordance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383), interested persons may submit to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, NW., Washington, D.C. 20536, written data, views, or arguments, in duplicate, with respect to the proposed rule. Such representations may not be presented orally in any manner. All material received before July 12, 1976 will be considered.

In § 100.4(c)(2), it is proposed to delete Coral Bay, St. John, V.I. from the list of Class A ports under District 27—San Juan, P.R. As amended, proposed § 100.4(c)(2) reads in pertinent part as follows:

§ 100.4 Field Service.

* * * * *

(c) *Suboffices.* * * *

(2) *Ports of entry for aliens arriving by vessel or by land transportation.* * * *

DISTRICT NO. 27—SAN JUAN, P.R.

CLASS A

Aguadilla, P.R.	*Christiansted, St. Croix, V.I.
Ensenada, P.R.	Frederiksted, St. Croix, V.I.
Fajardo, P.R.	*Cruz Bay, St. John, V.I.
Humacao, P.R.	*Charlotte Amalie, St. Thomas, V.I.
Jobos, P.R.	
Mayaguez, P.R.	
*Ponce, P.R.	
San Juan, P.R.	

* * * * *

(Sec. 103, 66 Stat. 173 (8 U.S.C. 1103))

Dated: June 7, 1976.

L. F. CHAPMAN, JR.,
Commissioner of Immigration and Naturalization.

[FR Doc.76-17043 Filed 6-10-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1823]

[FmHA Instruction 442.12]

GRANTS FOR PRIVATE BUSINESS ENTERPRISES AND COMMUNITY WATER AND WASTE DISPOSAL FACILITIES

Proposed Miscellaneous Amendments

Notice is hereby given that the Farmers Home Administration has under consideration the proposed amendments to §§ 1823.451 and 1823.452 of Subpart 0 of Part 1823, Title 7, Code of Federal Regulations (38 FR 29037; 39 FR 3814). As proposed, the amendments provide additional criteria for determining whether or not an applicant is located in a rural area, and include the payment of interest costs for interim financing as an eligible use of funds.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, DC 20250, on or before July 12, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Chief, Directives Management Branch during regular business hours (8:15 a.m. to 4:45 p.m.).

1. It is proposed that § 1823.451 be revised as follows:

§ 1823.451 Eligibility.

(a) *Applicants.* Applicants eligible for grants are public bodies serving rural areas such as States, counties, cities, townships, and incorporated towns and villages, boroughs, authorities, districts, and Indian tribes on Federal and State reservations and other Federally recognized Indian tribes.

(b) *Location.* As used herein "rural" and "rural area" may include all territory of a State, the Commonwealth of Puerto Rico or the Virgin Islands, that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States. The following will be used by FmHA in making area eligibility determinations when it is not clear from the geographical location of the applicant.

(1) Urbanized area immediately adjacent to a city having a population of 50,000 or more. An urbanized area immediately adjacent to a city having a population of 50,000 or more is an area constituting, for general social and economic purposes, a single community having a boundary contiguous with that of the city. Such community may be incorporated or unincorporated and will extend from the contiguous boundary(ies) to recognizable open country, less densely settled areas, or natural boundaries such as airports, industrial sites, recreational facilities or public parks shall be disregarded. Outer boundaries of an incorporated community will extend at least to its legal boundaries. Cities which may have a contiguous bzorder with another city but are located across a river from such city and recognized as a separate community and are not otherwise considered a part of an urbanized or urbanizing area as defined in this section are not in a nonrural area.

(2) Urbanizing area. An urbanizing area is one defined as a community which is not now or within the foreseeable future not likely to be clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community will be considered as "separate from" when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities or public parks shall be disregarded. A community will be considered as "independent of" when its social and economic structure (e.g., government; educational, health, and recreational facilities; business, industry, tax base, and employment opportunities) is not primarily dependent on the city and its immediately adjacent urbanized area.

(3) The State Director will proceed as follows in rural area determinations. When the FmHA State Director determines an area to be urbanizing, he must then determine the population density per square mile. If the area appears to be eligible, the State Director will request the National Office to provide him with the correct density figure. All such density determinations will be made on the basis of minor civil division or census county divisions as used by the Bureau of the Census. In making the density calculations, there will be excluded large non-residential tracts devoted to urban land uses such as railroad yards,

airports, industrial sites, parks, golf courses and cemeteries, or land set aside for such purposes.

(c) *Priority.* Priority for industrial development grants shall be given to areas other than cities having a population of more than twenty-five thousand.

2. It is proposed that § 1823.452 be revised as follows:

§ 1823.452 Use of grant funds.

Grant funds may be used to finance industrial sites in rural areas including the acquisition and development of land and the construction, conversion, enlargement, repairs or modernization of buildings, plants, machinery, equipment, access streets and roads, parking areas, transportation serving the site, utility extensions, necessary water supply and waste disposal facilities, pollution control and abatement incidental to site development, fees, interest costs for interim financing, and refinancing for debts incurred by or on behalf of an association prior to an application for a grant when the following conditions exist: The debts were incurred for the facility or part thereof or service to be installed or improved with the grant; and arrangements cannot be made with the creditors to extend or modify the terms of the existing debt. Such grants may be made only when there is reasonable prospect that they will result in development of private business enterprises. When and is to be purchased, the purchase price will not exceed its "fair market value." When required by FmHA, the applicant will submit an appraisal report prepared by an independent qualified appraiser. FmHA grant funds may be used jointly with funds furnished by the grantee including FmHA loan funds.

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

Dated: June 4, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-17062 Filed 6-10-76;8:45 am]

Food and Nutrition Service

[7 CFR Part 250]

COMMODITIES FOR DISASTER FEEDING

Food Donation Program

Notice is hereby given that the Food and Nutrition Service, Department of Agriculture, intends to amend the regulations for the operation of the food donation program (31 FR 14297), as amended, to revise provisions respecting disaster feeding in conformance with the pertinent provisions of the Disaster Relief Act of 1974 (42 U.S.C. 5121), Executive Order 11795, dated July 11, 1974 (39 FR 25939), and the regulations relating to Federal Disaster Assistance issued by the Department of Housing and Urban Development, Federal Disaster Assistance Administration (FDAA), on May 28, 1975 (24 CFR Part 2205).

Under these authorities, FDAA is responsibile for assuring that adequate stocks of food will be ready and conveniently available for mass feeding or distribution in any area of the United States which suffers a Presidentially-declared major disaster or an emergency (24 CFR 2205.49). While, in the event of either a major disaster or an emergency, FDAA may direct the Department of Agriculture to provide food assistance (24 CFR 2205.8), it is contemplated that emergency mass care will be furnished by the Red Cross or other voluntary agencies, and Federal emergency assistance will be approved only upon an affirmative showing that such organizations will not provide for essential needs (24 CFR 2205.28). The Department stands ready to respond to any direction of FDAA, and the subject regulations will provide the framework for that cooperation.

The food distribution regulations currently provide for special feeding programs through institutions or associations in situations of distress. It is proposed to broaden that provision to add "organizations" to the specified agencies which are eligible to receive commodities for use in such situations, and to make it clear that major disasters and emergencies, as those terms are defined in the Disaster Relief Act of 1974, are excluded. Thus, this regulation would cover organizations which provide distress or relief feeding, in other than households, in the event of disasters or emergencies not covered by the authorities referred to above.

As to household feeding, the Food Stamp Act (7 U.S.C. 2011) and the Disaster Relief Act of 1974 provide for food assistance by the Secretary of Agriculture, in the event of a Presidentially-declared major disaster, through the issuance of food stamps to households under the Food Stamp Program and through the distribution of federally donated foods, and the Food Stamp Act also has provisions respecting other disasters. The Food Stamp regulations are set out at 7 CFR Part 274. It is proposed in the subject regulations, in non-food stamp areas, to effect emergency and major disaster assistance to households through welfare agencies; however, it is stipulated that such assistance will be provided under the proposed regulations only at the direction to the Department by FDAA. The proposed regulations further provide that, in the event of an emergency or major disaster, distributing agencies need not require welfare agencies to apply the income and resource standards which are otherwise applicable to household feeding in determing eligibility of applicants. In other distress situations, distribution to households will be effected in the present manner.

Comments, suggestions, or objections are invited. In order to be assured of consideration, such comments, suggestions or objections should be received by Juan del Castillo, Director, Food Distribution Division, Food and Nutrition Service U.S. Department of Agriculture, Washington, D.C. 20250, no later than July 1, 1976. Communications should identify the regulation sections and paragraphs on which comments, etc., are offered. All written submissions received pursuant to this notice will be made available for public inspection at the Office of the Director in Room 600, at 500 12th St. S.W., Washington, D.C., during regular business hours, 8:30 a.m. to 5:00 p.m. (7 CFR 1.27(b)).

Accordingly, the food distribution regulations would be amended as follows:

1. In § 250.1, paragraph (b) (11) is revised to read as follows:

§ 250.1 General purpose and scope.

* * * * *

(b) *Legislation.* * * *

* * * * *

(11) Section 409 of the Disaster Relief Act of 1974, which reads as follows:

SEC. 409. (a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (Pub. L. 91-671; 84 Stat. 20248) and to make surplus commodities available pursuant to the provisions of this Act.

(b) The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in an area affected by a major disaster.

* * * * *

2. In § 250.3, the numerically identified footnote and the similarly identified references thereto in paragraphs (d) and (m) are deleted; paragraphs (c), (d), (j) and (k) are revised to read as follows:

§ 250.3 Definitions.

* * * * *

(c) "Major disasters" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Disaster Relief Act of 1974, (42 U.S.C. 5121), above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local gov-

ernments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(d) "Emergency" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, health and safety or to avert or lessen the threat of a disaster.

(j) "Recipient agencies" means charitable institutions, nonprofit summer camps for children, schools, service institutions, nonresidential child care institutions and nutrition programs for the elderly, receiving foods for their own use; and welfare agencies receiving foods for distribution to eligible recipients.

* * * * *

(k) "Recipients" means needy persons, including needy Indians, receiving commodities for their own use.

* * * * *

3. In § 250.4, paragraph (a) is amended by revising the last sentence to read as follows:

§ 250.4 Availability of donated foods.

(a) Distribution and use of donated foods. * * * In areas where a Food Stamp Program (7 CFR Parts 271–274) is in effect, there shall be no distribution of donated foods to households under this part except (1) in accordance with such instructions as FNS may specify, during temporary distress situations when the Secretary determines that commercial channels of food distribution have been disrupted; (2) for such period of time as the Secretary determines necessary to effect an orderly transition in an area in which the distribution of federally donated foods to households is being replaced by the Food Stamp Program; or (3) on request of an authorized State welfare agency, under the terms and conditions set forth in § 271.(a) of this chapter.

* * * * *

4. In § 250.6, paragraph (g) is amended by deleting the words "and disaster organizations" from the second sentence, paragraph (e) (5) is amended by adding a proviso after the last sentence, and a new subdivision (14) is added to paragraph (e), as follows:

§ 250.6 Obligations of distributing agencies.

* * * * *

(e) *Household distribution.* * * *

(5) * * *: *And provided, further,* That temporary standards of eligibility shall be established, without regard to income or resources, for use by welfare agencies for households which may be in need of food assistance in the event of an emergency or major disaster.

* * * * *

(14) Provisions for making distribution to households during an emergency or major disaster when the Department has been directed by the Federal Disaster Assistance Administration, Department of Housing and Urban Development, to make commodities available.

* * * * *

§ 250.8 [Amended]

5. In § 250.8, paragraph (e) is deleted.

§ 250.9 [Amended]

6. In § 250.9, paragraph (b) is deleted.

§ 250.10 [Amended]

7. In § 250.10, paragraph (d) is amended by deleting the words within the parentheses and inserting in lieu thereof the words "needy persons and children."

8. Section 250.13 is revised to read as follows:

§ 250.13 Special feeding programs.

(a) In situations of distress other than a major disaster or emergency, in which needs for food assistance cannot be met under other provisions of this part, any distributing agency may, upon request to and approval by the Secretary, distribute commodities to any charitable institution, or to any organization or association of persons engaged in charitable activities for use in conducting special group-feeding programs on a temporary basis for persons in need of such food assistance. The distributing agency and any such charitable institution, organization, or association shall conduct any distribution under this section in accordance with such instructions as FNS may specify; and any such institution, organization, or association shall give to the distributing agency an assurance that feeding programs will be conducted in accordance with the instructions.

(b) Distribution of commodities for mass feeding in any area which suffers a major disaster or emergency shall be made only at the direction to the Department by the Federal Disaster Assistance Administration, Department of Housing and Urban Development.

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

Dated: June 4, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-16798 Filed 6-10-76;8:45 am]

[7 CFR Part 271]

[Amdt. No. 85]

FOOD STAMP PROGRAM

Test Projects

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (78 Stat. 703, as amended; 7 U.S.C. 2011–2026), notice is hereby given that the Food and Nutrition Service, Department of Agriculture, intends to amend Part 271 of its regulations governing the operation of the Food Stamp Program, 7 CFR 271. The amendment is for the purpose of authorizing the Secretary to suspend or create regulations at his discretion for the purpose of conducting tests of administrative procedures which may have National applicability.

The Food Stamp Act authorizes the Secretary of Agriculture to issue necessary and appropriate regulations for the effective and efficient administration of the Food Stamp Program (7 U.S.C. 2013). The use of the authority to conduct tests of administrative procedures allows the Secretary to evaluate alternative plans and to determine which are the most cost effective and the most generally applicable. Test projects permit States an opportunity to demonstrate the administrative and cost benefits of procedures not currently authorized by program regulations. Such projects will often require that certain regulations be suspended or promulgated in the particular test areas. The regulations proposed herein outline the Secretary's authority to suspend or promulgate regulations through issuance of a Notice in the FEDERAL REGISTER for the purpose of conducting demonstration or experimental projects. The regulations also set forth guidelines for State agencies to follow in requesting the Secretary's approval to carry out demonstration or experimental projects. In no event may test procedures run counter to provisions of the Food Stamp Act.

Interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to Vernon R. Morgan, Acting Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received not later than June 26, 1976. All comments, suggestions, or objections received by this date will be considered before the final regulations are issued.

Comments, suggestions, or objections will be open to public inspection pursuant to 7 CFR 1.27(b) at the Office of the Director during regular business hours (8:30 a.m.–5 p.m.) at 500 12th Street, SW., Washington, D.C., Room 650.

Section 271.(j) is amended to read as follows:

§ 271.1 General terms and conditions for State agencies.

* * * * *

(j) *Administration of certification and issuance.* Each State agency shall administer the program in accordance with the provisions of this chapter, all FNS Instructions issued pursuant thereto, and its Plan of Operation. The Secretary reserves the right to suspend or add to any part or parts of this subchapter for the purpose of testing administrative procedures which are not in conflict with express provisions of the Food Stamp Act and which have potentil for nationwide applicability. The Secretary may suspend specified provisions of this subchapter for all households in a defined locality for the purposes of a demonstration project or for only some of the households in a defined locality

as necessary for an experimental project. States wishing to test administrative procedures which would require creation or suspension of provisions of this subchapter prior to a test shall submit to FNS for the Secretary's approval, a plan which, at a minimum, shall include:

(1) The purpose of the test and the benefits of the new procedures;

(2) The specific FNS regulations to be suspended and the new procedures to be tested;

(3) The schedule for the test and reporting to FNS of test results;

(4) The scope and methodology for the test and evaluating the results sufficient to demonstrate the valadity of the test;

(5) The estimated cost of the test which would be eligible for Federal funding; and

(6) Any other information or reports as requested by FNS.

Implementation of test procedures shall not be initiated prior to approval of the plan by the Secretary. All plans so approved shall be published as a Notice in the FEDERAL REGISTER at least 30 days prior to the effective date for the suspension or creation of the regulations required by the test.

* * * * *

(78 Stat. 703, as amended; 7 U.S.C. 2011–2026)

(Catalog of Federal Domestic Assistance Programs No. 10.551, National Archives Reference Services)

Dated: June 4, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-16722 Filed 6-10-76;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1910, 1915, 1916, 1926]

[Docket No. H-102]

ABRASIVE BLASTING

Advance Notice of Proposed Rulemaking

The Occupational Safety and Health Administration, U.S. Department of Labor, is studying the health hazards involved in abrasive blasting operations. It is considering proposing a revised standard, which will more effectively protect the health and safety of employees engaged in abrasive blasting operations. Abrasive blasting occurs in industries such as stone and monument cutting, structural steel maintenance, potteries, foundries, shipbuilding and repair, construction and others.

Such a proposed standard would modify or replace the current standards on abrasive blasting contained in Title 29, Code of Federal Regulations, covering general industry (§ 1910.94(a)), ship repairing (§ 1915.23(c)) and shipbuilding (§ 1916.23(c)). OSHA is also considering whether to develop, after consultation with the Advisory Committee on Construction Safety and Health, a separate standard on abrasive blasting for the construction industry to be included within Part 1926 (Safety and Health Regulations for Construction). There is now no specific standard on abrasive blasting included within Part 1926, but the general industry standard is applicable to the construction industry pursuant to the provisions of 29 CFR 1910.5.

In 1974 the National Institute for Occupational Safety and Health (NIOSH) submitted to OSHA a document entitled *Occupational Exposure to Crystalline Silica, Criteria for a Recommended Standard.* Among other things NIOSH recommended that "silica sand, or other materials containing more than 1 percent free silica, should be prohibited as an abrasive substance in abrasive blasting cleaning operations." [1]

OSHA published an advance notice of proposed rulemaking for crystalline silica in the FEDERAL REGISTER on December 27, 1974 (39 FR 44771), which referred to the NIOSH document. About 150 comments requested additional time to study the abrasive blasting recommendation. A number of the substantive comments received were directed primarily at the subject of abrasive blasting. These generally discussed the importance of abrasive blasting, the economic and technical advantages of the use of sand as an abrasive, and long term individual experiences indicating no negative effects on the health of employees. Several of the comments pointed out the need in abrasive blasting for proper respiratory protection, medical surveillance, and work practices.

Two recent studies commissioned by NIOSH indicate that there is a wide variation in the quality of respiratory protection provided to both abrasive blasters and other employees working in proximity to abrasive blasting operations. The use and maintenance of such equipment is often either lacking or substandard.[2, 3] Recent studies in New Orleans reveal some cases of rapidly developing silicosis leading to early death in abrasive blasters who were utilizing some type, but probably not the proper type, of respirator protection.[4, 5] Certain of the substitutes for sand may also create health hazards in abrasive blasting, some of which may not be known because dose response data is not available. Additionally, the materials abraded during abrasive blasting may contain contaminants such as lead, arsenic and coal tar pitch which, in themselves, may present significant health hazards.

The above information has focused attention on the need for OSHA to develop a more effective abrasive blasting standard, whether or not limitations are placed on the use of sand as an abrasive. An improved abrasive blasting standard would give more specific guidance on employee protection during abrasive blasting and be easier to enforce.

This advance notice of proposed rulemaking is being published to permit interested persons to submit information useful in the preparation of a proposed standard and suggest requirements to be included within it. Interested persons will also be entitled to participate in the rulemaking process after the publication of any proposed rule on abrasive blasting through written comments and participation at a hearing if requested.

Accordingly, interested persons are invited to submit by July 30, 1976, written data, views and comments concerning a standard on abrasive blasting for employees to the Docket Officer, Docket No. H–102, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3620, 200 Constitution Ave., NW., Washington, D.C. 20210 (Telephone (202) 523–8076). Comments are specifically requested concerning:

(1) What work practice controls are appropriate for abrasive blasting operations;

(2) What types of respirators are suitable to protect abrasive blasters, their helpers and other employees located near the abrasive blasting operations and the reliability, testing, and maintenance of those respirators;

(3) What other protective equipment is needed for abrasive blasting operations;

(4) What types of engineering controls are feasible for the various types of abrasive blasting operations;

(5) Whether sand or other materials should be banned or their use limited in abrasive blasting;

(6) Which materials other than sand are used for abrasive blasting, when can they be substituted for sand and what are their health dangers;

(7) What type of medical examinations should be given to abrasive blasters and other affected personnel and at what frequency;

(8) Whether there should be different provisions for abrasive blasting in the construction, shipbuilding, and ship repairing industries;

(9) Any other information useful in preparing a more effective abrasive blasting standard.

Comments already submitted on abrative blasting in response to the crystalline silica advance notice will be considered without need for resubmission. Additional information from persons who have already submitted comments will be accepted.

1. National Institute for Occupational Safety and Health, *Occupational Exposure to Crystalline Silica, Criteria for a Recommended Standard*, U.S. Dept. of Health, Education, and Welfare, 1974 (HEW Publication No. (NIOSH) 75–120), p. 10.

2. National Institute for Occupational Safety and Health, *Abrasive Blasting Respiratory Protection Practices*, U.S. Dept. of Health, Education, and Welfare, 1974 (HEW Publication No. (NIOSH) 74–104).

3. National Institute of Occupational Safety and Health, *Industrial Health and Safety Criteria for Abrasive Blast Cleaning Operations*, U.S. Dept. of Health, Education, and Welfare, 1974 (HEW Publication No. (NIOSH) 75–122).

4. Behzad Samini, Hans Weill, Morton Ziskind, "Respirable Silica Dust Exposure of Sandblasters and Associated Workers in Steel

Fabrication Yards," *Arch Environ Health*, 29:61, Aug. 1974.

5. William C. Bailey, Morton Brown, Howard A. Buechner, Hans Weill, Herbert Ichinose, Morton Ziskind, "Silio-Mycrobacterial Disease in Sandblasters," *American Review of Respiratory Disease*, 110:115, 1974.

Reference no. 1 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, as GPO Stock No. 1733-00050 for $1.95. References nos. 2 and 3 may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161. Reference no. 2 is Stock No. PB 223073 at $6.00 and reference no. 3 is Stock No. PB223022/5 at $7.75.

This advance notice of proposed rulemaking is issued under sections 4(b), 6(b) and 8 of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653(b), 655(b), 657), section 41 of the Longshoremen's and Harbor Workers Compensation Act (44 Stat. 1444 as amended by 72 Stat. 835; 33 U.S.C. 941), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (83 Stat. 96; 40 U.S.C. 333), sections 1 and 4 of the Walsh-Healy Public Contracts Act (49 Stat. 2036, 2038; 41 U.S.C. 35, 38), of the Walsh-Healy Public Contracts Act of 1965 (79 Stat. 1034, 1035; 41 U.S.C. 351, 353), section 5(j) of the National Foundation of the Arts and Humanities Act of 1965 (79 Stat. 848; 20 U.S.C. 954 (i)) and Secretary of Labor's Order No. 8-76.

Signed at Washington, D.C. this 4th day of June 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-17097 Filed 6-10-76;8:45 am]

[29 CFR Part 1960]

SAFETY AND HEALTH TRAINING GUIDELINES

Proposed Safety and Health Training Guidelines for Federal Employees

Pursuant to sections 19 and 24 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614; 29 U.S.C. 668, 673), Secretary of Labor's Order 12-71 (36 FR 8754) and Executive Order 11807, section 3(1), it is proposed to amend Part 1960 of Title 29, Code of Federal Regulations, by adding new regulatory guidelines for the establishment of federal employee training programs as § 1960.20.

On October 9, 1974, Safety and Health Provisions for Federal Employees were published in the FEDERAL REGISTER as 29 CFR Part 1960 (39 FR 36454). At that time it was indicated that further guidance would be provided to Federal agencies to assist them in carrying out their obligation under section 2(4) of Executive Order 11807 to provide adequate safety and health training for designated categories of federal employees. On November 17, 1975, the Federal Advisory Council on Occupational Safety and Health published notice in the Federal Register that the subject of federal safety and health training courses would be discussed at its public meeting on December 3, 1975 (40 FR 53324). The Council welcomed written data, views or comments concerning safety and health programs for federal employees and provided an opportunity for oral submissions. At the December 3 meeting, the Council adopted recommendations which are the basis of the regulatory guidelines proposed herein by the Occupational Safety and Health Administration.

The proposed regulatory guidelines differ from the recommendations of the Council that, where the Council's draft contained the auxiliary verb "shall", the proposal uses in lieu thereof the word "should" or, in paragraph (c) (Department of Labor Assistance), "will". The changes in paragraph (c) are made to reflect the fact that it is the Secretary who is undertaking the obligations specified therein. Therefore, the use of the word "shall" applicable to the agency issuing the directive is not appropriate. The remaining changes, from "shall" to "should", are made to conform to the language and intent of section 19 of the Act, Executive Order 11807, and the previously promulgated regulatory guidelines of 29 CFR Part 1960. With the exception of the recordkeeping provisions, all existing provisions of 29 CFR Part 1960 contain the word "should" rather than "shall". Section 1960.20 is designed to provide guidance to Federal agencies in carrying out their obligation under Executive Order 11807, section 2(4), to provide adequate safety and health training for their employees. While the duty to provide such training is not qualified, the duty of federal agencies under section 2(7) of the Executive Order to "observe the guidelines" of the Secretary of Labor must be viewed in the context of the statutory scheme of section 19 which places the responsibility for establishing occupational safety and health programs for agency employees upon each Federal agency. Moreover, the use of the word "shall" is not consistent with the proviso in the Executive Order permitting agencies to give "due consideration to the mission, size and organization of the agency." The use of the term "shall" might be incorrectly construed to the effect that Federal agencies do not have the flexibility needed to establish training programs which fit their own unique requirements although such flexibility is recognized in the remaining sections of Part 1960. The use of the term "should" avoids this and insures consistency in the regulatory guidelines which, in turn, reflect the basic statutory scheme of section 19 of the Act, placing primary responsibility for safety and health on the separate agencies. It should be noted, however, that the duty of Federal agencies to "observe" the Secretary's guidelines is mandatory and that, pursuant to section 3(5) of the Executive Order, agency programs will be evaluated in terms of the adequacy of their training programs and their consistency with the Secretary's guidelines.

Interested persons are invited to submit in writing data, views and arguments on the proposed regulatory guidelines on or before August 10, 1976. Comments should be directed to the Office of Federal Agency Safety Programs, Occupational Safety and Health Administration, Room N3673, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210. Copies of the comments which are received will be available for public inspection at this address. Changes may be made in the proposed regulatory guidelines as a result of comments which are submitted.

It is proposed to amend 29 CFR Part 1960 by adding the following:

§ 1960.20 Agency safety and health training guidelines.

(a) *Purpose.* The purpose of this section is to establish uniform training guidelines for all agencies, thereby assisting agency heads in meeting the requirement of Section 2, paragraph 4 of Executive Order 11807 to "—provide adequate safety and health training for officials at the different management levels, including supervisory employees, employees responsible for conducting occupational safety and health inspections, and other employees".

(b) *Agency training programs.* Appropriate job-related safety and health training, including training as required in OSHA Safety and Health Standards, should be provided for the following groups: employees, employee representatives, supervisors, senior officials, and safety and health personnel:

(1) Occupational safety and health training for employees as defined in 29 CFR 1960.2(c) should include specialized job safety and health training appropriate to the work performed by the employees, for example: clerical, printing, welding, crane operation, chemical analysis, computer operations, etc. Such training should also include informing employees of their rights and responsibilities under section 19 of the Occupational Safety and Health Act of 1970, Executive Order 11807, 29 CFR Part 1960, and the agency's safety program.

(2) Training for employees of the agency who are representatives of employee groups such as labor organizations which are recognized by the agency should include introductory and specialized courses and materials which will enable such groups to function appropriately in the interest of ensuring safe and healthful working conditions and practices in the workplace, and, in particular, to enable them to effectively assist in the conducting of workplace safety and health inspections. Nothing in this paragraph shall be construed to alter the provisions of Executive Order No. 11491, as amended by Executive Orders Nos. 11636, 11616 and 11838, nor other provisions of law providing for collective bargaining agreements and procedures, nor any agreements entered into pursuant to such provisions.

(3) Supervisors should be trained through introductory and specialized courses, materials, and learning experiences which will enable them to recognize and eliminate occupational safety and

health hazards in their working units. Such training should also include the development of requisite skills in managing the agency's safety program within the work unit, including the training and motivation of subordinates toward safe and healthful work practices.

(4) Designated safety and health officials, as defined in § 1960.2(g) and other top management officials should receive orientation and other learning experiences, which will enable them to manage the occupational safety and health programs of their agencies. Such orientation should include coverage of the Occupational Safety and Health Act of 1970, Executive Order 11807, the requirements of 29 CFR Part 1960—Safety and Health Provisions for Federal Employees—and applicable agency safety and health standards.

(5) Safety and health specialists as defined in § 1960.2(h), should be trained through courses, laboratory experiences, field study, and other learning experiences, to perform the necessary technical monitoring, consulting, testing, inspecting, designing, and other tasks which will enable them to determine whether applicable agency standards are being met in the workplace. Training should be designed so as to develop skill in recommending specific corrective actions where standards are not being met and in functioning as consultants to agency management.

(6) Safety and health inspectors, as defined in § 1960.2(i), should be trained through courses, field study, and other learning experiences, to perform inspections of workplaces, including the preparation of reports and documentation to support the results of inspections.

(7) Collateral duty safety personnel should be trained through courses in the basic elements of safety and health planning to organize, plan, and implement an effective safety and health program.

(c) *Department of Labor assistance.* The Department of Labor will provide each Federal agency head with training materials which will assist agencies to fulfill the training needs in paragraph (b) of this section. The Department of Labor will also provide resident and field training courses through the Occupational Safety and Health Training Institute, designed to meet selected training needs of a federal agency's safety and health specialists and/or safety and health inspectors as defined in § 1960.2 (h), (i). These materials and courses in no way reduce the responsibility of each agency to provide whatever specialized training is required by the unique characteristics of its work.

(Secs. 19, 24, 84 Stat. 1609, 1614 (29 U.S.C. 668, 673); and the provisions of E.O. 11807)

Signed at Washington, D.C. this 4th day of June, 1976.

B. M. CONCKLIN,
Deputy Assistant Secretary of Labor.

[FR Doc.76-17098 Filed 6-10-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2 and 87]

[Docket No. 20123; RM-2622]

AERONAUTICAL ADVISORY FREQUENCIES

Utilization and Assignment

In the matter of utilization and assignment of aeronautical advisory frequencies. Amendment of Part 87 of the FCC rules and regulations regarding utilization and assignment of the aeronautical advisory and aeronautical multicom frequencies.

In the notice of proposed rulemaking in the above-entitled matter (FCC 76-461) released May 26, 1976, the last quoted paragraph of paragraph 20 should read as follows:

As a separate action, AOPA and other user groups are recommending modernization of the FSS system that includes a discontinuance of airport advisory service by FSS on 123.6. Since the FAA has been pushing the procedure of aircraft announcing their position in a traffic pattern at uncontrolled airports, AOPA is suggesting that the FSS stop giving airport advisory service and that 123.6 be assigned for the purpose of announcing position in the traffic pattern. This will remove those announcements from the frequencies used for Unicom and remove a great deal of the existing congestion. The frequency would be restricted to use at traffic pattern altitude so as to reduce the distance that it could interfere with traffic at other airports. Where airports are in very close proximity with overlapping traffic patterns, the fact that a pilot in one could bear a pilot in the other would be an added safety feature.

Released: June 7, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-17011 Filed 6-10-76;8:45 am]

[47 CFR Part 15]

[Docket No. 20780]

Order Extending Time To File Comments & Reply Comments

In the matter of amendment of Part 15 to redefine and clarify the rules governing restricted radiation devices and low power communication devices.

Several requests for extension of time within which to file Comments in this proceeding have been filed. A review of these requests reveals that an extension is warranted. Accordingly an extension of time to August 23, 1976 for the filing of Comments and September 23 for the filing of Reply Comments is ordered pursuant to § 0.251(b) of the Commission's rules.

Adopted: June 4, 1976.

Released: June 4, 1976.

ASHTON R. HARDY,
General Counsel.

[FR Doc.76-17012 Filed 6-10-76;8:45 am]

[47 CFR Part 97]

[Docket 2077; RM-1429, 2163, 2170, 2330, RM-2429, 2507, 2545, 2550]

AMATEUR RADIO SERVICE

Authorized Emissions

In the matter of deregulation of Part 97 of the Commission's rules regarding emissions authorized in the amateur radio service.

By Chief, Safety and Special Radio Services Bureau:

1. On April 22, 1976, the Commission released a notice of proposed rule making in the above captioned matter. The cut-off dates for filing of comments and reply comments were set at June 23, 1976, and July 23, 1976, respectively. The American Radio Relay League, ARRL, has petitioned to have these dates extended to August 4, 1976, and September 3, 1976, respectively.

2. In support of its petition, ARRL states that the proposals in the Notice, if adopted, may have "far reaching and possible adverse effect upon a substantial number of amateurs licensed by the Commission. . . ." Further, because news of the Notice will be reaching the majority of amateurs in the June issues of amateur publications, there will be insufficient time for many amateurs and amateur groups to adequately formulate their responses.

3. We recognize the desire of the ARRL to make the comments of as many amateurs as possible available to the Commission in this proceeding, and agree that the requested extension of time will make possible more comprehensive consideration of the Commission's proposals.

Accordingly, in view of the foregoing, *It is ordered*, Pursuant to authority contained in §§ 0.331 and 1.46 of the Commission's Rules, that the time for filing comments in Docket 20777 is extended from June 23, 1976, to August 4, 1976, and that the time for filing reply comments is extended from July 23, 1976 to September 3, 1976.

Adopted: June 2, 1976.

Released: June 4, 1976.

[SEAL] CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.76-17013 Filed 6-10-76;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. RM76-16]

LABOR DEPARTMENT, RESIDENTIAL ELECTRIC BILL DATA

United States Bureau of Labor Statistics FPC Form No. 3-P

JUNE 4, 1976.

Pursuant to section 553 of the Administrative Procedure Act, 5 U.S.C. 553 and sections 301, 304, 309 and 311 of the Federal Power Act (49 Stat. 854-856, 858-859; 16 U.S.C. 825(a), 825(b), 825(c), 825s(b), 825c(c), 825h, 825j), the Commission gives notice that it proposes to amend its regulations by adding

a new § 141.28 to Part 141 of the Approved Forms under the Federal Power Act to revise FPC Form No. 3–P for the collection of electric bill data.

Section 311 of the Federal Power Act (49 Stat. 859; 16 U.S.C. 825j) provides that the Commission is to secure and keep current information relating to the rates, charges and contracts in respect of the sale of electric energy and its service to residential, rural, commercial and industrial consumers and other purchases by private and public agencies. In accordance with section 311 and pursuant to an agreement between the Federal Power Commission and the Bureau of Labor Statistics (Division of Statistical Standards of the Bureau of the Budget) dated November 5, 1940, the Commission has been supplying monthly electric bill data for a selected number of communities to the Bureau of Labor Statistics in order to eliminate duplicate requests among government agencies for information on electric rates.

The data now collected are used in the compilation of the Consumer Price Index and the Wholesale Price Index, the Federal government's official indicators of price movements and are widely used for measuring changes in the Nation's economy. The data, collected on FPC Form No. 3–P, consist of (1) residential electric bill data for the Consumer Price Index, and (2) commercial and industrial electric bill data for the Wholesale Price Index. The Bureau of Labor Statistics determines the data to be collected.

Consumer Price Index: A total of 116 communities (three communities are counted twice—Anchorage, Alaska; Cleveland, Ohio; Portland, Oregon) serviced by eighty-one utilities are canvassed monthly by the Commission to determine the price of electric service to residential customers. In addition, three communities in Alaska (Juneau, Fairbanks and Ketchikan) served by three utilities are canvassed on May 15 and November 15 only. These communities surveyed comprise fifty-six Standard Metropolitan Statistical Areas (SMSA) or Pricing Sample Units (PSU).

A total of 404 residential electric bills comprise the monthly sample for the Consumer Price Index. Between three and five residential bills are reported for each community canvassed. Each residential electric bill consists of a net base bill, a total bill and where applicable a fuel adjustment, sales and/or gross receipts tax, and other tax or charge. If applicable, respondents are also requested to provide the monthly fuel cost and the fuel adjustment per kilowatt-hour and the rate of sales or other tax.

Wholesale Price Index: Eighty-eight cities (thirty-two are also canvassed for residential service and Cleveland, Ohio is counted twice) served by eighty-eight utilities are canvassed monthly to determine the price of electric power to commercial and industrial customers.

A total of 171 electric power bills comprise the monthly sample for the Wholesale Price Index. Four utilities supply bills for commercial service only and one utility supplies a bill for industrial service only. Each commercial and industrial electric bill consists of a net base bill and a total bill, and where applicable, a fuel adjustment and/or other charge. Sales taxes are not to be included, however taxes charged to the utility and passed on to the customer are to be included.

The Bureau of Labor Statistics is presently revising the Consumer Price Index with a scheduled initial publication date of April 1977. The current Index will be continued until September 1977, and then terminated. Both indices will be published during the interim period. No change in the Wholesale Price Index is planned at this time. Pursuant to the revisions being instituted by the Bureau of Labor Statistics, the Commission proposes to make the appropriate changes and additions to its Form No. 3–P. The changes are:

(1) The schedule entitled "Residential Electric Bill Data for U.S. Bureau of Labor Statistics—Consumer Price Index" would be entitled "Schedule 1" in addition.

(2) The schedule entitled "Commercial and Industrial Electric Bill Data for the U.S. Bureau of Labor Statistics—Wholesale Price Index" would also be entitled "Schedule 2" in addition.

The following additional proposed changes all pertain to "Schedule 1":

(3) Bill specifications would not be preprinted on Line 1, Line 7 and Line 13 as is done presently, e.g. 100 kWh, 250 kWh and 500 kWh. Instead, each individual respondent would be given a unique set of kilowatt-hour (kWh) specifications for reporting monthly bills. This will greatly increase the accuracy of the measurement of the Consumer Price Index.

(4) An additional line titled "Subtotal" would be added. This will greatly aid in identifying data for use in two separate indexes; one calculated on bills without taxes and one calculated on bills with taxes.

(5) All applicable taxes would be calculated by respondent and the total amount reported on one line titled "Taxes." This line would replace the lines titled "Sales or gross receipt tax" and "other tax or charge." This will more easily identify the various components of the total price.

(6) The lines titled "Other tax or charge" would read "Other charges." Applicable charges other than taxes would be reported here and would be needed to calculate a subtotal (a bill without taxes).

(7) The lines titled "Total Bill (nearest 1¢)" will read "Total Bill including taxes (nearest 1¢)". This will provide bills with taxes for calculating an index including taxes.

(8) In addition to supplying the fuel cost per kWh and fuel adjustment per kWh as are now required on Line 31 and Line 32 respectively, respondents would be asked to supply Minimum Bill and Minimum Kilowatt-hours included for each specified rate schedule; purchased power adjustment per kWh; power cost adjustment per kWh. This will aid in verification of the bill data and identify the specific type of fuel adjustment as reported on the line titled "Fuel adjustment".

(9) Respondents would also be asked to report applicable tax rates, such as the sales tax, gross receipts tax, franchise tax and others, as well as to report the percent of prompt payment discount. This will aid in verification of the bill data and identify the various taxes reported as a total on the line titled "Taxes".

A sample of revised form No. 3–P is shown in Appendix A.

The utilities required to file the schedules on existing Form No. 3–P and revised Schedule 1 are listed in the several appendices. The fifty-one utilities listed in Appendix B do not currently file Form No. 3–P. They would commence reporting only residential data on revised Schedule 1 as of the date an order issues in this rulemaking. The fourteen utilities listed in Appendix C are currently reporting commercial and industrial data only, and will continue to do so in the future. They do not currently report residential data but would commence reporting residential data on revised Schedule 1 as of the date an order issues in this rulemaking. The fifty-three utilities listed in Appendix D are currently reporting residential data on the existing schedule, and shall continue doing so through September 1977, when such reporting would be terminated. In addition, they would commence reporting residential data on revised Schedule 1 as of the date an order issues in this rulemaking. This short period of paralled reporting will be required for coordination of the revised Schedule 1. The ten utilities listed in Appendix E are currently reporting residential data on the existing schedule and would continue to do so through September 1977 when such reporting shall be terminated. These utilities are currently reporting commercial and industrial data and shall continue to do so. The twenty-one utilities listed in Appendix F are currently reporting on residential data on the existing schedule and would continue to do so through September 1977. At that time all such reporting would be terminated.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than July 1, 1976 data, views, comments or suggestions in writing concerning all or part of the revisions proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, 825 North Capitol Street, NE., Room 1000, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address and telephone number of the

person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed revisions. The staff, in its discretion, may grant or deny requests for conference.

The proposed amendments to Part 141 of the Commission's Approved Forms under the Federal Power Act would be issued under the authority granted to the Federal Power Commission by the Federal Power Act, as amended, particularly Sections 301, 304, 309 and 311 (49 Stat. 854–856, 858–859; 16 U.S.C. 825(a), 825(b), 825(c), 825c(b), 825c(c), 825h, 825j).

Accordingly, the Commission proposes to amend Part 141, Statements and Reports (Schedules) in Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 141.28 revising FPC Form No. 3–P, Monthly Report of Residential, Commercial and Industrial Electric Bill Data, in the format set out in Appendix A attached hereto. New § 141.28 will read as follows:

§ 141.28 Form No. 3–P, Monthly report of residential, commercial and industrial electric bill data.

This form is designed to obtain monthly information concerning residential, commercial and electric bill data. Data collected include the net base bill, fuel adjustment, other charges, taxes, fuel cost per kilowatt-hour (kWh), fuel adjustment per kWh, minimum bill and kWh for each specified rate schedule, tax rates for the sales tax, gross receipts tax, franchise tax and others, as well as the amount of applicable discounts. The data are to be used in computing the Consumer Price Index and the Wholesale Price Index.

The Secretary shall cause prompt publication of this Notice to be made in the FEDERAL REGISTER.

By Direction of the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A—REVISED FORM NO. 3–P AND INSTRUCTIONS ON A FORM NO. 3–P

Reference: Monthly Residential, Commercial and Industrial Electric Bill Data for the U.S. Bureau of Labor Statistics—Consumer and Wholesale Price Indexes.

Gentlemen: Your cooperation is requested in providing each month to the Commission specified electric bills for transmittal to the U.S. Bureau of Labor Statistics, for use in computing the Consumer Price Index, Wholesale Price Index and other indexes. These price indexes are the Government's official indicators of price movements and are widely used for measuring changes in the national economy.

Please verify, and if necessary correct, the appropriate bills to be charged to residential, commercial and industrial customers under rates and applicable adjustments effective on the 15th of each month, for the kilowatt-hours specified. The base bills computed should be net bills, after discount for prompt payment or before penalty for late payment. Please report the total amount of applicable fuel adjustment, purchased power and/or power cost adjustment and show basis for this figure on lines 37–40. Other charges should include surcharges, interim rate adjustment or other charges directly affecting the base rate. The subtotal should include all of the above applicable charges before any taxes. The total amount of taxes (including sales, gross receipts, franchise, utility, etc.) should be reported on the line titled 'Taxes' and the rate of tax reported on lines 42–45, as applicable. The 'Total Bill' should include all applicable charges and taxes.

If no change has occurred since the preceding month, simply check the "no change" box at the top of the column for the current month. When any change occurs, please enter the complete bill computation. PLEASE ATTACH ONE COPY OF THE NEW OR REVISED RATE SCHEDULE, IF THE BASE RATE CHANGES.

An envelope requiring no postage is enclosed for your use in returning the schedule to us. PLEASE RETURN THIS SCHEDULE BEFORE THE 25TH OF THE MONTH.

Very truly yours,

W. RIDGWAY,
Chief, Bureau of Power.

COMMERCIAL AND INDUSTRIAL ELECTRIC BILL DATA
FOR BUREAU OF LABOR STATISTICS - Wholesale Price Index

INSTRUCTIONS: Bills should be adjusted to 85% power factor and computed to the nearest cent. Fuel, tax (except sales taxes), commodity or wage level adjustments, if applicable, should be included in the total bill. If bills are changed from those last reported, please insert the revised data.

Where the change is based on new or revised rate schedules ONE COPY of such rate schedules should be enclosed. Detailed specifications for computing these bills are the same as those used for the annual typical bill reports to the Commission.

(If no change enter "√" in box provided)	19___		19___		
COMMERCIAL - 40 KW, 10,000 KWH BILL	DEC 15 ☐		JAN 15 ☐	FEB 15 ☐	MAR 15 ☐
Rate Designation					
Net base bill	$		$	$	$
Fuel adjustment					
Other charges (Specify)					
Total Bill (Nearest 1¢)					
INDUSTRIAL - 500 KW, 200,000 KWH BILL					
Rate Designation					
Net base bill	$		$	$	$
Fuel adjustment					
Other charges (Specify)					
Total Bill (Nearest 1¢)					
COMMERCIAL - 40 KW, 10,000 KWH BILL	APR 15 ☐		MAY 15 ☐	JUNE 15 ☐	JULY 15 ☐
Rate Designation					
Net base bill	$		$	$	$
Fuel adjustment					
Other charges (Specify)					
Total Bill (Nearest 1¢)					
INDUSTRIAL - 500 KW, 200,000 KWH BILL					
Rate Designation					
Net base bill	$		$	$	$
Fuel adjustment					
Other charges (Specify)					
Total Bill (Nearest 1¢)					
COMMERCIAL - 40 KW, 10,000 KWH BILL	AUG 15 ☐	SEPT 15 ☐	OCT 15 ☐	NOV 15 ☐	DEC 15 ☐
Rate Designation					
Net base bill	$	$	$	$	$
Fuel adjustment					
Other charges (Specify)					
Total Bill (Nearest 1¢)					
INDUSTRIAL - 500 KW, 200,000 KWH BILL					
Rate Designation					
Net base bill	$	$	$	$	$
Fuel adjustment					
Other charges (Specify)					
Total Bill (Nearest 1¢)					

RESIDENTIAL ELECTRIC BILL DATA FOR U.S. BUREAU OF LABOR STATISTICS - Consumer Price Index

UTILITY NUMBER

LINE NO.	CITY AND STATE (If no change enter "✓" in box)	19__ Dec. 15 ☐	19__ Jan. 15 ☐	Feb. 15 ☐	Mar. 15 ☐	Apr. 15 ☐	May 15 ☐	June 15 ☐	July 15 ☐	Aug. 15 ☐	Sept. 15 ☐	Oct. 15 ☐	Nov. 15 ☐	Dec. 15 ☐	LINE NO.
1	KWH BILL: Rate Designation														1
2	Net base bill	$	$	$	$	$	$	$	$	$	$	$	$	$	2
3	Fuel adjustment 1/														3
4	Other charges 2/														4
5	Subtotal														5
6	Taxes 3/														6
7	TOTAL BILL (Nearest 1¢ including taxes)														7
8	KWH BILL: Rate Designation														8
9	Net base bill	$	$	$	$	$	$	$	$	$	$	$	$	$	9
10	Fuel adjustment 1/														10
11	Other charges 2/														11
12	Subtotal														12
13	Taxes 3/														13
14	TOTAL BILL (Nearest 1¢ including taxes)														14
15	KWH BILL: Rate Designation														15
16	Net base bill	$	$	$	$	$	$	$	$	$	$	$	$	$	16
17	Fuel adjustment 1/														17
18	Other charges 2/														18
19	Subtotal														19
20	Taxes 3/														20
21	TOTAL BILL (Nearest 1¢ including taxes)														21
22	KWH BILL: Rate Designation														22
23	Net base bill	$	$	$	$	$	$	$	$	$	$	$	$	$	23
24	Fuel adjustment 1/														24
25	Other charges 2/														25
26	Subtotal														26
27	Taxes 3/														27
28	TOTAL BILL (Nearest 1¢ including taxes)														28
29	KWH BILL: Rate Designation														29
30	Net base bill	$	$	$	$	$	$	$	$	$	$	$	$	$	30
31	Fuel adjustment 1/														31
32	Other charges 2/														32
33	Subtotal														33
34	Taxes 3/														34
35	TOTAL BILL (Nearest 1¢ including taxes)														35
36	Minimum bill & Kwh included														36
37	Fuel Cost														37
38	Fuel Adjustment per Kwh														38
39	Purchased power adjustment per Kwh														39
40	Power cost adjustment per Kwh														40
41	Prompt payment discount ($)														41
	RATE OF TAXES:														
42	Sales tax														42
43	Gross receipts tax														43
44	Franchise tax														44
45	Other taxes														45
46															46

INSTRUCTIONS: If bills are changed from those last reported, please insert the revised data. Where the change is based on new or revised rate schedules ONE COPY of such rate schedules should be inclosed. Bills should be computed to the nearest cent. Fuel, sales, and other taxes, commodity or wage level adjustments, if applicable, should be included in the total bill.

1/ Include purchased power and/or power cost adjustment.

2/ Other charges include surcharges, interim rate adjustments and any other charges.

3/ Taxes include sales tax, gross receipt, franchise and any other tax.

FPC Form 3-P (5-76)

APPENDIX B

The fifty-one utilities listed in Appendix B do not currently file Form No. 3–P. They would commence reporting only residential data on revised Schedule 1 as of the date an order issues in this rulemaking.

Athens Electric Department, Alabama
Matanuska Electric Association, Inc., Alaska
Tucson Gas & Electric Company, Arizona
Alameda Bureau of Electricity, California
Banning Electric Department, California
Intermountain Rural Electric Association, Colorado
Florida Power Corporation
Tampa Electric Company, Florida
Homestead Municipal Electric Department, Florida
Albany Water, Gas & Light Commission, Georgia
Central Georgia Electric Membership Corp.
Public Service Company of Indiana, Inc.
Iowa-Illinois Gas & Electric Company
Webster City Municipal Light & Power, Iowa
Kentucky Power Company
New Orleans Public Service, Inc., Louisiana
New Bedford Gas & Edison Light Company, Massachusetts
Western Massachusetts Electric Company
Minnesota Power & Light Company
Anoka Water, Light Department (Municipal), Minnesota
Detroit Lakes Municipal Utilities, Minnesota
Wadena Electric & Water Works Department, Minnesota
Mississippi Power Company
Missouri Edison Company
Missouri Power & Light Company
Missouri Public Service Company
Hannibal Board of Public Works, Missouri
Montana Power Company
Grand Island Electric Department, Nebraska
Jersey Central Power & Light Company
Orange & Rockland Utilities, Inc., New York
Rochester Gas & Electric Corp., New York
Carolina Power & Light Company
Columbus & Southern Ohio Electric Company
Toledo Edison Company, Ohio
Painesville Electric Division, Ohio
Central Lincoln People's Utilities District, Oregon
Metropolitan Edison Company, Pennsylvania
Pennsylvania Electric Company
Pennsylvania Power Company
Windber Electric Corporation, Pennsylvania
Blackstone Valley Electric Company, Rhode Island
The Narragansett Electric Company, Rhode Island
South Carolina Electric & Gas Company
The Middle Tennessee Electric Membership Corp.
Community Public Service Company, Texas
Brownsville Public Utilities Board, Texas
Garland Electric Department, Texas
Robstown Utility System, Texas
Logan City Municipal Power & Light Department, Utah
Public Utilities Dist. No. 1 of Cowlitz County, Washington

APPENDIX C

The fourteen utilities listed in Appendix C are currently reporting commercial and industrial data only, and will continue to do so in the future. They do not currently report residential data, but would commence reporting residential data on revised Schedule 1 as of the date an order issues in this rulemaking.

Huntsville Utilities, Alabama
Arkansas Power & Light Company
Colorado Springs Department of Public Utilities, Colorado
United Illuminating Company, Connecticut
Florida Power & Light Company
Louisville Gas & Electric Company, Kentucky
Louisiana Power & Light Company
Chicopee Electric Light Department, Massachusetts
Nebraska Public Power District
Ohio Edison Company
Memphis Light, Gas & Water Division, Tennessee
Texas Electric Service Company
San Antonio Public Service Board, Texas
Appalachian Power Company, Virginia

APPENDIX D

The fifty-three utilities listed in Appendix D are currently reporting residential data on the existing schedule, and shall continue doing so through September 1977, when such reporting shall be terminated. In addition, they would commence reporting residential data on revised Schedule 1 as of the date an order issues in this rulemaking.

Anchorage Munic. Light & Power Department, Alaska
Chugach Electric Association, Inc., Alaska
Pacific Gas & Electric Company, California
San Diego Gas & Electric Company, California
Southern California Edison Company
Los Angeles Department of Water & Power, California
Public Service Company of Colorado
Connecticut Light & Power Company
Potomac Electric Power Company, District of Columbia
Georgia Power Company
Hawaiian Electric Company, Inc.
Commonwealth Edison Company, Illinois
Illinois Power Company
Indianapolis Power & Light Company, Indiana
Central Maine Power Company
Baltimore Gas & Electric Company, Maryland
Boston Edison Company, Massachusetts
Brockton Edison Company, Massachusetts
Cambridge Electric Light Company, Massachusetts
Massachusetts Electric Company
Consumers Power Company, Michigan
Detroit Edison Company, Michigan
Northern States Power Company (Minn.)
Kansas City Power & Light Company, Missouri
Union Electric Company, Missouri
Independence Power & Light Department, Missouri
Public Service Electric & Gas Company, New Jersey
Consolidated Edison Company of N.Y., Inc.
Long Island Lighting Company, New York
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation, New York
Duke Power Company, North Carolina
Cincinnati Gas & Electric Company, Ohio
Cleveland Electric Illuminating Company, Ohio
Ohio Power Company
Pacific Power & Light Company, Oregon
Portland General Electric Company, Oregon
Duquesne Light Company, Pennsylvania
Pennsylvania Power & Light Company
Philadelphia Electric Company, Pennsylvania
West Penn Power Company
Nashville Electric Service, Tennessee
Central Power & Light Company, Texas
Dallas Power & Light Company, Texas
Gulf States Utilities Company, Texas
Houston Lighting & Power Company, Texas
Texas Power & Light Company
Utah Power & Light Company
Virginia Electric Power Company
Puget Sound Power & Light Company, Washington
Public Utility Dist. No. 1 of Snohomish County, Washington
Seattle Department of Lighting, Washington
Wisconsin Electric Power Company

APPENDIX E

The ten utilities listed in Appendix E are currently reporting residential data on the existing schedule and would continue to do so through September 1977 when such reporting shall be terminated. These utilities are currently reporting commercial and industrial data and would continue to do so.
Hartford Electric Light Company, Connecticut
Orlando Utilities Commission, Florida
Kansas Gas & Electric Company
Kansas City Board of Public Utilities, Kansas
Braintree Electric Light Department, Massachusetts
Peabody Municipal Light Plant, Massachusetts
Reading Municipal Light Department, Massachusetts
Mississippi Power & Light Company
Cleveland Division of Light & Power, Ohio
Austin Electric Department, Texas

APPENDIX F

The twenty-one utilities listed in Appendix F are currently reporting only residential data on the existing schedule, and would continue doing so through September 1977. At that time, all such reporting would be terminated.

Florence Electricity Department, Alabama
Alaska Electric Light & Power Compahy
Fairbanks Municipal Utilities System, Alaska
Ketchikan Public Utilities, Alaska
College Park Munic. Elec. Light Department, Georgia
East Point Municipal Electric Department, Georgia
Northern Indiana Public Service Company
Logansport Municipal Utilities, Indiana
Iowa Electric Light Power Company
Union Light, Heat & Power Company, Kentucky
Wellesley Municipal Light Plant, Massachusetts
Niles Board of Public Works, Michigan
Otter Tail Power Company, Minnesota
Nevada Power Company
Atlantic City Electric Company, New Jersey
Central Hudson Gas & Electric Corp., New York
The Dayton Power & Light Company, Ohio
Mangum Light & Power Department, Oklahoma
Union Utility Department, South Carolina
Martinsville Municipal Electric Department, Virginia
Wisconsin Public Service Corporation

[FR Doc.76–16926 Filed 6–10–76;8:45 am]

LEGAL SERVICES CORPORATION

[45 CFR Part 1611]

ELIGIBILITY

The Legal Services Corporation ("the Corporation") was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355, 88 Stat. 378, 42 U.S.C. 2996–2996*l* ("the Act"), for purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance. Section 1007(a)(2) of the Act requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, eligibility guidelines which take into account certain enumerated factors, and priorities to insure that persons least able to afford legal assistance are given preference in furnishing such assistance.

Pursuant to Section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning eligibility for legal assistance. Public comment will be received by the Corporation at its headquarters office, Suite 700, 733 15th Street, NW., Washington, D.C. 20005 on or before July 12, 1976. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comments received pursuant to this notice.

Part 1611 is added in proposed form as set forth below:

PART 1611—ELIGIBILITY

Sec.
1611.1 Purpose.
1611.2 Definition.
1611.3 Maximum income level.
1611.4 Authorized exceptions.
1611.5 Determination of eligibility.
1611.6 Manner of determining eligibility.
1611.7 Change in circumstances.
1611.8 Priorities.

AUTHORITY: Section 1007(a)(2); 42 U.S.C. 2996(a)(2).

§ 1611.1 Purpose.

This part is designed to insure that a recipient will determine eligibility according to criteria that give preference to the legal needs of those least able to obtain legal assistance, and still afford sufficient latitude for a recipient to consider local circumstances and its own resource limitations. The Part also seeks to insure that eligibility is determined in a manner conducive to development of an effective attorney-client relationship.

§ 1611.2 Definition.

"Income" means actual current gross annual income of all persons who are members of, and contribute to, the support of a family unit.

§ 1611.3 Maximum income level.

(a) Every recipient shall establish a maximum income level for persons receiving legal assistance under the Act. Unless specifically authorized by the Corporation, the income level chosen shall not deviate more than twenty-five percent (25%) from the maximum income level established periodically by the Corporation, which shall be the official poverty threshold, as defined by the Office of Management and Budget, and modified, when necessary, by the percentage change in the National Consumer Price Index, published by the Bureau of Labor Statistics, for the period since the last OMB definition. The maximum income level chosen by a recipient shall take into account the following factors:

(1) Cost-of-living in the locality;

(2) The population at and below alternative income levels in the geographic area served by the recipient; and

(3) The number of clients that can be served by the resources of the recipient.

(b) Unless authorized by § 1611.4, no person whose income exceeds the maximum income level established by a recipient shall be eligible for legal assistance under the Act.

§ 1611.4 Authorized exceptions.

A person whose income exceeds the maximum income level established by a recipient pursuant to § 1611.3 may not be provided legal assistance under the Act unless;

(a) The person's circumstances require that an exception be made on the basis of one or more of the factors set forth in § 1611.5(b); or

(b) The person is seeking legal assistance to obtain or prevent the loss of benefits provided by a governmental program for the poor; or

(c) The person's income is derived, in major part, from benefits provided by governmental programs for the poor.

§ 1611.5 Determination of eligibility.

(a) The governing body of a recipient shall adopt guidelines, consistent with these regulations, for determining the eligibility of persons seeking legal assistance under the Act. At least once a year, guidelines shall be reviewed and appropriate adjustments made.

(b) In addition to annual income, a recipient shall consider other relevant factors indicating that legal assistance should be denied, or that an exception should be made pursuant to § 1611.4(c). Factors considered shall include:

(1) Seasonal variations in income;

(2) Liquid net assets;

(3) Fixed debts and obligations, medical expenses, child care expenses necessary for employment;

(4) Age or physical infirmity of family members;

(5) Other factors related to financial inability to afford legal assistance; and

(6) Priorities adopted by the governing body.

(c) Evidence of a prior administrative or judicial determination that a person's present lack of income results from refusal or unwillingness, without good cause, to seek or accept suitable employment, shall disqualify the person from receiving legal assistance under the Act. This paragraph does not bar provision of legal assistance to an otherwise eligible person who seeks representation in order to challenge the prior determination.

(d) A recipient may provide legal assistance to a group or association if:

(1) The group is primarily composed of persons eligible for legal assistance under the Act, or

(2) The primary purpose of the group is to represent the interests of persons in the community unable to afford legal assistance, and

(3) The group provides information showing that it lacks, and has no practical means of obtaining funds to retain private counsel.[1]

[1] The original draft of the eligibility regulation contained the additional requirement that, for a recipient to provide legal assistance to a group or association:

"two members or representatives of the group [must] establish their own eligibility by furnishing the information required by the form referred to in § 1611.6(a)."

Although this requirement was deleted at the request of the Board of Directors, the Corporation invites comment on the advisability of including such a requirement.

§ 1611.6 Manner of determining eligibility.

(a) A recipient shall adopt a simple form and procedure for obtaining from a potential client, in a manner that promotes the development of trust between attorney and client, eligibility information required by its guidelines and by the Corporation. The form and procedure adopted shall be subject to approval by the Corporation, and eligibility information shall be preserved, in a manner that protects confidentiality, for audit by the Corporation.

(b) If there is substantial reason to doubt the accuracy of eligibility information, a recipient shall make appropriate inquiry to verify it, in a manner consistent with an attorney-client relationship.

§ 1611.7 Change in circumstances.

If an eligible client becomes ineligible through a change in circumstances, a recipient shall discontinue representation if the change in circumstances is sufficiently stable for the client to obtain private legal assistance, and discontinuation is not inconsistent with the attorney's professional responsibilities.

§ 1611.8 Priorities.

To insure that the legal needs of persons least able to afford legal assistance are given preference, a recipient shall adopt procedures for establishing priorities in the allocation of its resources. The following factors shall be among those considered in establishing priorities:

(a) The resources of the recipient;

(b) The size of the financially eligible population in the geographic area served by the recipient;

(c) The availability of another source of legal assistance in a particular category of cases or matters;

(d) The urgency of particular legal problems of the clients of the recipient; and

(e) The general effect of the resolution of a particular category of cases or matters on persons least able to afford legal assistance in the community served.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc.76-16964 Filed 6-10-76;8:45 am]

[45 CFR Part 1613]

RESTRICTIONS ON LEGAL ASSISTANCE WITH RESPECT TO CRIMINAL PROCEEDINGS

The Legal Services Corporation ("the Corporation") was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l* ("the Act"), for the purpose of providing financial support for legal assistance in non-criminal pro-

ceedings or matters to persons financially unable to afford legal assistance. Section 1007(b)(1) of the Act restricts the use of Corporation funds in criminal proceedings.

Pursuant to Section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning restrictions on legal assistance with respect to criminal proceedings. Public comment will be received by the Corporation at its headquarters office, Suite 700, 733 15th Street, NW., Washington, D.C. 20005 on or before July 12, 1976. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comments received pursuant to this notice.

Part 1613 is added in proposed form as set forth below:

PART 1613—RESTRICTIONS ON LEGAL ASSISTANCE WITH RESPECT TO CRIMINAL PROCEEDINGS

Sec.
1613.1 Purpose.
1613.2 Definition.
1613.3 Prohibition.
1613.4 Authorized representation.

AUTHORITY: Section 1007(b)(1); 42 U.S.C. 2996f(b)(1).

§ 1613.1 Purpose.

This Part is designed to insure that Corporation funds will not be used to provide legal assistance with respect to criminal proceedings unless such assistance is required as part of an attorney's responsibilities as a member of the Bar.

§ 1613.2 Definition.

"Criminal proceeding" means the adversary judicial process initiated by a formal complaint, information, or indictment charging a person with an offense punishable by death, imprisonment, or a jail sentence, but does not include a misdemeanor or lesser offense tried in an Indian tribal court.

§ 1613.3 Prohibition.

Corporation funds shall not be used to provide legal assistance with respect to a criminal proceeding, unless authorized by § 1613.4.

§ 1613.4 Authorized representation.

Legal assistance may be provided with respect to a criminal proceeding

(a) Pursuant to a court appointment made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, if authorized by the recipient after a determination that it is consistent with the recipient's primary responsibility to provide legal assistance to eligible clients in civil matters; or

(b) When professional responsibility requires continued representation of a juvenile pursuant to § 1614.6.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc.76-16965 Filed 6-10-76;8:45 am]

[45 CFR Part 1614]

RESTRICTIONS ON LEGAL ASSISTANCE TO JUVENILES

The Legal Services Corporation ("the Corporation") was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l* ("the Act"), for the purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance. Section 1007(b)(4) of the Act restricts the use of Corporation funds in the representation of juveniles.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning restrictions on legal assistance to juveniles. Public comment will be received by the Corporation at its headquarters office, Suite 700, 733 15th Street, NW., Washington, D.C. 20005 on or before July 12, 1976. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comments received pursuant to this notice.

Part 1614 is added in proposed form as set forth below:

PART 1614—RESTRICTIONS ON LEGAL ASSISTANCE TO JUVENILES

Sec.
1614.1 Purpose.
1614.2 Definitions.
1614.3 Restrictions.
1614.4 Request of a parent, guardian, or court.
1614.5 Representation without request of a parent, guardian, or court.
1614.6 Continuity of representation.

AUTHORITY: Section 1007(b)(4); 42 U.S.C. 2996f(b)(4).

§ 1614.1 Purpose.

This part is designed to prevent improper interference in parent-child relationships, while permitting legal assistance when it is necessary to protect essential rights of a juvenile.

§ 1614.2 Definitions.

As used in this part,

(a) "Guardian" means a person or institution lawfully appointed to protect the interests of a juvenile.

(b) "Institution" means any facility, public or private, providing a juvenile with shelter, care, education or other services.

(c) "Juvenile" means any person less than 18 years of age who is not emancipated under applicable law.

§ 1614.3 Restrictions.

(a) Corporation funds shall not be used to provide legal assistance to a juvenile, unless authorized by this part.

(b) Legal assistance shall not be provided in criminal proceedings, as defined in § 1613.2, unless required as part of an attorney's professional responsibilities, as provided for in § 1613.4 or § 1614.6.

(c) Legal assistance may be provided with respect to a case, matter, or proceeding in which a juvenile has a legal right to appointed counsel:

(1) Pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction; or

(2) At the request of a court if reasonable compensation is provided to the recipient furnishing assistance; or

(3) At the request of the juvenile, or a parent or guardian of the juvenile, if no other counsel can be obtained.

§ 1614.4 Request of a parent, guardian, or court.

Subject to § 1614.3, legal assistance may be provided to a juvenile

(a) When the written request of a parent or guardian of the juvenile is received; or

(b) At the request of an official or agent of a court of competent jurisdiction.

§ 1614.5 Representation without request of a parent, guardian, or court.

Subject to § 1614.3, legal assistance may be provided to a juvenile without a request from a parent, guardian, or court in

(a) Cases, proceedings, or matters

(1) Involving child abuse or neglect;

(2) To determine legal custody or guardianship of a juvenile;

(3) In which a court has jurisdiction by reason of a juvenile's alleged need for supervision and control, including but not limited to proceedings formally designed for persons in need of supervision (PINS) under state law; or

(4) Involving the initiation, continuation, or conditions of institutionalization of a juvenile; and

(b) When no judicial action is commenced against the parent or non-institutional guardian of the juvenile, legal assistance may be provided

(1) To secure or prevent the loss of benefits or services, or

(2) To prevent the imposition of services against the will of the juvenile.

§ 1614.6 Continuity of representation.

If a criminal proceeding, as defined in § 1613.2, arises out of a case, proceeding, or matter with respect to which a juvenile has received assistance authorized by this Part, an attorney should make a good faith effort, consistent with professional responsibility, to obtain approval of the court to withdraw from representation in the criminal proceed-

ing, but may continue to provide representation unless relieved by the court.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc.76-16966 Filed 6-10-76;8:45 am]

[45 CFR Part 1615]

RESTRICTIONS ON ACTIONS CHALLENGING CRIMINAL CONVICTIONS

The Legal Services Corporation ("the Corporation") was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l* ("the Act"), for the purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance. Section 1007(b)(1) of the Act restricts the use of Corporation funds in civil actions challenging criminal convictions.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning restrictions on actions challenging criminal convictions. Public comment will be received by the Corporation at its headquarters office, Suite 700, 733 15th Street, NW., Washington, D.C. 20005 on or before July 12, 1976. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comments received pursuant to this notice.

Part 1615 is added in proposed form as set forth below:

PART 1615—RESTRICTIONS ON ACTIONS CHALLENGING CRIMINAL CONVICTIONS

Sec.
1615.1 Purpose.
1615.2 Prohibition.
1615.3 Application of this part.

AUTHORITY: Section 1007(b)(1); 42 U.S.C. 2996f(b)(1).

§ 1615.1 Purpose.

This part prohibits the provision of legal assistance in certain actions brought to challenge criminal convictions.

§ 1615.2 Prohibition.

Except as authorized by § 1615.3, no Corporation funds shall be uesd to provide legal assistance in an action challenging the validity of a criminal conviction, if the action

(a) Is brought against an officer of a court, a law enforcement official, or a public officer who has custody of a convicted person; and

(b) Alleges that the conviction is invalid because of any misfeasance or nonfeasance.

§ 1615.3 Application of this part.

This part does not prohibit legal assistance

(a) To challenge a conviction resulting from a criminal proceeding in which the defendant received representation from the recipient pursuant to §§ 1613.4 and 1614.6; or

(b) Pursuant to a court appointment made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, if authorized by the recipient after a determination that it is consistent with the primary responsibility of the recipient to provide legal assistance to eligible clients in civil matters.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc.76-16967 Filed 6-10-76;8:45 am]

[45 CFR Part 1616]

ATTORNEY HIRING

The Legal Services Corporation ("the Corporation") was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l* ("the Act"), for the purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance. Section 1007(a)(8) of the Act provides that the Corporation shall ensure that recipients solicit recommendations of the local bar in filling staff attorney positions, giving preference to qualified local residents; section 1006(b)(6) requires the Corporation to provide, to the extent feasible, in areas where a language other than English is the principal language of significant numbers of eligible clients, that such language is used in the provision of legal assistance to those clients; and section 1006(b)(4) limits compensation to attorneys admitted or authorized to practice law or to provide legal assistance in the jurisdiction where such assistance is provided.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning attorney hiring. Public comment will be received by the Corporation at its headquarters office, Suite 700, 733 15th Street, NW., Washington, D.C. 20005 on or before July 12, 1976. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comments received pursuant to this notice.

Part 1616 is added in proposed form as set forth below:

PART 1616—ATTORNEY HIRING

Sec.
1616.1 Purpose.
1616.2 Definition.
1616.3 Qualifications.
1616.4 Recommendations.
1616.5 Preference to local applicants.
1616.6 Equal employment opportunity.

AUTHORITY: Sections 1007(a)(8); 1006(b)(6); 1006(b)(4) (42 U.S.C. 2996f(a)(8); 2996e(b)(6); 2996e(b)(4)).

§ 1616.1 Purpose.

This part is designed to promote a cooperative relationship between a recipient and the local Bar and community, and to insure that a recipient will choose the most highly qualified attorneys for its staff.

§ 1616.2 Definition.

"Community", as used in this part, means the geographical area most closely corresponding to the area served by a recipient.

§ 1616.3 Qualifications.

A recipient shall establish qualifications for individual positions for attorneys providing legal assistance under the Act, that may include, among other relevant factors:

(a) Academic training and performance;

(b) The nature and extent of prior legal experience;

(c) Knowledge and understanding of:

(1) The legal problems of the poor, and

(2) The provision of legal services to the poor;

(d) Prior working experience in the client community, or in other programs to aid the poor;

(e) Ability to communicate with persons in the client community, including, in areas where significant numbers of eligible clients speak a language other than English as their principal language, ability to speak that language; and

(f) Cultural similarity with the client community.

§ 1616.4 Recommendations.

(a) Before filling an attorney position, a recipient shall notify the organized Bar in the Community of the existence of a vacancy, and seek recommendations for attorneys who meet the qualifications established for the position.

(b) A recipient shall similarly notify and seek recommendations from other organizations, deemed appropriate by the recipient, that have knowledge of the legal needs of persons in the community unable to afford legal assistance.

§ 1616.5 Preference to local applicants.

When equally qualified applicants are under consideration for an attorney position, a recipient shall give preference to an applicant residing in the community to be served.

§ 1616.6 Equal employment opportunity.

A recipient shall adopt employment qualifications, procedures, and policies that meet the requirements of applicable laws prohibiting discrimination in employment, and shall take affirmative ac-

tion to insure equal employment opportunity.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc.76-16968 Filed 6-10-76;8:45 am]

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2602]

PREMIUM PAYMENT AND DECLARATION

Notice of Proposed Rulemaking

CROSS REFERENCE

For a document on the above subject, see FR Doc. 76-16803, appearing at page 23212, in the issue for Wednesday, June 9, 1976.

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 120]

BUSINESS LOAN POLICY

Proposed Amendment To Clarify "Media" Policy

Section 120.2(d)(4) of SBA's Regulations (13 CFR 120.2(d)(4)) sets forth SBA's policy that small businesses distributing ideas, opinions or similar communications to the general public (opinion molders) are generally ineligible for loan assistance.

SBA proposes to amend this section to clarify the scope of this policy and identify existing exceptions. This amendment makes it possible for pospective loan applicants to determine whether their businesses would be eligible for SBA loan assistance.

Interested persons are invited to make written comments on this proposed amendment. All comments should be addressed to John T. Wettach, Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Comments received on or before July 12, 1976 will be considered before this amendment is republished in final form.

(72 Stat. 387, as amended, 15 U.S.C. 636, sec. 5, 72 Stat. 385, 15 U.S.C. 634.)

It is proposed to amend § 120.2(d)(4) as follows:

§ 120.2 Business Loans and Guarantees.

Basic principles governing the granting and denial of applications for financial assistance:

* * * * *

(d) Financial assistance will not be granted by SBA:

* * * * *

(4) If the applicant is engaged in the creation, origination, expression, dissemination, propagation or distribution of ideas, values, thoughts, opinions or similar intellectual property, regardless of medium, form, or content. Financial assistance to such applicants is barred in order to avoid Government interference, or the appearance thereof, with the constitutionally protected freedoms of speech and press. *Provided, however,* That nothing herein shall preclude finance to any otherwise eligible applicant engaged in one or more of the following activities:

(i) Printing: A firm solely engaged in commercial or job printing, if there is no common ownership with any concern ineligible under this subparagraph (4) and the printer has no direct financial interest in the commercial success of the material so produced.

(ii) Publishing, etc.: Publishers of shoppers' newspapers or circulars consisting of advertising material only, without editorial, narrative or filler material. All other publishers, including so-called "vanity" publishers, as well as producers, importers, exporters or distributors of communications, including newspapers, magazines, books, greeting cards, sheet music, pictures, posters, film, tape, live broadcasts, recordings or reproductions of sight, sound or musical programs or products, or theatrical productions, are ineligible. For an exception to the foregoing rule, see paragraph (d)(v) of this section.

(iii) Advertising and technical material: Firms producing advertisements and promotional material for a client's goods or services, or of technical or instructional material relating to such goods or services.

(iv) Reproduction: Firms providing motion picture, videotape, sound recording or theatrical technical production facilities, or the technical reproduction of motion picture, videotape or sound recordings without editorial or artistic participation therein, without a direct interest in the commercial success of material so produced, and without common ownership between the concern providing such services and the concern interested in such success.

(v) Cable TV: Cable TV operations only where operators are solely engaged in the passive and contemporaneous retransmission of programs originating elsewhere, with no capacity to originate live or taped programs, whether or not such capacity is required by law or any governmental agency.

(vi) Education: Vocational, technical and other nonacademic schools which do not also teach academic subjects; and nursery and pregrade schools if they are not primarily engaged in teaching academic subjects.

(vii) Distributors of books, etc. General merchandise stores also selling books, newspapers, magazines, records, etc., and general book or music (record) stores. Specialty stores primarily selling products that promote or advocate ideas, including ideological, political or philosophical viewpoints, and specialized delivery, distribution or transportation concerns limited to the distribution of ineligible material (such as books, newspapers, etc.), are ineligible.

* * * * *

Dated: June 5, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-16969 Filed 6-10-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN FASTENERS FROM JAPAN

Receipt of Countervailing Duty Petition and Initiation of Investigation

A petition in satisfactory form was received on April 21, 1976, alleging that payments or bestowals, conferred by the Government of Japan upon the manufacture, production or exportation of nuts, bolts, and cap screws having shanks or threads over 0.24 inch in diameter, of iron or steel, from Japan constitute the payment of bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to section 303(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1303 (a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of the receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final decision must be issued with 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than October 21, 1976, as to whether or not the alleged payments or bestowals conferred by the Government of Japan upon the manufacture, production, or exportation of the above described merchandise constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than April 21, 1977.

This notice is published pursuant to section 303(a)(3), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

VERNON D. ACREE,
Commissioner of Customs.

Approved: June 3, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-16992 Filed 6-10-76;8:45 am]

ROUND HEAD STEEL DRUM PLUGS FROM JAPAN

Antidumping Proceeding Notice

On May 5, 1976, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Allen-Stevens Drum Accessories Corporation of Somerset, New Jersey, indicating a possibility that round head steel drum plugs from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

For purposes of this notice, the term "round head steel drum plugs" includes such items whether or not plated or coated with zinc or other nonprecious metal, and whether or not furnished with gaskets.

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States. Available information indicates that there may have been some price depression and loss of profitability to the petitioner as a result of alleged less than fair value imports from Japan.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of price information received from all sources is as follows:

The information received tends to indicate that the price of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-16993 Filed 6-10-76;8:45 am]

Internal Revenue Service

[Order No. 59 (Rev. 7)]

CASHIERS FOR INVESTIGATIVE PURPOSES

Delegation Order

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 152 (Revised), dated October 15, 1959, there is hereby delegated to the officials named below the authority to determine the need for imprest funds for investigative purposes, and the locations at which such imprest funds are required; to request the designation of officers and employees to serve as cashiers with authority to hold cash for investigative purposes; to request the revocation of such designations; and to request the amount of advance to be carried by each such cashier:

Fiscal Management Officer
Assistant Fiscal Management Officer
Chief, Accounting Branch, Fiscal Management Division
Chief, Fiscal Section, Fiscal Management Division
Regional Commissioners
Assistant Regional Commissioners (Administration)
Chiefs, Fiscal Management Branches
Chiefs, Fiscal Sections, Fiscal Management Branches

The authority delegated herein may not be redelegated.

This Order supersedes Delegation Order No. 59 (Rev. 6), issued January 30, 1976.

Issued June 9, 1976.

Effective June 24, 1976.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.76-17092 Filed 6-10-76;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

ALARM COMMITTEE OF THE PRIVATE SECURITY ADVISORY COUNCIL

Rescheduled Meeting

Notice is hereby given of a change in the dates of a meeting previously announced in the Thursday, June 3, 1976, issue of the FEDERAL REGISTER.

The Alarm Committee of LEAA's Privvate Security Advisory Council (PSAC) will meet Tuesday and Wednesday, June 29 & 30, 1976, instead of June 24 & 25, as previously announced. The meeting will convene at 9 a.m., June 29 at the Imperial House, 4343 Everhard Road, in Canton, Ohio. The meeting is scheduled to adjourn by noon, June 30.

Topics under discussion will be: (1) Communication problems of the alarm industry; and (2) requirements of a proposed study of the false alarm problem. The meeting will be open to the public.

For further information, please contact: Mr. Irving Slott, Director, Program Evaluation and Monitoring Staff, Office of Regional Operations, LEAA, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531. 202/376-3830.

JAY A. BROZOST,
Attorney-Adviser,
Office of General Counsel.

[FR Doc.76-16944 Filed 6-10-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

DRAFT ENVIRONMENTAL STATEMENT

Public Meetings

The Bonneville Power Administration hereby gives notice of a series of public meetings to be held to discuss BPA's Fiscal Year 1978 Draft Environmental Statement. The purpose of the meetings is twofold: to present to the public BPA's proposed Fiscal Year 1978 Program, and to elicit comments from the public with respect to the environmental impact of EPA's proposed program. The dates, hours, and places of these meetings are as follows: July 19, 1976, 8 p.m., Ellensburg City Hall, Ellensburg, Washington; July 21, 1976, 11 a.m., Friday Harbor Grange Hall, Friday Harbor, Washington; July 22, 1976, 7:30 p.m., Lincoln First Federal Savings and Loan, Meeting Room, Ritzville, Washington.

For those who cannot attend any of these meetings, written comments will be accepted until the end of the close of comment period, which is July 30, 1976.

Additional or clarifying information may be obtained by writing or calling the Environmental Office, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208; (503) 234-3361, Ext. 5136.

Dated: June 9, 1976.

WILLIAM H. CLAGETT,
Assistant Administrator.

[FR Doc.76-17156 Filed 6-10-76;8:45 am]

Bureau of Land Management

AREA MANAGERS, NEW MEXICO

Redelegation of Authority

In accordance with Bureau Order No. 701 of July 23, 1964 (F.R. Doc. 64-7492: 29 FR 10526), as amended, the Area Managers of the Farmington, Rio Peurco, and Rio Grande-Las Vegas Resource Areas of the Albuquerque District, New Mexico, are authorized to perform in their respective areas of responsibility, in accordance with existing policies and regulations of this Department and under the direct supervision of the district manager, the functions listed below, subject to the limitation set forth in Bureau Order No. 701, Part III, as amended (including redelegations made by the State Director in accordance with Part I, Section 1.1(a), together with any limitations specified below).

(1) Section 3.9(g): Material other than forest products not exceeding $500.00 in value.

The district manager may at any time temporarily reserve, restrict or withhold any portion of the above delegated authority through the use of Form 1213-1, District Office Authority and Responsibility Guides.

This redelegation will become effective June 1, 1976.

R. KEITH MILLER,
District Manager.

Approved: June 1, 1976.
ARTHUR W. ZIMMERMAN,
State Director.

[FR Doc.76-16962 Filed 6-10-76;8:45 am]

[NM 28225]

NEW MEXICO

Application

JUNE 3, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 26 E.,
Sec. 1, lot 8.
T. 21 S., R. 27 E.,
Sec. 6, lots 4 and 5.

This pipeline will convey natural gas across .395 of a mile of natural resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-16946 Filed 6-10-76;8:45 am]

Geological Survey

GULF OF MEXICO

Revision of OCS Order No. 6 Completion and Workover Operations

On December 11, 1974, notice was given of the intention of the Geological Survey to develop a new Outer Continental Shelf (OCS) Order to provide requirements for oil and gas well completion and workover procedures for the Gulf of Mexico Area. On January 6, 1975, notice was given of the intention to incorporate such requirements in a revision of existing OCS Order No. 6 for both the Pacific and Gulf of Mexico Areas.

Notice is now given that the comments on the intention to revise OCS Order No. 6 have been reviewed and a draft revised OCS Order No. 6, Gulf of Mexico Area, is proposed below. The proposed Order includes requirements for initial completion operations and the various workover operations which may occur during the remaining well life.

Comments are solicited from the general public and interested parties on the content of the proposed OCS Order No. 6, Gulf of Mexico Area. Such comments should be forwarded to the Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 600, Reston, Virginia 22092, to arrive no later than August 3, 1976.

W. A. RADLINSKI,
Acting Director.

OCS ORDER NO. 6

Effective (Date)

COMPLETION AND WORKOVER OPERATIONS

This Order is established pursuant to the authority prescribed in 30 CFR 250.11. All completion and workover operations on oil and gas wells shall be carried out in accordance with 30 CFR 250.36, 250.92, and the provisions of this Order.

Completion operations shall be considered as the initial effort to test and to commence producing a new well drilled according to a plan under 30 CFR 250.34. Workover operations follow the initial completion effort and the first sustained production period. All such operations seeking to change the condition of a well shall be responsive to this Order. Completion operations (not previously approved) and workover operations shall be approved under 30 CFR 250.36, using the appropriate application forms required in 250.91 or 250.92. Such operations may include, but shall not be limited to, deepening, plugging back, repairing, acidizing or other stimulation work, perforating, sidetracking, and squeeze cementing.

Multiple completion and workover operations require approval through submittal of Form 9-331, accompanied by a well schematic and the proposed blowout-preventer arrangement. Certain wireline operations are no more than service work and therefore do not require approval by the District Supervisor. However, all such operations shall comply with the procedures following.

Blowout preventers and other surface pressure-control equipment shall be rated at a working pressure which is at least as high as the maximum anticipated pressure to be encountered. The maximum anticipated pressure shall be determined from reservoir data in the area and from the gradient of the reservoir fluids over the well depth.

Blowout preventers and related well-control equipment shall be installed, used, and tested in a manner necessary to prevent blowouts.

An operable back-pressure valve and safety valve to fit each drill pipe or tubing workstring shall be available for use on the rig floor and shall have a pressure rating exceeding the anticipated maximum well pressure.

1. *Conventional Rig Operations.* Conventional rig operations imply that the wellhead assembly is not connected and that surface control of the well in the event of a blowout depends entirely on the blowout preventers. Although not always the case, as when the wellhead assembly is installed above the blowout preventers for production tests, the blowout preventers shall still be considered as the primary control element for purposes of this Order.

A. *Blowout-Preventer Requirements.* Before working below the intermediate casing depth, set in accordance with OCS Order No. 2, Gulf of Mexico Area, or at any depth where the shut-in tubing pressure at the surface may be in excess of 5,000 psi, the blowout-preventer equipment shall include a minimum of: (1) four remotely controlled, hydraulically operated blowout preventers with a working pressure which exceeds the maximum anticipated surface pressure, including at least two preventers equipped with pipe rams, one with blind rams, and one annular type; (2) a drilling spool with side outlets, if side outlets are not provided in the blowout-preventer body; (3) a choke line and manifold; (4) a kill line separate from the choke line; and (5) a fill-up line.

For lesser depths and/or pressures than the above, the blowout-prevention equipment shall include at least three remotely controlled, hydraulically operated blowout preventers with a working pressure which exceeds the maximum anticipated surface pressure, one being equipped with pipe rams, another with blind rams, and the third with an annular type.

An operable remote blowout-preventer control station shall be provided in addition to the one on the rig floor.

(1) *Pressure Testing.* The ram-type blowout preventers and related-control equipment shall be pressure tested to the rated working pressure of the stack assembly, or to 70.0% of the casing minimum internal yield pressure (as indicated in API Bul. 5C2), whichever is less: (1) when installed; (2) not less than once each week using each of the control stations alternately; and (3) following repairs that reequire disconnecting a pressure seal in the assembly. The annular-type preventer shall be pressure-tested to 70.0% of the above pressure limits.

(2) *Actuation.* The ram-type blowout preventers shall be actuated to test proper functioning at least once each day or as is consistent with safe operating procedures. The annular-type blowout preventer shall be actuated on the workstring in use once each day. Accumulators and/or pumps shall maintain a pressure capacity reserve at all times to provide for repeated operations of hydraulic preventers.

(3) *Drills.* A blowout-prevention drill for each workover crew shall be conducted at the beginning of workover operations and not less than once every seven days thereafter.

(4) *Records.* All tests and drills shall be recorded in the log.

B. *Well-Control Fluid.* The characteristics and use of drilling mud or other well-control fluid shall be such as are necessary to prevent the blowout of any well. Quantities of such materials sufficent to insure well control shall be maintained readily accessible for use at all times. The type, weight, and volume of fluid to be used, as well as the quantities of dry materials, shall be submitted with the competition or workover application. The type and weight of fluid to be left in the hubing-casing annulus shall also be submitted.

(1) *Well Control During Trips.* A back-pressure valve shall be installed in each tubing string before removing the wellhead and installing blowout preventers.

Before retrieving the well tubing from the well bore, each tubing string and the casing annulus shall be circulated with drilling mud or other well-control fluid preliminary to or concurrently with the release of each packer or as each tubing string is released from a packer.

If circulation at or near packer depth is not possible, a shallow point of circulation may be used provided a well-control fluid sufficiently heavy to overbalance formation pressures is circulated. Fill-up operations shall be monitored during all trips out of the hole. The hole shall be filled before the fluid level drops as much as 200 feet by accurately measured volumes of the well-control fluid. The number of stands of the workstring that may be pulled between the times of filling the hole shall be calculated and posted. The number of barrels and pump strokes required ot fill the hole for the designated number of workstring stands shall be posted.

C. *Tubing and Wellhead Requirements.* A conventional completion shall be considered as one with one or more tubing strings inside a production string of casing. A tubingless completion shall be considered as one with one or more tubing strings cemented in the open hole.

All tubing strings, whether for a conventional or a tubingless completion, shall have a rated minimum internal yield pressure (as indicated in API Bul. 5C2) at least 20.0% higher than the shut-in pressures from reservoirs flowing through such strings. All tubing strings shall be tested accordingly to such maximum anticipated pressures or higher before commencing production. Only new tubing shall be run in wells where corrosive conditions exist. Such tubing may be plastic coated internally, but each installation must meet the manufacturer's specifications as to temperature and well fluid characteristics.

(1) *Single and Multiple Completions.* Information shall be submitted on, or enclosed to, Form 9–331, showing the top and bottom of all zones proposed for completion or alternate completion, including a partial electric log and a diagrammatic sketch showing such zones and equipment to be used.

The casing annulus and tubing strings shall be monitored throughout completion and/or workover operations to detect pressure changes and fluid communication between strings and to prevent or minimize equipment damage due to burst, collapse, and tensional forces.

When communications occurs between zones approved for multiple completion, the lessee shall immediately repair and separate the zones as approved by the District Supervisor.

(2) *Tubingless Completions.* All tubing strings in a multiple-completed well shall be run to the same depth below the deepest producible zone.

The tubing string(s) shall be new pipe and shall be cemented with a sufficient volume of cement to extend a minimum of 500 feet above the uppermost producible zone.

A temperature or cement bond log shall be run in all wells completed without tubing where lost circulation or other unusual circumstances occur during the coment operations.

Information shall be submitted on, or enclosed to, Form 9–331, showing the top and bottom of all zones proposed for completion or alternate completion, including a partial electric log and a diagrammatic sketch showing such zones and equipment to be used.

(3) *Wellhead Equipment.* All completed wells shall be equipped with casingheads or tubing heads, wellhead fittings, valves, and connections with a rated working pressure equal to or greater than the surface shut-in pressure of the well. Connections and valves shall be designed and installed to permit fluid to be pumped between any two strings of casing. Two master valves (the top valve may be a surface safety valve) shall be installed on the tubing in all wells completed after the effective date of this Order. All wellhead equipment shall be assembled and tested, prior to installation, by a fluid pressure which shall be equal to the rated test pressure of the equipment.

D. *Zone Separation.* Multiple completions in the same well bore require zone separation either through packers or cement or a combination of the two. OCS Order No. 11, Gulf of Mexico Area, provides for the testing for zone separation and the reporting procedure.

2. *Through-Tubing Rig Operations.* Through-tubing rig operations shall be considered as those completion or workover activities carried out through the use of a small-tubing workstring (usualy 1¼" I.D. or smaller) without removal of the wellhead. The manifolding for well circulation shall include the use of the wellhead wing line (or the choke and fill-up lines with a conventional rig on location.) Both small-tubing and coiled-tubing rigs and, in some cases, the snubbing unit perform as through-tubing operations and therefore shall comply with the requirements as follows.

A. *Small-Tubing Rigs.* The small-tubing rig shall be considered as one which works through the wellhead and well tubing with jointed pipe.

The wellhead shall have a work or swab valve or a blind ram-type blowout preventer mounted above the wing line to serve as a base for the blowout-preventer stack.

The blowout-preventer stack shall consist of two pipe-rams and a blind-ram preventer where the shut-in tubing pressure may be in excess of 5,000 psi. Otherwise, a pipe-ram and a blind ram preventer shall be considered sufficient.

The blowout preventers and the wellhead assembly down to the lower master valve shall be pressure tested to the rated working pressure of the stack or to 90.0% of the rated working pressure of the wellhead assembly, whichever is the less: (1) when installed; (2) at least once each week; and (3) following repairs that require disconnecting a pressure seal in the assembly. All such tests shall be recorded in the log.

The characteristics, use, and the quantities of the well-control fluid shall be proper and sufficient to prevent the blowout of any well. The well shall be maintained full of the well-control fluid within acceptable safety tolerances while making trips to assure a continuing overbalance toward the reservoir. When circulation is lost partially and the well will not stand reasonably full of fluid, a gel or a filtering fluid or other substance shall be placed across the perforations to regain circulation before retrieving the pipe.

When oil is used as the well fluid to maintain circulation or is found accumulated in the upper well section, a stripper rubber shall be used above the blowout-preventer assembly to avoid spillage overboard.

The work string shall be pressure tight. Proper cleaning, lubrication, and handling of the joints shall be standard procedure, as well as immersion of the total joint when not in use. Except for clean-out operations, the work string shall be pressure tested at the depth of usage.

B. *Coiled-tubing Rigs.* The coiled-tubing rig shall be considered as one which works through the wellhead and well tubing with spooled nonjointed pipe.

The wellhead shall have a work or swab valve or a blind ram-type blowout preventer mounted above the wing line to serve as a base for the blowout-preventer stack.

The blowout-preventer stack shall consist of the following, commencing from the bottom: two pipe-ram blowout preventers with one hydraulically operated, hydraulically operated two-way pipe slips, spool with connecting valve, pipe cutter, blind-ram blowout preventers, pipe stripper.

The blowout preventers and wellhead assembly down to the lower master valve shall be pressure tested to the rated working pressure of the stack or to 90.0% of the rated working pressure of the wellhead assembly, whichever is the less: (1) when installed; (2) at least once every seven days; and (3) following repairs that require disconnecting a pressure seal in the assembly. All such tests shall be recorded in the log.

The characteristics, use, and the quantities of the well-controlled fluid shall be proper and sufficient to prevent the blowout of any well. The well shall be maintained full of the well-control fluid within acceptable safety tolerances while making trips to assure a continuing overbalance toward the reservoir. When circulation is lost partially and the well will not stand reasonably full of fluid, a gel or a filtering fluid or other substance shall be placed across the perforations to regain circulation before retrieving the pipe.

The work string shall be pressure tight and precautions shall be taken to avoid breakage. A stripper rubber shall be used in the blowout preventer assembly to avoid spillage. The proper tools to fish and repair the work string shall be on the unit.

C. *Snubbing Unit.* A snubbing unit shall be considered as one which works with jointed small tubing as necessary under pressure conditions, either through the wellhead and well tubing of a completed well or through the blowout preventers and well bore of a conventional operation. Whether pressure conditions are obvious or not, the snubbing unit shall be equipped and set up for pressure operations to the maximum of the reservoir potential.

With the wellhead installed, a work or swab valve or a blind ram-type blowout preventer shall be mounted above the wing line to serve as a base for the blowout-preventer stack.

The blowout-preventer stack shall consist of the following, commencing from the bottom: two pipe-ram blowout preventers hydraulically operated, blind-ram blowout preventers, pipe stripper, snubber slips and assembly (hydraulically operated).

The blowout preventers and wellhead assembly down to the lower master valve shall be pressure tested to the rated working pressure of the stack or to 90.0% of the rated working pressure of the wellhead assembly, whichever is the lesser: (1) when installed; (2) at least once every seven days; and (3) following repairs that require disconnecting a pressure seal in the assembly. All such tests shall be recorded in the log.

The work string shall be pressure tight, and a back-pressure valve shall be installed in the bottom portion. Proper cleaning, lubrication, and handling of the joints shall be standard procedure as well as immersion of the total joint when not in use.

The stripper rubber, the blowout preventers, and the snubbing slips shall be maintained and operated to continuously control the well. For well pressures above 3,000 psi, the ram-type blowout preventers shall be used for the stripping operation.

Once the well pressure is overcome through circulation of a heavy well-control fluid and the well is considered safe, the snubbing unit reverts to a small-tubing unit for purposes of this Order.

3. *Wireline Operations.* Wireline operations include all downhole services performed through the use of a lubricator assembly, a wireline unit, and a wireline. The wireline may be either solid or braided for mechanical service. Well control must be maintained. Wells with pressure shall not be allowed to flow through the wireline packoff any more than is necessary to permit free movement of the wireline. Any fluid flow allowed shall be contained and piped to a tank. Lubricators shall be pressure-tested at least annually to their rated working pressure, and the test date shall be indicated by an attached metal banding. When the wireline obstructs the wellhead valves and operations cannot continue for some reason, the well shall be monitored until operations commence. Any work performed at night under pressure, including swabbing, shall require preliminary approval from the District Supervisor.

A. *Solid- and Braided-line Services.* Operations such as paraffin cutting, setting subsurface valves, bailing sand, calipering, and running bottom-hole pressure surveys shall be considered as service operations performed with a solid or, for some jobs, with a small braided wireline. When the well condition is changed, as when exposing new perforations, a completion or workover application shall be submitted. Service operations may be performed with the wellhead in place or, in some cases, with a wellhead or other manifold assembly mounted above a blowout-preventer stack.

The wellhead shall have a swab or work valve above the wing line to serve as a base for the lubricator equipment. Above the swab valve, the equipment shall consist of a wireline blowout preventer, a lubricator, and a pack-off head.

The lubricator shall be sufficiently long to house the wireline tools above the swab valve. A bleed valve with piping shall be installed in the lower portion of the lubricator so that well pressures can be bled down and the fluids contained. The wireline packoff shall be dismantled and checked daily to assure a proper seal under pressure conditions.

The lubricator assembly shall have a rated working pressure at least equal to the maximum anticipated surface pressure, or 3,000 psi, whichever is greater. It shall be pressure tested monthly to the higher pressure when in usage.

The lubricator assembly for special high-pressure operations (above 4,000 psi) shall be pressure tested biweekly to the maximum anticipated surface pressure when in usage. For such operations, the blowout preventer shall be equipped with remote controls.

B. *Conductor Line Services.* Perforating and logging shall be considered as conductor line services. The provisions of 3.A above shall apply to conductor-line operations with the wellhead installed. The provisions shall apply also to solid- or braided-line operations using battery-powered instruments through the wellhead.

When perforating without the wellhead installed, the wellbore shall contain a filtering fluid sufficiently heavy to overcome the reservoir pressure. A lubricator or shooting nipple assembly shall be installed above the blowout-preventer stack with sufficient length to house the gun assembly. The lubricator assembly shall be pressure tested to at least 1,000 psi monthly when in use.

All perforating systems shall include proper grounding and a continuity determination of the grounding circuitry. Such a determination shall be made prior to each separate run of the gun assembly.

C. *Swabbing Services.* The swabbing of wells to initiate reservoir flow shall be performed with a complete lubricator assembly including a wireline blowout preventer and wireline pack-off. Whether carried out with a small or large braided line, the provisions of 3.A above shall apply.

4. *Special Operations.* Completion and workover jobs comprise numerous special operations which will vary with the well problem and the well conditions. Such operations may include the many stimulation techniques (acidizing, hydraulic fracturing, explosives, etc.), cementing and cement repair work, drill-stem and production testing and wireline sampling, the full complement of subseacompleted well activities, and the complications of tubing and casing repair, sand control, and corrosion. Well safety and pollution prevention shall be maintained throughout each operation under the guidelines following, if not covered previously.

A. *Pump-down Tools.* The pump-down technique whether for a conventional, a tubingless, or a subsea wellhead type of completion, requires a circulation means from the pump manifold to a well depth suitable for clean-out and recompletion operations. Both direct and indirect circulation shall be provided through the pump and flow line manifolding. The flow lines from the wellhead to the pump manifold shall have a pressure rating by API which is at least equal to the well tubing, or at least 20.0% in excess of the highest anticipated pumping pressure, whichever is less. A lubricator assembly with the necessary shut-off valves, bleed valves, and pump connections to permit safe installation and removal of the pumpdown tools shall be connected to the flowlines downstream of the pump manifold.

The lubricator shall be sufficiently long to house the entire length of tools in use. Any polluting fluids bled from the lubricator shall be piped to a tank.

B. *Pumping-type jobs.* The flowline from the pumping unit to the well connection shall be pressure tested to the highest anticipated pump pressure, or higher, preliminary to the well pumping operation. Appropriate high-pressure shut-off and bleed valves shall be installed as a part of the pump manifolding to permit disconnecting the pump if needed. Well fluids returning from the well during pumping operations shall be contained unless free of pollutants.

C. *Drill-stem Testing (DST).* The drill-stem test tools, test string, control head, and surface test equipment and lines shall be selected and utilized so as to safely manipulate the test string and control the pressures encountered during the testing operations. Casing pressure shall be monitored for communication throughout the DST operations. Flowline equipment shall be securely anchored to prevent excessive movement during testing operations. All surface control equipment shall have a pressure rating at least 40.0% higher than the maximum anticipated well pressure.

A cushion shall be utilized to minimize shock loads of a formation test, to reduce pressure differentials across the formation, and to avoid the possibility of collapse of the test string by the annulus fluid.

Drill stem test tools shall be opened or closed during daylight hours only.

All engines and electrical equipment shall be shut down or equipped to prevent accidental ignition during DST operations.

Following the drill-stem test, any produced fluids remaining in the well shall be circulated out and disposed of safely without polluting. During removal of the test string from the hole, the well shall be monitored for correct fill-up and well control actions taken, if necessary.

5. *Other Related Operations.*

A. *Hazardous or Toxic Materials.* All personnel engaged in the handling of hazardous materials shall be instructed in regard to the safe and proper methods of handling, storing, and utilizing flammable or explosive materials or fluids, including radioactive materials, fuels, chemicals, bottled gas, and associated equipment.

Toxic materials shall be handled in accordance with the instructions provided for the particular material. Well operations encountering hydrogen sulfide (H_2S) shall conform to the applicable provisions of GSS–OCS–1 "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," Febru-

ary 1976. A degasser shall be used where circulated fluids contain gas. The entire shale shaker and mud pit area shall be well ventilated.

Fuels, chemicals, and other flammable fluids or materials shall be identified, stored, handled, and utilized in a manner necessary to prevent ignition from electrical circuits, welding and burning operations, facility operations, personnel smoking, refueling, chemical stimulation operations, or any other known potential means of ignition. Flammable fluids shall not be placed in tanks having open tops.

B. *Safety Meetings.* A safety meeting shall be held before operations commence and weekly thereafter until such operations are completed. Instructions at safety meetings shall provide guidance and information in regard to the safety aspects of the particular operations to be performed, possible hazards to be encountered, and general safety considerations with respect to personnel, equipment, and environment. Records of safety meetings, subject(s) of discussions, and attendance shall be maintained on the facility. The API Bulletin T-5, "Employee Motivation Programs for Safety and Prevention of Pollution in Offshore Operations," First Edition, September 1974, shall be used for reference.

C. *Crane Operations.* Cranes shall be designed, operated, and maintained in accordance with the provisions of API Specification 2C, "Specification for Offshore Cranes," February 1972, and API RP 2D, "Operation and Maintenance of Offshore Cranes," October 1972.

Records of inspection and maintenance shall be kept at the facility.

D. *Good Housekeeping and Workmanlike Operations.* The rig floor and adjoining areas shall be maintained free of debris, rubbish, and tools not in use. Debris and rubbish shall be collected and disposed of for pollution control. Special provisions shall be made to contain the oil muds in order to avoid pollution and to maintain a clean working area. Well fluids or well-control fluids containing pollutants shall be disposed of in accordance with OCS Order No. 7, Gulf of Mexico Area.

E. *Rigging Up or Down of Workover or Completion Equipment.* The movement of workover or completion rigs and related equipment onto and off an offshore facility, or from well to well, on the same platform, including rigging up and rigging down, shall be conducted during daylight hours only, unless otherwise approved by the District Supervisor. Those well heads, flowlines, and production and other equipment which could be damaged by moving operations shall be shut-in, bled down, shut down, or protected, as appropriate, prior to moving operations. A tubing plug or back-pressure valve shall be installed in each tubing string of all wells that are exposed to possible damage in moving operations. Activation of a surface-controlled subsurface safety valve will suffice as a tubing plug.

Where more than one well operation on the same platform is to be performed simultaneously with another, approval by the District Supervisor of an Operator's Contingency Plan for Simultaneous Operations as set forth in OCS Order No. 8, Gulf of Mexico Area, shall be required.

The well shall be continuously monitored during workover or completion operations and shall not be left unattended at any time unless shut-in with assurance of complete well control.

F. *Completion and Workover Structures.* Derricks, masts, substructures, and related equipment shall be selected, installed, utilized, and maintained with consideration given to the potential loads and conditions of loading that may be encountered by the operations, including setback, wind, pulling and running tubular goods and bottom hole equipment, fishing, drilling, and jarring operations.

Workover and completion rigs which are capable of tripping drill pipe or production tubing shall be equipped with an operable traveling block safety control device.

D. W. SOLANAS,
Oil and Gas Supervisor,
Gulf of Mexico Area.

Approved:

RUSSELL G. WAYLAND,
Chief, Conservation Division.

[FR Doc.76-16947 Filed 6-10-76;8:45 am]

National Park Service

PACIFIC NORTHWEST REGION

Use Limitations

On January 30, 1976, a notice was published in the FEDERAL REGISTER (41 FR 4536) pertaining to regulations of Public Use.

The purpose of this public notice is to list those areas within the Pacific Northwest Region which regulate public use by reservation, permit, or registration. Listed below are those areas which fall under this purview, the notice for Mount Rainer National Park having been previously published.

CRATERS OF THE MOON NATIONAL MONUMENT, IDAHO

A written permit is required for all persons camping overnight in the Craters of the Moon National Monument Wilderness Area and outside the perimeters of any designated and developed camping areas. Permits are available in person or by writing to the Superintendent, Craters of the Moon National Monument, Box 29, Arco, Idaho 83213.

MOUNT MCKINLEY NATIONAL PARK, ALASKA

A system for limiting public use in the backcountry is in effect in Mount McKinley National Park, Alaska. As part of this system, Backcountry Use Permits are required and may be obtained in person, at no cost, in the park at the Riley Creek Visitor Orientation Center, Eielson Visitor Center, Park Headquarters, and any ranger station. Complete information on public use limits and Backcountry Use Permits should be requested from the park superintendent prior to planning a trip. Backcountry reservations are not accepted. To avoid delay or disappointment, please write for more complete and precise information to Superintendent, Mount McKinley National Park, Box 9, McKinley Park, Alaska 99755.

NORTH CASCADES NATIONAL PARK SERVICE COMPLEX, WASHINGTON

Limits have been established on the maximum number of persons and, where appropriate, the number, type, and use of animals and/or the amount, size, and type of equipment permitted to enter, be brought into, or to remain in designated areas or facilities of the park's backcountry at one time. These limits are administered through a Backcountry Management Plan which requires that a permit be secured in advance of all overnight stays, within the backcountry. Permits may be obtained in person at park offices. For purposes of this notice, "Backcountry" includes all lands and facilities not readily accessible by motorized vehicles. More complete and precise information should be requested prior to trip planning to avoid delay or disappointment. This information is available by writing to the Superintendent, North Cascades National Park Service Complex, 311 State Street, Sedro Woolley, Washington 98284.

OLYMPIC NATIONAL PARK, WASHINGTON

Backcountry permits are required for each overnight hike. This permit may be obtained at the ranger station where the hike begins. At isolated trailheads, self-registration boxes are provided. Any persons desiring further information should write to the Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, Washington 98362, before planning a trip.

RUSSELL E. DICKENSON,
Regional Director,
Pacific Northwest Region.

[FR Doc.76-16989 Filed 6-10-76;8:45 am]

Office of the Secretary

DIRECTOR, GEOLOGICAL SURVEY

Delegation of Authority

This notice is published in accordance with the provisions of 5 U.S.C. 552(a)(1)(E). The delegation of authority to the Director, Geological Survey, was previously published in the FEDERAL REGISTER at 33 FR 5812. The delegation of authority to the Director contained in Chapter 4, Part 220 of the Department of the Interior Manual has been amended to include authority for the approval or prescription of agreements providing for cooperative or unit plans of development or operation under the Geothermal Steam Act of 1970.

The following material is a portion of the Departmental Manual, and the numbering system is that of the Manual.

PART 220—GEOLOGICAL SURVEY

CHAPTER 4—MINERAL AND GEOTHERMAL RESOURCES FUNCTIONS

220.4.1 *Delegation of Authority.*

A. *Functions relating to unit agreements.*

(1) *Onshore Lands.* The Director, Geological Survey, is delegated the authority vested in the Secretary of the Interior under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended (30 U.S.C., 181 et seq.), to approve agreements which provide for cooperative or unit plans of development or operation.

(2) *Outer Continental Shelf Lands.* The Director, Geological Survey, is delegated the authority of the Secretary of the Interior under section 5(a)(1) of the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462, 464; 43 U.S.C., sec. 1334(a)(1)), to approve unitization, cooperative, pooling,

and drilling agreements, and to require lessees to subscribe to and operate under such agreements for the development and operation of an area, field, or pool, or part thereof as the Director may determine to be practicable and necessary or advisable.

(3) *Geothermal Resources.* The Director, Geological Survey, is delegated the authority vested in the Secretary of the Interior under the Geothermal Steam Act of 1970 (84 Stat. 1566; 30 U.S.C. 1001–1025) to approve agreements which provide for cooperative or unit plans of development or operation and to require lessees to subcribe to and operate under agreements approved or prescribed by him which provide for cooperative or unit plans of development or operation.

B. *Functions relating to claimed discoveries of new oil or gas deposits.* The Director, Geological Survey, is authorized to act on applications for royalty benefits by reason of a claimed discovery of a new oil or gas deposit under the Act of August 8, 1946 (60 Stat. 950), and to determine whether a new oil or gas deposit has been discovered and the effective date of such discovery.

C. *Determination of productive limits of a producing oil or gas deposit.* The Director, Geological Survey, is authorized to determine under the Act of August 8, 1946 (60 Stat. 950) the productive limits of a producing oil or gas deposit, as such limits existed on August 8, 1946, on his own initiative or on application by a holder of an oil and gas lease or his operator.

D. *Approval of communitization or drilling agreements.* The Director, Geological Survey, is authorized to give final approval to communitization or drilling agreements submitted for approval in accordance with 43 CFR 3105.2.

E. *Suspension of operations and production.* The Director, Geological Survey, may act for the Secretary of the Interior in finally approving applications for suspension of operations or production or both, filed pursuant to 43 CFR 3103.3–8 or 3503.3–2 and in terminating suspensions of this kind which have been or may be granted.

F. *Oil and gas sales contracts.* The Director, Geological Survey, may act for the Secretary of the Interior in finally approving oil and gas sales contracts and agreements filed pursuant to 30 CFR Part 223.

G. *Definition of known geological structures of producing oil and gas fields.* The Director, Geological Survey, is authorized to determine the boundaries of the known geologic structures of producing oil and gas fields under the Act of February 25, 1920 (41 Stat. 437), as amended (30 U.S.C. 181 et seq.).

H. *Definition of known geothermal resources areas.* The Director, Geological Survey, is authorized to determine the boundaries of known geothermal resources areas under the Geothermal Steam Act of 1970 (84 Stat. 1566; 30 U.S.C. 1001–1025), and to publish notices of such determinations in the FEDERAL REGISTER.

Dated: June 2, 1976.

THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.76–16963 Filed 6–10–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Louisiana Grain Inspection Point

Statement of considerations. Cargill, Inc., has constructed a new export grain elevator in St. John the Baptist Parish, Louisiana. It is expected that this new elevator will require official grain inspection services on or about June 15, 1976, pursuant to the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) and the regulations thereunder (7 CFR Part 26).

Three firms have expressed interest in providing necessary inspection services. They are the Mississippi River Board of Trade Inc., the Destrehan Board of Trade, and the South Louisiana Grain Services, Inc.

The Mississippi River Board of Trade, Inc., is not presently an officially designated inspection agency under the U.S. Grain Standards Act and regulations thereunder.

The Destrehan Board of Trade has been providing official grain inspection services in the State of Louisiana since 1961.

The South Louisiana Grain Services, Inc., has been providing official grain inspection services in the State of Louisiana since 1963.

Based on available information, it has been determined that the South Louisiana Grain Services, Inc., shall provide the necessary grain inspection services at the new Cargill elevator on an interim basis. Therefore, according to the regulations under the U.S. Grain Standards Act, the assignment of the South Louisiana Grain Services, Inc., is hereby amended to add the new Cargill elevator as a designated inspection point on an interim basis. This interim designation will be effective June 15, 1976, and will continue until an agency can be formally designated in accordance with the regulations under the U.S. Grain Standards Act.

It has been determined that the new Cargill elevator will require official grain inspection services on or about June 15, 1976. Therefore, under administrative procedures provisions of 5 U.S.C. 553, it is found that good cause exists to implement this interim designation without public notice and participation in rulemaking on such interim designation and that good cause is found for making the interim designation of the South Louisiana Grain Services, Inc., effective less than 30 days after publication in the FEDERAL REGISTER.

Any interested persons who wish to submit views and comments regarding the designation of an official inspection agency are requested to include the name of the person or agency which they recommend to be designated to operate as an official inspection agency at the Cargill grain elevator in St. John the Baptist Parish, Louisiana.

All such views and comments should be submitted in writing to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All materials submitted should be in duplicate and mailed to the Hearing Clerk not later than July 12, 1976. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C. on June 7, 1976.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.76–17147 Filed 6–10–76;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Federal Employees Pay Council will meet at 2 p.m. on Tuesday, July 6, 1976. This meeting will be held in room 5323 of the U.S. Civil Service Commission building, 1900 E. Street, NW., and will consist of continued discussions on future comparability adjustments for the statutory pay systems of the Federal Government, which are defined in section 5301 of title 5, United States Code.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent:

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.76–17048 Filed 6–10–76;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

Results Tabulated

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on relationship to the head of the household, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special censuses are published semiannually in the *Current Population Reports*—Series P–28, prepared by the Bureau of the Census.

For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since July 1, 1975, for which tabulations were completed between May 1, 1976, and May 31, 1976.

Dated: June 8, 1976.

VINCENT P. BARABBA,
Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas: Texarkana, city	Miller	Mar, 11, 1976	21,192
Florida: Opa-Locka, city	Dade	Mar, 4, 1976	13,729
Idaho: American Falls, city	Power	Mar, 15, 1976	3,403
Illinois:			
Byron, village	Ogle	Feb, 25, 1976	1,852
Crainville, village	Williamson	Mar, 31, 1976	855
Des Plaines, city (annexations only)	Cook	Apr, 5, 1976	1,411
Hennepin, village	Putnam	Mar, 22, 1976	628
Winnebago County (unincorporated area only)		Feb, 16, 1976	76,872
Iowa: Hudson, city	Black Hawk	Apr, 5, 1976	1,970
Michigan:			
Avon, township	Oakland	Feb, 19, 1976	31,299
Commerce, township	do	Mar, 18, 1976	17,108
Delta, township	Eaton	Feb, 25, 1976	20,922
Hamburg, township	Livingston	Feb, 11, 1976	7,541
Kalkaska, township	Kalkaska	Feb, 25, 1976	3,115
Pontiac, township	Oakland	Mar, 2, 1976	14,668
Superior, township	Washtenaw	Mar, 22, 1976	6,396
Taylor, city	Wayne	Mar, 8, 1976	77,490
Minnesota: Hassan, township	Hennepin	Mar, 30, 1976	1,618
North Dakota: Gwinner, city	Sargent	Mar, 22, 1976	792
Wisconsin:			
Allouez, town	Brown	Feb, 11, 1976	15,159
La Crosse, city	La Crosse	Jan, 19, 1976	48,864
Palmyra, village	Jefferson	Feb, 20, 1976	1,524

[FR Doc.76-17037 Filed 6-10-76;8:45 am]

Domestic and International Business Administration

JOHNS HOPKINS UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00348. Applicant: The Johns Hopkins University, Charles & 34th Streets, c/o Chesapeake Bay Institute, Baltimore, Maryland 21218. Article: Four (4) Recording Current Meters, Model #RCM-4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used for studies of the vertical and horizontal water structure of the continental shelf of Virginia, Maryland, and Delaware. The basic experiment consists of placing unattended vertical arrays of these instruments, each with a self-contained power supply data logging capability on prescribed stations.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (April 23, 1975). Reasons: The foreign article provides the capabilities for measurement of water velocity (zero to five knots) and conductivity (salinity), as well as, the capability to measure each parameter every 20 minutes for up to 3 months in a self-contained instrument. The National Oceanic and Atmospheric Administration (NOAA) advises in its memorandum dated May 18, 1976 that the capabilities of the article described above are pertinent to the purposes for which the article is intended to be used. NOAA also advises there are two recently marketed instruments that appear to meet the applicant's needs (Plessey Environmental Systems, Model 9021 and Hydro Products, Model Sea Trak) but it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes which was available at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes of this article is intended to be used, which being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc.76-17020 Filed 6-10-76;8:45 am]

JOHNS HOPKINS UNIVERSITY, ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before July 1, 1976.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00410. Applicant: The Johns Hopkins University, Dept. of Anatomy, 725 N. Wolfe St., Baltimore, Maryland 21205. Article: Scanning Electron Microscope, Model JSM-35U and accessories. Manufacturer: JEOL, Japan. Intended use of article: The article is intended to be used to study biological specimens drawn from the the blood, blood producing tissues, and immune system tissues in experiments to be conducted on animals in which these tissues will be selectively treated with drugs, chemicals, and irradiation. In addition, diseased tissues from humans and animals will be studied to gain an understanding of the structure and function of these tissues and to obtain information necessary for treatment and cure of leukemia, anemia, multiple myeloma, and related diseases. The article will also be used in graduate and medical courses in cell biology and histology. Application received by Commissioner of Customs: May 20, 1976.

Docket number: 76-00418. Applicant: Hartford Hospital, 80 Seymour Street, Hartford, Connecticut 06115. Article: EMI Scanner with Magnetic Tape System and Diagnostic Display Console. Manufacturer: EMI Ltd., United Kingdom. Intended use of article: The article is intended to be used for clinical studies, the results of which will be the subject of papers to be presented at hospital, state, and national medical societies and publications pertinent to the field of medicine. The article will also be used in an educational activity formulated at the following levels of organization:

1. Brain Scanner Operation—Teaching the theory of scanner and actual operation to technicians, radiologist, and repair personnel.

2. Brain Scanning—Teaching and training radiology residents, radiologists, neurologists, and neurosurgeons to in-

terpret brain scanner images for medical diagnosis.

3. Brain Scanning—Teaching practical application so that staff completing the program will be capable of operation of a scanning unit.

Application received by Commissioner of Customs: May 20, 1976.

Docket number: 76-00419. Applicant: Cornell University, Bard Hall, Ithaca, New York 14853. Article: Rotaflex 12 kW Rotating Anode X-ray Generator, RU-200. Manufacturer: Rigaku Ltd., Japan. Intended use of article: The article is intended to be used to perform X-ray diffraction studies of the structure of grain boundaries in thin gold bicrystals. Application received by Commissioner of Customs: May 20, 1976.

Docket number: 76-00420. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., P.O. Box O, 1000 Bullock Blvd., Socorro, NM 87801. Article: TE_{01} Mode Helical Circular Waveguides and Coupling Sleeves. Manufacturer: Sumitomo Electric, Japan. Intended use of article: The article is intended to be used as part of the very Large Array radio telescope to transmit radio wavelength radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin, and evolution of the universe. Application received by Commissioner of Customs: May 20, 1976.

Docket Number: 76-00421. Applicant: (NCI) National Cancer Institute, (NIH) National Institutes of Health, Bldg. 10, Room 5B-36, Laboratory of Pathophysiology, DCBD, NCI, NIH, Bethesda, Maryland 20014. Article: TV Scanning Device for JEM-100C E.M. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is an accessory to an existing electron miscroscope which is intended to be used in studies of biological materials (both pathogenic and nonpathogenic microorganisms). Properties of the materials to be investigated are those, (1) which lend themselves to the understanding of transport processes for micro- and macromolecules into and across cells and cellular barrier, (2) which provide an understanding of evolution of intracellular environment, (3) which lead to the understanding of physiological and pathological changes in the cell. The objectives to be pursued in the course of investigation are to reveal the relationship between the molecular organization and the function of cellular and subcellular components of biological system. Application received by Commissioner of Customs: May 20, 1976.

Docket Number: 76-00422. Applicant: University of Dayton, 300 College Park, Dayton, Ohio 45469. Article: Electron Spectrometer, Model ES 100B and accessories. Manufacturer: AEI, United Kingdom. Intended use of article: The article is intended to be used for x-ray excited photoelectron spectroscopy of solids, liquids and gases with both polychromatic and monochromatic excitation and for ultraviolet radiation excited photoelectron spectroscopy of both solids and gases. Spectroscopic experiments will be done for the purpose of characterization of new chemical compounds, both organic and inorganic; for analysis of compounds and mixtures for elements in particular oxidation states; for determination of changes in oxidation states of elements when reactions take place; for study of catalytic gas-surface reactions of multiple samples and for study of bonding in gaseous and solid compounds. The article will also be used for MS and Phd dissertation work in the Physics, Chemistry and Biology departments. Application received by Commissioner of Customs: May 20, 1976.

Docket Number: 76-00423. Applicant: Northwestern University Medical School, Dept. of Anesthesia, 303 East Chicago Avenue, Chicago, Illinois 60611. Article: Four Choice Reaction Tester and accessory unit. Manufacturer: Kneesworth Electronics, United Kingdom. Intended use of article: The article is intended to be used for studies of the reaction times of subjects following a number of experimental conditions of anesthetic exposure. The objectives pursued in the course of investigation will be confined to establishing the normal reaction time, using this test system, of normal subjects to the flashing light display. The subject will then be studied following a variety of anesthetic exposure conditions, in order to determine how long it takes to return to the normal, baseline, reaction time level. Application received by Commissioner of Customs: May 21, 1976.

Docket number: 76-00424. Applicant: University of Wisconsin-Madison, Purchasing Department, 750 University Avenue, Madison, WI 53706. Article: 3-Component Flux-gate magnetometer, Model FM 100B. Manufacturer: EDA Electronics Ltd., Canada. Intended use of article: The article is intended to be used for studies of fluctuations in the Earth's magnetic field in the frequency range 0-1 Hz to determine the geological structure of the Earth to a depth of about 100 km. Application received by Commissioner of Customs: May 24, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-17024 Filed 6-10-76;8:45 am]

STATE UNIVERSITY OF NEW YORK

Application for Duty-Free Entry of Scientific Articles

In the Notice of Application for Duty-Free Entry of Scientific Articles appearing at page 7970 in the FEDERAL REGISTER of Monday, February 23, 1976, the following amendment is hereby made to reflect more fully the intended uses of the article:

Docket number: 76-0026B. Applicant: State University of New York at Binghamton, Dept. of Biological Sciences, Vestal Parkway East, Binghamton, N.Y. 13901. Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for a variety of ultrastructural studies in different organisms by graduate studies, staff members, and faculty of the Department of Biological Sciences. The main areas of research to be pursued are the following:

1. Comparative ultrastructure of mammalian and amphibian liver.
2. Glomerular lesions occurring in rodents with renal disease.
3. Mitochondrial development in insect flight muscle.
4. Subunit structure of P_i ATPase.
5. Morphological purity of sub-cellular fractions from porcine thyroid gland.
6. Ultrastructure of the photosynthetic apparatus of Cyanobacteria (blue-green algae).
7. Fine structure of the cell membrane of iron-oxidizing Thiobacilli.
8. Morphology of the vaginal and uterine linings of the mouse during the estrous cycle and pregnancy.
9. Ultrastructural response of blue-green algae to environmental parameters.
10. Ultrastructural changes in chlorella vulgaris when cell growth is uncoupled from cell division.

The article will also be used for educational purposes in the following courses:

(1) Cellular Ultrastructure (Bio Sci. 271).—An introductory course in the interpretation of cellular ultrastructure as seen with the electron microscope.

(2) Techniques in Electron Microscopy (Bio Sci. 271).—An introductory course in sample preparation and the use of the electron microscope.

(3) Independent Study (Bio Sci. 397).—Special training in subjects not offered in regular course.

(4) Advance Techniques in Electron Microscopy (Bio Sci. 401M).—Advanced Techniques in electron microscopy.

Application Received by Commissioner of Customs: January 23, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-17022 Filed 6-10-76;8:45 am]

NIH—BETHESDA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office

of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00365. Applicant: National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. Article: Electron Microscope Scanning Attachment and Large Angle Tilting Attachment. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is an accessory to an existing electron microscope and will be used to observe the presence of deposits of immunohistochemical reagents on the surface of plastic sections by SEM.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used, and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-17021 Filed 6-10-76;8:45 am]

UNIVERSITY OF HAWAII

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00351-89-46070. Applicant: University of Hawaii, Hawaii Institute of Geophysics, 2525 Correa Rd., Honolulu, Hawaii 96822. Article: Scanning Electron Microscope, Model S4-10. Manufacturer: Cambridge Scientific Instruments, United Kingdom. Intended use of article: The article is intended to be used in carrying out various research projects which include the following:

(1) Quartz sand grain studies,

(2) Shell structure of Mollusks, coral, and other invertebrates,

(3) Observation of organic coatings on micro and nanno fossils as chemical solution inhibitors in the deep-sea,

(4) Study of wet fecal pellets as microfossil preservations,

(5) Growth lamellae in manganese nodules, and study of included organisms, such as bacteria and algae,

(6) Replacement and fixation of iron and manganese by organisms in the deep-sea.

(7) Clay and soil mineralogy.

(8) Study of nutrient effects of silica body structure and development in epidermal cells of pineapple leaves, and studies of other plant tissues,

(9) Investigation of the biology of cephalpod molluses. The article will also be used to help students in the following courses understand the structure and micromorphology of organisms and minerals: Oceanography, Agronomy, Soil Sciences, Microbiology, and Botany.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (July 31, 1972). Reasons: This application is a resubmission of Docket Number 73-00174-89-46070 which was denied without prejudice to resubmission on October 29, 1974 for informal deficiencies. At the time the foreign article was ordered the applicant intended to study a number of specimens which normally contain a high degree of moisture and art significantly altered as drying occurs. Although several methods are currently widely accepted as a means of studying such specimens in scanning electron microscopes without maintaining the wet condition, at the time of order direct examination of wet specimens was worthy of investigation. The foreign article provides the capability of independently pumping the column and chamber, so that column vacuum is maintained while allowing vacuum deterioration in the chamber with the necessary vacuum isolation. The National Bureau of Standards (NBS) advises in its memorandum dated May 7, 1976 that the capability described above is pertinent to the applicant's intended study of wet samples containing large amounts of water (35 percent or more). NBS also advises that it knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was being manufactured in the United States at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-17023 Filed 6-10-76;8:45 am]

UNIVERSITY OF VERMONT, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before July 1, 1976.

Amended regulations issued under cited Act (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00408. Applicant: University of Vermont, Waterman Building, Burlington, Vermont 05401. Article: High Pressure Calorimeter. Manufacturer: Lunds Universitetet, Sweden. Intended use of article: The article is intended to be used in determining thermodynamic parameters for the absorption (desorption) of hydrogen by a series of representative intermetallic compounds that have potential usefulness for energy (hydrogen) storage. Among the systems that will be investigated are $LaCo_5/H_2$, $LaNi_5/H_2$, $LaCo_2/H_2$, and $FeTi/H_2$. It is proposed to determine thermodynamic absorption parameters by direct calorimetry and from pressure-composition-temperature (p-c-t) relationships. The two types of measurements will be performed concomitantly in a single apparatus that mates a precision calorimeter to a gas-handling system. Application received by Commissioner of Customs: May 12, 1976.

Docket number: 76-00425. Applicant: Yerkes Regional Primate Research Center of Emory University, Emory University, 954 North Gatewood Road, Atlanta, Ga. 30322. Article: Electron Microscope, Model EM 9S-2, including spare parts and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in an interdisciplinary program of primate research in which the brains of monkeys and apes will be prepared for electron microscopy using standard neuroanatomical techniques. The current objective is to elucidate the anatomical substrate underlying the physiological phenomena of vision. The article will also be used for the training of medical and graduate students at the Center, as well as, for post-graduate education. Application received by Commissioner of Customs: May 28, 1976.

Docket number: 76-00426. Applicant: University of Texas Medical Branch, Marine Biomedical Institute, 200 Univer-

sity Blvd., Galveston, Texas 77550. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of embryonic marine fish larvae, particularly the leptocephalous larvae of eels and related fishes. Experimental investigation will center on tracing the development of embryonic cells as they transform to adult organs with specific function. The development throughout will be studied both at the cellular level in the electron microscope and at the tissue and organ level in the light microscope. The objectives pursued in the course of the investigation will be to identify the phylogenetic position of the Anguilliform leptocephali. Special emphasis will be placed on the ultrastructure and function of their osmoregulatory system. Another group of fishes under study are the ceratioid or deep-sea angler fishes. Special attention will be given to the ultrastructure of this light organ and to the intracellular bacteria contained therein. Application received by Commissioner of Customs: May 28, 1976.

Docket number: 76-00427. Applicant: University of Rochester, Rochester, N.Y. 14627. Article: Carbon Dioxide Laser, Model TEA-103-1 and accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for studies to discover new lasers, or techniques of up-conversion of CO_2 lasers into a region where they are more suitable for laser-fusion purposes. Experiments will include the following:

(a) Intradiation of C_2H_4 to determine spectrum of emitted light.

(b) Irradiation of $CH_3{=}CN$ to determine whether inversion achievable.

(c) Irradiation of SFo to achieve efficient dissociation.

Application received by Commissioner of Customs: May 28, 1976.

Docket number: 76-00428. Applicant: Loyola University Stritch School of Medicine, Pharmacology Dept., 2160 South First Avenue, Maywood, Ill. 60153. Article: Peterfi-type micromanipulator. Manufacturer: Narishige Scientific Instruments, Japan. Intended use of article: The article is intended to be used to position electrodes to record from single cells to study the function of single cells in the myenteric plexus of small mammals (rats, guinea pigs, rabbits). Application received by Commissioner of Customs: May 28, 1976.

Docket number: 76-00429. Applicant: University of California-Lawrence Livermore Laboratory, P.O. Box 808, Livermore, California 94550. Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of cells that have been grown in culture, some normal, other transformed toward becoming carcinomas, for the study of certain enzymes and the study of tissue specimens by ultrastructural and cytochemical techniques. All studies will relate to basic cellular phenomena of enzyme function which will increase knowledge and understanding of ultrastructural-chemical relationship. Application received by Commissioner of Customs: May 28, 1976.

Docket number: 76-00430. Applicant: Northwestern University Medical School, 303 East Chicago Avenue, Chicago, Illinois 60611. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigation of the factors modifying the development of cancer and elucidating the biological and functional role of peroxisomes, which are cytoplasmic organelles. The materials used for this research include liver, kidney, pancreas, parotid, testicular interstitial tissue, and isolated cultured liver cells. The article will also be used in the courses designed to teach principles of cell biology, pathobiology and ultrastructural pathology for undergraduates, and graduate students. Also interns and residents in pathology, who participate in research training will be using the article. Application received by Commissioner of Customs: May 28, 1976.

Docket number: 76-00431. Applicant: Frederick Cancer Research Center, Post Office Box 'B', Frederick, Maryland 21701. Article: Cryokit, Model LKB 14801-1, Set of tools and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study the localization of subviral proteins in normal and infected tissue culture cells. These proteins are immunochemically tagged and frozen thin sections offer retention of antigen sites. Frozen thin sections will be prepared of cells and virus pellets and specifically prepared tags will be reacted to these sections. Application received by Commissioner of Customs: May 28, 1976.

RICHARD M. SEPPA,
Director, Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.76-17025 Filed 6-10-76;8:45 am]

National Oceanic and Atmospheric Administration

AQUARIUM OF CAPE COD, INC.

Issuance of Permit To Take Marine Mammals

On March 19, 1976, notice was published in the FEDERAL REGISTER (41 FR 11593) that an application had been filed with the National Marine Fisheries Service by Aquarium of Cape Cod, Inc., Route 28, West Yarmouth, Massachusetts 02673, for a permit to take two (2) harbor seals (*Phoca vitulina*) for the purpose of public display.

Notice is hereby given that, on May 28, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362-1407), the National Marine Fisheries Service issued a permit for the above taking to Aquarium of Cape Cod, Inc., subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 02673.

Dated: May 28, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76-16986 Filed 6-10-76;8:45 am]

DR. JAMES H. W. HAIN

Receipt of Application for Scientific Research and Scientific Purposes

Notice is hereby given that the following Applicant has applied for Permits to take and import marine mammals or parts thereof for the purpose of scientific research under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and for scientific purposes under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543).

Dr. James H. W. Hain, Sea Education Association, Box 6, Woods Hole, Massachusetts 02543, to conduct scientific research with all species of cetaceans and pinnipeds (except walruses), including the following species listed on the Endangered Species List:

Blue whale (*Balaenoptera musculus*)
Fin whale (*Balaenoptera physalus*)
Sei whale (*Balaenoptera borealis*)
Humpback whale (*Megaptera novaeangliae*)
Right whale (*Eubalaena* spp.)
Sperm whale (*Physeter catodon*)
Gray whale (*Eschrictius robustus*)

The proposed research will be conducted, over a five-year period in all parts of the world, principally the waters of the North Atlantic, Caribbean, Bahamas, and Gulf of Mexico.

The goals of the research program will be to gather data on the numbers, distribution, behavior, migratory routes, and social organization of the whales. Initial emphasis will be on the right and humpback whales in order to study their migratory routes and behavior as they travel between their feeding grounds in northern latitudes and their winter mating and calving grounds in warmer waters. The whale movement and distribution will be examined for correlations with hydrographic features and submarine topography.

The program will involve extensive surface vessel observations, photography and underwater listening and recording from the R/V *Westward*. In addition, aerial and underwater observation and photography will be utilized.

The Applicant states there will be no capture of living animals.

The Applicant requests authority to collect and study dead marine mammals,

or parts thereof, stranded in the Cape Cod area or encountered on cruises.

The utilization of all specimens will be coordinated between all those in the area with a particular interest in the specimen at hand.

The Applicant will make the appropriate arrangements with the country from which parts or specimens are to be removed prior to the taking.

The Application for the Marine Mammal Protection Act permit will be considered under the Regulations Governing the Taking and Importing of Marine Mammals. The application for the Endangered Species Act Permit will be considered under the Regulations Governing Endangered Fish and Wildlife Permit.

Documents submitted in connection with these applications are available in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application for the Marine Mammal Protection Act permit to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written views or data, or requests for a public hearing on these applications should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before July 12, 1976. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of these applications are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: June 7, 1976.

HARVEY M. HUTCHINGS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.76-16988 Filed 6-10-76;8:45 am]

MARINE ANIMAL PRODUCTIONS, INC. AND J. & L. ATTRACTIONS, INC.

Issuance of Permit To Take Marine Mammals

On March 19, 1976, notice was published in the FEDERAL REGISTER (41 FR 11594) that an application had been filed with the National Marine Fisheries Service by Marine Animal Productions, Inc., and J & L Attractions, Inc., 150 Debuys Road, Biloxi, Mississippi 39531, for a permit to take six (6) Atlantic bottlenosed dolphins (*Tursiops truncatus*), ten (10) California sea lions (*Zalophus californianus*), and four (4) Pacific harbor seals (*Phoca vitulina*), for the purpose of public display.

Notice is hereby given that, on May 26, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above described taking to Marine Animal Productions, Inc., and J & L Attractions, Inc., subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731:
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702;
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North Seattle, Washington 98109; and
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: May 26, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76-16985 Filed 6-10-76;8:45 am]

SENECA PARK ZOO, NEW YORK

Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the regulations governing the taking and importing of marine mammals (39 FR 1851, January 18, 1974), the public display permit issued to Seneca Park Zoo, Rochester, New York, on June 17, 1975, is modified, by means of modification No. 1, in the following manner:

The modification extends the period of validity of the permit, with respect to the authorized taking, from June 1, 1976, to December 31, 1976.

This modification is effective on June 11, 1976.

The permit, as modified, is available for review in the offices of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Etreet, Gloucester, Massachusetts 01930.

Dated: May 26, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76-16984 Filed 6-10-76;8:45 am]

DR. AKHOURI A. SINHA

Issuance of Permit To Import

On March 31, 1976, notice was published in the FEDERAL REGISTER (41 FR 13645) that an application had been filed with the National Marine Fisheries Service by Dr. Akhouri A. Sinha, Building 49, Room 207, Veterans Administration Hospital, Minneapolis, Minnesota 55417 for a permit to import about 500 histological slides and about 50 male and female reproductive tracts or their parts of southern fur seals (*Arctocephalus gazella*) which were taken in the vicinity of the South Georgia Islands, Antarctica by the British Antarctic Survey, United Kingdom.

Notice is hereby given that on June 3, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above importing to Dr. Akhouri A. Sinha subject to certain conditions set forth therein. The permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235; and
Regional Director, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: June 3, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76-16987 Filed 6-10-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

MATERNAL AND CHILD HEALTH RESEARCH GRANTS REVIEW COMMITTEE AND INDIAN HEALTH ADVISORY COMMITTEE

Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, (5 U.S.C. Appendix I), the Health Services Administration announces the renewal by the Secretary, HEW, on June 1, 1976, with the concurrence by the Office of Management and Budget Committee Management Secretariat, of the following advisory committees:

Committees	*Termination date*
Maternal and Child Health Research Grants Review Committee.	June 30, 1978.
Indian Health Advisory Committee.	June 30, 1978.

Authority for these committees will expire on the date indicated, unless the Secretary formally determines that continuance is in the public interest.

Dated: June 7, 1976.

WILLIAM H. ASPEDEN, Jr.,
Acting Associate Administrator for Management.

[FR Doc.76-17056 Filed 6-10-76;8:45 am]

National Institutes of Health
AGING REVIEW COMMITTEE

Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Aging Review Committee, National Institute on Aging, which was published in the FEDERAL REGISTER on Monday, May 10, 1976, 41 FR 19148–49.

This Committee was to have convened at 9 a.m., but the convening time has been changed to 1 p.m. The dates and meeting place remain the same—June 24–25, 1976, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 1 p.m. to 2 p.m. on June 24.

Dated: June 7, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–17027 Filed 6–10–76;8:45 am]

CLINICAL APPLICATIONS AND PREVENTION ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, National Heart and Lung Institute, July 12–13, 1976, Landow Building, Conference Room C418, Bethesda, Maryland.

This meeting will be open to the public on July 12 and 13 from 8:30 a.m. to 9:30 a.m. when the current progress of the Hypertension Detection and Follow-Up Program and the Aspirin Myocardial Infarction Study will be discussed. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:30 a.m. to adjournment on July 12 and 13, 1976, for the review of contract renewal proposals related to the Hypertension Detection and Follow-Up Program, the Aspirin Myocardial Infarction Study and the Epidemiology Studies. These proposals contain information of a proprietary or confidential nature, including technical information, financial data, such as salaries of research personnel and personal information concerning individuals associated with the contract proposals.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart and Lung Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. William J. Zukel, Executive Secretary of the committee, Landow Building, Room C809, phone (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: June 1, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–17031 Filed 6–10–76;8:45 am]

CLINICAL CANCER PROGRAM PROJECT REVIEW COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Cancer Program Project Review Committee, National Cancer Institute, July 7–8, 1976, National Institutes of Health, Building 31C, Conference Room 5.

This meeting will be open to the public on July 7, 1976, from 8:30 a.m. to 10 a.m. to discuss administrative details, including future meeting dates and other informational items. Attendance by the public will be limited to space available. In accordance with provisions set forth in sections 552(b)(4), 552(b)(5) and 552(b)(6) of Title 5, U.S. Code and section 10(d) of P.L. 92–463, the meeting will be closed to the public on July 7, from 10 a.m. to 6 p.m., and on July 8, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual initial pending, supplemental, and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will provide summaries of the meeting and rosters of committee members.

Dr. Louise G. Thomson, Executive Secretary, National Cancer Institute, Westwood Building, Room 809, National Institutes of Health, Bethesda, Maryland 20014 (301/496–7565) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Pragram No. 13.312, National Institutes of Health.)

Dated: May 26, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–17030 Filed 6–10–76;8:45 am]

COMMISSION FOR THE CONTROL OF EPILEPSY AND ITS CONSEQUENCES

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Commission for the Control of Epilepsy and Its Consequences, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, on June 28, 1976, at the Airport Marina, Dallas/Ft. Worth Airport, Dallas, Texas 75216.

The entire meeting will be open to the public from 9 to 5 p.m., for the purpose of obtaining an overview of the status of governmental private services within the states of Texas, New Mexico, Oklahoma, Arkansas and Louisiana, and to obtain information regarding the unmet needs of persons with epilepsy as viewed within that region. Attendance by the public will be limited to space available.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, Bldg. 31, Room 8A03, Bethesda, Maryland 20014, (301) 496–5751, will provide summaries of the meeting and rosters of committee members.

Dr. Richard L. Masland, Executive Director, Federal Bldg., Room 1C06, Bethesda, Maryland 20014, (301) 496–1378, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13852, National Institutes of Health.)

Dated: June 4, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
Las Vegas Resource Areas,

[FR Doc.76–17026 Filed 6–10–76;8:45 am]

NATIONAL COMMISSION ON DIABETES

Notice of Extension

Pursuant to section 701 of the Health Research and Health Services Amendments of 1976 (Pub. L. 94–278), the National Institutes of Health announces the extension of the National Commission on Diabetes.

This extension will allow the Commission to facilitate action for the utilization and coordination of national resources for diabetes research, treatment and education as recommended by the Long-Range Plan, submitted on December 10, 1975.

The Commission shall cease to exist on September 30, 1976.

Dated: June 4, 1976.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.76–17032 Filed 6–10–76;8:45 am]

NATIONAL COMMISSION ON DIABETES

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of an organizational meeting to reestablish the National Commission on Diabetes, July 6, 1976, in Building 31, C Wing, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. From 9 a.m.

to 12:30 p.m. representatives of the Health Services Administration will discuss their agency's mission as it relates to diabetes; from 1:30 p.m. to 5 p.m. the Commission will meet in a reorganizational session.

Messr. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496–3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health.)

Dated: June 7, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–17033 Filed 6–10–76;8:45 am]

PRESIDENT'S CANCER PANEL

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, July 2, 1976, 9:30 a.m., to adjournment, National Institutes of Health, Building 31, Conference Room 7. The entire meeting will be open to the public from 9:30 a.m. to adjournment for a report from the Director, National Cancer Program, National Cancer Institute, report from the Chairman, President's Cancer Panel and review of the budget. Attendance by the public will be limited to space available.

Dr. Richard A. Tjalma, Executive Secretary, Building 31, Room 11A46, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5854) will provide substantive program information, transcripts of the meeting and roster of committee members.

Dated: May 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–17028 Filed 6–10–76;8:45 am]

PUBLIC ADVISORY COMMITTEES

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the National Institutes of Health announces the renewal by the Secretary, HEW, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following committees:

Committee	*Termination date*
National Advisory Eye Council	June 30, 1977.
Population Research Committee	May 31, 1977.
Vision Research Program Committee	June 30, 1977

Authority for these committees will expire on the date indicated unless the Secretary formally determines that continuance is in the public interest.

The following committee, which was established by an Act of Congress, shall file a charter upon the expiration of each successive two-year period in accordance with Pub. L. 92–463. That rechartering date is indicated below.

Committee	*Rechartering date*
National Heart and Lung Advisory Council	June 30, 1977.

Dated: June 4, 1976.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.76–17035 Filed 6–10–76;8:45 am]

REVIEW OF RESEARCH CONTRACT PROPOSALS, NATIONAL CANCER INSTITUTE

Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other isues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6) of Title 5, U.S. Code and section 10(d) of Pub. L. 92–463 for the review, discussion and evaluation of individual research contract proposals as indicated. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the meetings and rosters of committee members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings are at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Name of committee: Breast Cancer Treatment Committee.

Dates: July 8, 8:30 a.m.

Place: Building 31C, Conference Room 9, National Institutes of Health.

Times: Open: July 8, 8:30 a.m.–12 noon. Closed: July 8, 1:30 p.m.–5 p.m.

Closure reason: To review research contract proposals.

Executive Secretary: Dr. Mary E. Sears, Address: Landow Building, Room A404, National Institutes of Health, Phone: 301/496–6773.

Catalog of Federal Domestic Assistance Number 13.825.

Name of committee: Breast Cancer Experimental Biology Committee.

Dates: July 6, 1976, 8:30 a.m.

Place: Landow Building, Conference Room C–418, 7901 Woodmont Avenue, Bethesda, Maryland 20014.

Times: Open. July 8, 8:30 a.m.–12:30 p.m. Closed: July 8, 1:30 p.m.–adjournment.

Agenda/open portion: To discuss administrative details and review new program projects.

Closure reason: To review research contract proposals.

Executive Secretary: Dr. D. Jane Taylor, Address: Landow Building, Room A–422, National Institutes of Health, Phone: 301/496–6718.

Catalog of Federal Domestic Assistance Number 13.825.

Name of committee: Breast Cancer Epidemiology Committee.

Dates: July 8, 1976: 8:30 a.m.

Place: Building 31A, Conference Room 4, National Institutes of Health.

Times: Open: July 8, 10:00 a.m.—adjournment. Closed: July 8, 8:30 a.m.–10:00 a.m.

Agenda/open portion: Discussion of possible future Requests for Proposals and of progress on ongoing contracts.

Closure reason: To review research contract proposals.

Executive Secretary: Dr. Elizabeth P. Anderson, Address: Landow Building, Room A406, National Institutes of Health, Phone: 301/496–6718.

Catalog of Federal Domestic Assistance Number 13.825.

Name of committee: Breast Cancer Diagnosis Committee.

Dates: July 8, 1976: 8:30 a.m.

Place: Building 31C, Conference Room 7, National Institutes of Health.

Times: Open: July 8, 8:30 a.m.–10:30 a.m. Closed: July 8, 10:30 a.m.—adjournment.

Closure reason: To review research contract proposals.

Executive secretary: Dr. Bernice T. Radovich, Address: Landow Building, Room B404, National Institutes of Health, Phone: 301/496–6773.

Catalog of Federal Domestic Assistance Number 13.825.

Name of committee: Cancer Control Community Activities Review Committee.

Date: July 16, 1976; 8:30 a.m.

Place: Building 31C, Conference Room 7, National Institutes of Health.

Times: Open: July 16, 8:30 a.m.–9:00 a.m. Closed: July 16, 9:00 a.m.–adjournment

Closure reason: To review research contract proposals.

Executive Secretary: Dr. Robert Browning, Address: Blair Building, Room 7A07, National Institutes of Health, Phone: 301/427–7945.

Catalog of Federal Domestic Assistance Number 13.825.

Name of Committee: Drug Development Committee.

Date: July 23, 1976; 9:00 a.m.

Place: Building 31C, Conference Room 7, National Institutes of Health.

Times: Open: July 23, 9:00 a.m.–9:45 a.m. Closed: July 23, 9:45 a.m.–adjournment.

Closure reason: To review research contract proposals.

Executive Secretary: Mrs. Naomi FitzGibbon, Address: Blair Building, Room 5A03, National Institutes of Health, Phone: 301/427–7337.

Catalog of Federal Domestic Assistance Number 13.825.

Dated: June 1, 1976.

SUZANNE FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–17034 Filed 6–10–76;8:45 am]

TEMPORARY REVIEW COMMITTEE FOR FREDERICK CANCER RESEARCH CENTER

Notice of Establishment

The Director, National Institutes of Health, announces the establishment on May 20, 1976, of the advisory committee indicated below by the Director, National Cancer Institute, under the authority of section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committees shall be governed by the provisions of the Federal Committee Act (Pub. L. 92–463) setting forth standards governing the establishment and use of advisory committees.

Name: Temporary Review Committee for Frederick Cancer Research Center.

Purpose: The Committee provides to the Director, NCI, advice on its evaluation of the technical merit of the concept and content of the request for proposals for the recompetition of the contract for operation of the Frederick Cancer Research Center and the proposals received in response to the request. The Committee will also conduct a scientific review of the present operating contractor's basic research program and proposals for its continuation, as well as any alternate proposals that may be received. Authority for this committee will expire on or before August 31, 1977.

Dated: June 4, 1976.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc.76–17029 Filed 6–10–76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON ETHNIC HERITAGE STUDIES

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that a meeting of the National Advisory Council on Ethnic Heritage Studies will be held July 14–16, 1976, in Detroit, Michigan, at the Detroit Cadillac Hotel. The opening meeting on July 14 will be in session from 6 p.m. to 8 p.m.; meetings on the 15th and 16th of July will be from 9 a.m. to 4:30 p.m.

The National Advisory Council on Ethnic Heritage Studies was established by Title IX of the Elementary and Secondary Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act (Pub. L. 92–463). The Council shall advise the Commissioner concerning matters of general policy arising from the administration of programs in ethnic heritage studies. Functions may include the determination of needs and objectives of programs in the field and provisions of support in the implementation nationally of program goals of ethnic heritage studies.

All meetings of the Council are open to the public. The meeting will involve (1) the determination of long term goals of the Ethnic Heritage Studies Program; (2) discussion of the utilization of results of previous grants; and (3) discussion of the relationship of the Council to related programs and Councils. In addition the Council will visit projects in the Detroit area which have been funded under the program.

Records are kept of all Council proceedings and shall be available for public inspection at the office of the Chief of the Ethnic Heritage Studies Branch, Division of International Education, located in Room 3919, ROB No. 3, 7th and D Streets, SW., Washington, D.C.

Signed at Washington, D.C. on June 8, 1976.

WILLIAM H. MARTIN,
Chief, Ethnic Heritage Studies Branch.

[FR Doc.76–16912 Filed 6–10–76;8:45 am]

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the Legislative Subcommittee of the National Advisory Council on Equality of Educational Opportunity will convene at 9:30 a.m. on Monday, June 28, until 4:30 p.m., and reconvene at 9:30 a.m. on Tuesday, June 29, until 4:30 p.m., at Room 1197, Patrick V. McNamara Building, 477 Michigan Street, Detroit, Michigan.

The National Advisory Council on Equality of Educational Opportunity is established under Section 716 of the Emergency School Aid Act (Pub. L. 92–318, Title VII, as amended by Pub. L. 93–380). The Council is established to: (1) advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting of the Legislative Subcommittee, which shall be open to the public, will be for the purpose of discussing the need for possible legislative change in the Emergency School Aid Act. Presentations will be made by various agencies and organizations that are familiar with the present legislation.

Signed at Washington, D.C., on June 8, 1976.

LEO A. LORENZO,
Executive Director.

[FR Doc.76–17158 Filed 6–10–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD–333; FDAA 505–DR]

IDAHO

Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on June 6, 1976, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Idaho due to the collapse of the Teton Dam and resultant flooding beginning on June 5, 1976, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Idaho.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. William H. Mayer, HUD Region X, to act as the Federal Coordinating officer for this declared major disaster.

I do hereby determine the following areas in the State of Idaho to have been adversely affected by this declared major disaster:

The Counties of:

Bingham	Jefferson
Bonneville	Madison
Fremont	

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: June 6, 1976.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistanct Administration.

[FR Doc.76–17051 Filed 6–10–76;8:45 am]

[Doc. No. NFD–332; FDAA–504–DR]

OKLAHOMA

Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on June 5, 1976, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Oklahoma resulting from severe storms and flooding beginning about May 30, 1976, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Oklahoma.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Joe D. Winkle, HUD Region VI, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas in the State of Oklahoma to have been adversely affected by this declared major disaster:

The Counties of:

Tulsa
Wagoner

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: June 5, 1976.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.76–17052 Filed 6–10–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of Pipeline Safety

DEPARTMENT OF THE INTERIOR

Office of the Secretary

OFFSHORE PIPELINES

Memorandum of Understanding Between the Department of Transportation and the Department of the Interior

I. INTRODUCTION

The Department of Transportation (DOT) has the responsibility for promulgating and enforcing safety regulations for the transportation of gases and hazardous liquids by pipeline.

The DOT regulatory responsibilities include all offshore pipelines both on State lands beneath navigable waters as that area is defined in the Submerged Lands Act (43 U.S.C. 1301 et seq.) and on the Outer Continental Shelf (OCS) as that area is defined in the Outer Continental Shelf Lands Act (OCS Act) (43 U.S.C. 1331 et seq.). The DOT administers the following laws as they relate to pipelines: (1) the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671 et seq.); (2) the Transportation of Explosives Act (18 U.S.C. 831–835); (3) section 28 of the Mineral Leasing Act, as amended (30 U.S.C. 185); (4) the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.); (5) the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.).

The Department of the Interior (DOI has certain responsibilities under the OCS Act including the issuing of rights-of-way and rights-of-use and easements for the construction of pipelines on the OCS and enforcing regulations necessary for the prevention of waste and conservation of natural resources of the OCS.

In recognition of each of the parties' respective regulatory responsibilities, the DOT and the DOI agree that a memorandum of understanding is needed to avoid duplication of regulatory efforts regarding offshore pipelines and to maximize the exchange of relevant information.

II. RESPONSIBILITIES OF THE PARTIES

For the foregoing reasons, the DOT and the DOI agree to the following division of offshore pipeline regulatory responsibilities:

DOT RESPONSIBILITIES

1. The DOT will establish and enforce design, construction, operation, and maintenance regulations for those pipelines extending to the shore from the outlet flange at—

(i) each facility where hydrocarbons are produced, or

(ii) each facility where produced hydrocarbons are first separated, dehydrated, or otherwise processed,

whichever facility is farther downstream, including subsequent on-line transmission equipment but not including any subsequent production equipment. The diagram attached as an addendum illustrates the pipeline facilities regulated by DOT that are described in this paragraph.

2. The DOT will send copies of all contemplated Notices of Proposed Rule Making (NPRMs) concerning offshore pipelines to the DOI, before they are published in the FEDERAL REGISTER, for review by the DOI. However, publication of NPRMs by the DOT is not contingent upon the receipt of comments from the DOI.

DOI RESPONSIBILITIES

1. The DOI will establish and enforce design, construction, operation, and maintenance regulations for offshore pipelines extending upstream from the outlet flange described in paragraph 1 of the "DOT Responsibilities" set forth in this Memorandum of Understanding into each production well on the OCS.

2. The DOI will send copies of all contemplated NPRMs and OCS Orders concerning offshore pipelines to the DOT before they are published in the FEDERAL REGISTER for review by the DOT. However, publication of NPRMs and OCS Orders in the FEDERAL REGISTER is not contingent upon the receipt of comments from the DOT.

3. The DOI, in issuing rights-of-way, rights-of-use, and easements on the OCS for offshore pipelines which are subject to DOT's offshore pipeline regulations, will condition those rights and easements on the pipelines being designed, constructed, operated, and maintained in compliance with the applicable DOT regulations.

4. The DOI which receives, reviews, and as appropriate, approves operator's plans for development of the OCS, including plans for construction of pipelines on the OCS, will provide copies of those plans to the DOT.

5. The DOI which receives and processes applications and prepares environmental assessments for rights-of-way, rights-of-use, and easements for pipelines to be constructed on the OCS, will provide copies of those applications and assessments to the DOT.

6. The DOI which performs pipeline management studies as necessary in newly developing areas on the OCS where pipelines systems do not exist or are poorly developed, will provide copies of those studies to the DOT.

JOINT RESPONSIBILITIES

1. The DOT and DOI will coordinate all of their respective research and development projects concerning offshore pipelines.

2. The DOI will perform inspection and enforcement activities necessary to enforce its regulations and OCS Orders relating to pipelines on the OCS. With respect to other offshore pipelines originating on the OCS and subject to DOT regulations, the DOT and DOI will coordinate and perform inspection activities. In the latter case, the DOT will perform enforcement activities and the DOI will provide the DOT with reports of DOI inspections for such further enforcement actions as may be appropriate.

3. At least once each calendar year, DOT and DOI will jointly review all existing standards, regulations, orders, and operating practices concerning pipelines on the OCS.

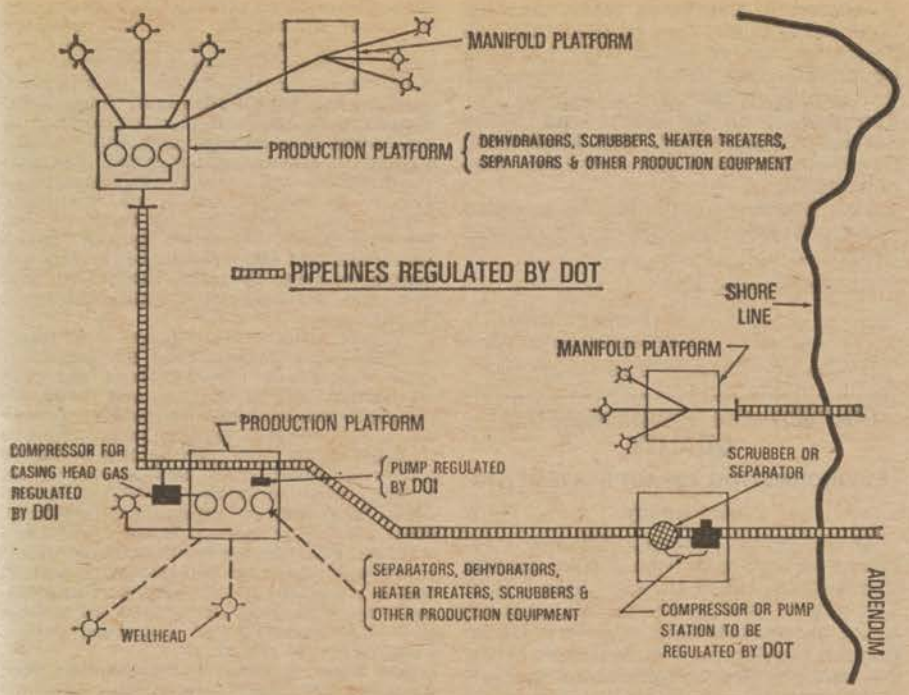
For the Department of Transportation:

WILLIAM T. COLEMAN, JR.,
Secretary of Transportation.

For the Department of the Interior:

MAY 6, 1976.

THOMAS S. KLEPPE,
Secretary of the Interior.



[FR Doc.76-17066 Filed 6-10-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 26973]

AEROMAR, C. POR A.

Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on June 24, 1976 (41 F.R. 22294, June 2, 1976), is postponed to August 19, 1976, at 9:30 a.m. (local time), and will be held in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, Washington, D.C.

Dated at Washington, D.C., June 7, 1976.

[SEAL] RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc.76-17054 Filed 6-10-76;8:45 am]

[Docket 29351]

CATHAY PACIFIC AIRWAYS LTD.

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on July 7, 1976, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, North Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, D.C., June 8, 1976.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-17055 Filed 6-10-76;8:45 am]

[Docket 24869; Order 76-6-43]

TRANS WORLD AIRLINES, INC.

Excess Baggage Charges; Order Rejecting Tariffs

JUNE 7, 1976.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of June, 1976.

After a full evidentiary hearing in Baggage Allowance Tariff Rules In Overseas & Foreign Air Transportation, Docket 24869, the Board found, inter alia, that the carriers' tariff rules providing for excess-baggage charges are unjust and unreasonable, in violation of section 404(a) of the Act, and by Order 76-3-81, served March 12, 1976, ordered the rules canceled within 90 days. The charges ordered canceled were set at one percent of the applicable one-way first-class fare for each kilogram of baggage in excess of the free-baggage allowance.

In that decision, based on the assumption that standard economy fares were not below fully allocated costs, the Board concluded that an excess-baggage charge of seven-tenths of one percent of the economy fare bears a reasonable relationship to costs and that it would be anomalous to require a carrier proposing that rate to provide economic justification after the lengthy hearings on the issue in the proceeding. However, the Board said that carriers desiring to file tariffs proposing different rates would be expected to accompany any such filings with a thorough economic justification. By Order 76-5-26, May 10, 1976, disposing of various petitions for reconsideration of Order 76-3-81, the Board reiterated its position that any tariff filings proposing rates other than seven-tenths of one percent of the economy fare per kilogram, should be accompanied by a thorough economic justification.

On May 13, 1976, Trans World Airlines, Inc. (TWA) filed tariff revisions for effect June 12, 1976 which propose to establish the charge for excess baggage at one percent of the applicable peak-season normal economy fares, regardless of season in which travel actually occurs. In support of the filing TWA states its view that reasonable excess-baggage charges will be ultimately fixed at a rate quite in excess of the seven-tenths of one percent acknowledged as reasonable by the Board. The carrier states that, in the interim, it is filing the instant charge which is premised on an adjustment of the costs accepted by the Board in Order 76-3-81 to allow for cost increases experienced by the carriers since 1973. TWA contends that since 1973, the base period used by the Board in its decision, its experienced unit operating costs per revenue-ton-mile were 60 percent greater in 1975 and 64 percent greater for the first quarter of 1976, while the normal economy fare has only increased 22 percent. On this basis alone, TWA alleges that a minimum rate of .93 percent of the economy fare is justified and is consistent with Board policy allowing rates to reflect costs incurred during the latest periods available.

In addition, TWA alleges that the Board's methodology employed the 12 percent domestic rate of return standard and that a 21 percent return on international investment should have been used; that no consideration was given to the cost of additional stops for fuel or lost opportunity costs where freight had to be rejected or off-loaded to accomodate other traffic; and finally that a charge of one percent is reasonable in terms of value of service considerations vis-a-vis alternate means of transportation.

We will reject TWA's proposed tariffs as the justification provided is clearly insufficient to establish the reasonableness of the proposed charge and clearly does not conform to the standards set forth in the Board's decisions in the Baggage Case, Orders 76-3-81 and 76-5-26. Although TWA was an active participant in the investigation in Docket 24869, and as such provided detailed data for evaluation, it has chosen not to submit any detailed data in support of its instant proposal. Rather, TWA justifies its filing by reliance on a comparison of present unit operating costs per revenue-ton-mile with the base 1973 unit costs and contrasts this greater increase with the lesser increase in economy fares over the same period of time. However, the Board's finding in Docket 24869 that a seven-tenths of one percent charge was reasonable was grounded upon the assumption that normal economy fares cover total economic costs. Moreover, in Order 76-4-175, the Board indicated that normal economy fares are now, and have been, set at levels significantly above total economic costs. Accordingly, we

find TWA's position unpersuasive and its justification clearly deficient.[1] Finally, we would point out that TWA has failed to explain why the charges would be based upon the peak season economy fare regardless of season of travel rather than on the applicable season fare.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. 18th Revised Page 24 to Trans World Airlines, Inc.'s Local and Joint International Passenger Rules Tariff No. R-3, C.A.B. No. 17, be and hereby is rejected; and

2. A copy of this order shall be served upon Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-17053 Filed 6-10-76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1976

Additions to Procurement List

Notice of Proposed Additions to Procurement List 1976, November 25, 1975 (40 FR 54742), was published in the FEDERAL REGISTER on April 9, 1976 (41 F.R. 15059).

Pursuant to the above notice, the following service is added to the Procurement List:

SIC 7349

Janitorial/Custodial Service (SH), Federal Building, Muskogee, Oklahoma.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-17041 Filed 6-10-76;8:45 am]

PROCUREMENT LIST 1976

Notice of Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed addition of the following commodity and services to Procurement List 1976, November 25, 1975 (40 FR 54742).

Class 6515

Crutch, Aluminum, Cane type, 6515-00-810-9092.

SIC 7349

Janitorial/Custodial Service, Naval Air Station BEQ Barracks, Buildings 243, 374, 375, 376, 377, and 2551, Whidbey Island, Washington.

Bursting and Packaging of Commemorative Year Mint Stamp Sets, U.S. Postal Service.

[1] The remaining points raised by TWA in support of its filing are inappropriate and constitute a repetitive petition for reconsideration of the Board's decision in Docket 24869 and do not set forth any economic justification in support of the tariff filing.

Comments and views regarding this proposed addition may be filed with the Committee on or before July 12, 1976. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-17042 Filed 6-10-76;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Environmental impact statements received by the Council on Environmental Quality from June 1 through June 4, 1976. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availability. (July 26, 1976.) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost, from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Forest Highway 34 (Swift Trail) (2), Graham County, Ariz., June 2: This statement is a revision of a draft EIS filed with CEQ September 29, 1975. The statement concerns a new alternative for construction of a road to the top of the Pinaleno Mountains. The new alternative will be a modification of Alternative C, which includes plans to retain the existing road and pave it to Shannon Campground. This alternative involves drainage structure modification, minor subgrade reinforcement, 2-inch bituminous pavement, a Type 3 seal coat, and center line striping. (ELR Order No. 60802.)

Boise National Forest Timber Management Plan, several counties in Idaho, June 3: This statement proposes to evaluate the primary and secondary effects of the proposed Boise National Forest Timber Management Plan. This plan is being developed within the allocation and direction provided in the twelve approved Land Use Plans, and will affect about 2,270,000 acres of National Forest land. There will be short-term adverse effects on air and water quality, aesthetics, wildlife, and recreation. (ELR Order No. 60818.)

Final

Pacific Northern Co. Timber Sale, Tongass National Forest, Alaska, June 2: Proposed is the clearcutting of 220 million board feet of timber during the 1977-1981 operating period of the Pacific Northern Timber Company. The proposed cutting areas cover portions of Wrangell, Etolin, Woronkofski, Zarembo and Mitkof Islands in Tongass National Forest, Alaska. Surface erosion will be accelerated in some areas and sediment production to streams will increase. The proposed action will modify 143,500 acres of land to the degree that it will no longer qualify for consideration for inclusion into the Wilderness Preservation System. Permanent roads and quarries will be constructed. Comments made by: AHP, DOC, EPA, COE, DOI, and State agencies. (ELR Order No. 60807.)

Truckee-Little Truckee Rivers Unit Plans, California and Nevada. June 3: This statement concerns a proposed land use plan for portions of the Truckee and Sierraville Ranger Districts, Tahoe National Forest and a part of the Carson Ranger District, Toiyabe National Forest. The plan applies to 156,955 acres of National Forest land located within a study area boundary containing 320,000 acres. The unit is primarily recreational, other uses being those of timber, range, and wildlife. Plan implementation could result in adverse effects on transportation system, and a reduction in air quality. Comments made by: COE, DOI, DOT, USDA, EPA, State and local agencies, and concerned groups. (ELR Order No. 60811.)

San Juan National Forest Timber Plan Revision, Colorado, June 4: The proposed action is the implementation of a revised Timber Management Plan for the San Juan National Forest for the 10-year period of 1977-1986. It provides for the management of resources on certain lands of the National Forest through the silvicultural treatment of 110,900 acres of forested land with options for treating additional forested lands if Federal funds are appropriated for road construction or if market or demand increases during the plan period. Adverse effects include a slight increase in availability of wood products in the economy, and erosion of wilderness values on inventoried roadless areas not selected as New Study Areas. Comments made by: USDA, EPA, DOI, State and local agencies and concerned groups. (ELR Order No. 60826.)

SOIL CONSERVATION SERVICE

Final

Middle Walnut Watershed Project, several counties in Kansas, June 2: Proposed is a project for watershed protection, flood prevention, and public recreation in Butler, Cowley, Sedgwick, and Sumner Counties, Kansas. Adverse impacts of the project include the elimination of agricultural use and terrestrial wildlife habitat use of 518 acres, the interruption of agricultural and terrestrial wildlife habitat use of 1,225 acres by periodic flooding, the elimination of 167 acres of agricultural land for dams and spillways, and the relocation of 15 persons. Comments made by: USA, DOI, DOC, HEW, DOT, EPA, AHP, State and local agencies. (ELR Order No. 60805.)

Muddy Creek Watershed, Mississippi and Tennessee, June 3: Proposed is a project for flood prevention in Tippah County, Mississippi and Hardeman County, Tennessee. Project plans involve installation of land treatment measures and 28 sediment control structures, construction of 17 floodwater retarding structures and one multiple purpose structure for recreation and floodwater retardation, and 31.4 miles of channel work. Adverse effects include the loss of wildlife habitat on 230 acres of forest land. Approximately 31.4 miles of existing stream fisheries resources will be temporarily altered by the proposed channel work. Comments made by: HEW, DOT, EPA, State agencies,

and interested groups. (ELR Order No. 60817.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, 202-693-6795.

Draft

San Francisco Bay to Stockton Project, San Joaquin County, Calif., June 4: The proposed plan of improvement involves widening and deepening the existing ship channels in the Suisun Bay and Sacramento-San Joaquin Delta. Specifically, the plan provides for deepening the Suisun Bay and Stockton Deep Water Ship Channel between Point Edith and Stockton from their present 30-foot depths to 35 feet, realigning one reach, and providing recreation facilities, fish and wildlife management areas, and bank protection at specific locations. Adverse effects include the loss of fish, wildlife, and aesthetic values in some areas (Sacramento District). (ELR Order No. 60829.)

Richard B. Russell Dam and Lake, Supplement, Georgia and South Carolina, June 2: The statement is a supplement to a final EIS filed with CEQ 20 May 1974. The proposed action consists of the installation of four 75,000 kw reversible motor generator units driven by four reversible pump turbines and four conventional 75,000 kw generators. The reversible pump-turbines pump water back into an elevated reservoir when electrical demand is low and excess electricity is available. When electrical demand is high, the water is returned to a lower reservoir via generation. Large numbers of eggs and young fishes are vulnerable to entrainment during pumping and generating operations (Savannah District). (ELR Order No. 60803.)

Little Wood River Flood Damage Reduction, Lincoln and Gooding Counties, Idaho, June 3: Proposed is the improvement of the existing system for diverting floodwater from the Little Wood River into nearby lava fields through the construction of two diversion projects near Gooding and Shoshone, Idaho. The water would be disposed of by percolation and evaporation. Flood protection for 2,560 acres of rural and urban area would be provided. Terrestrial flora and fauna would be adversely affected (Walla Walla District). (ELR Order No. 60820.)

Atchafalaya River and Bayous (Supplement), Assumption, St. Mary, and Terrebonne Counties, La., June 3: This statement is a supplement to a final EIS filed with CEQ January 17, 1974. The proposed project, Atchafalaya River and Bayous Chene, Boeuf, and Black, Louisiana, is located in the coastal area of south-central Louisiana. The stream segments included in this project are located to the east and south of Morgan City, Louisiana, between U.S. Highway 90 and the Gulf of Mexico. The purpose of the project is to enlarge existing navigation channels sufficiently to permit the passage of large offshore drilling rigs and related marine equipment between construction and repair facilities on Bayous Boeuf and Black, and drilling sites in the Gulf of Mexico (New Orleans District). (ELR Order No. 60810.)

Tensas-Concodrie Pumping Plant (2), Concordia County, La., June 3: The statement concerns the construction of a 4,000 cubic-feet-per-second pumping plant in the Red River Backwater levee, which presently protects the Tensas-Concodrie area. The present plan also includes new gravity flood gate in the Black River Levee, inlet and outlet channels from Bayou Cocdrie to Black River, and the installation of water control structures and public access and other fish and wildlife mitigation facilities. The environment would be adversely affected by the clearing of bottomland and hardwood forest at an accelerated rate, the reduction of quaity and extent of fish and wildlife habitat, and construction and maintenance activities (Vicksburg District). (ELR Order No. 60815.)

Mitigation of Shore Damage, Frankfort Harbor, Benzie County, Mich., June 2: The Corps of Engineers proposes to mitigate shore erosion damage in the vicinity of Frankfort Harbor that is attributable to the Federal navigation structures at the harbor. The plan includes a public information program, a shore protection permit program, and the establishment of maintenance dredging guidelines. Impacts will result from rigorous enforcement of shore protection permit restrictions associated with the proposed project. Localized accretion normally accompanying groin construction would be limited as a secondary effect of restricting shore protection. (Detroit District.)

Final

Apalachicola, Chattahoochee and Flint Rivers, O&M, Alabama, Florida, and Georgia, June 4: Proposed is the continued operation and maintenance of the Apalachicola, Chattahochee and Flint Rivers for navigation, flood control, hydropower and recreation. Navigation features consist of channel construction the length of the authorized project. Dredging activities for commercial sand and gravel production are discussed as they relate to the purpose of maintaining the Federal project. Adverse effects include temporary increase in turbidity and suspended solids concentrations near the dredge and disposal areas, loss of wildlife habitation and blocking of upstream migration of fish. Comments made by: DOI, DOC, HUD, DOT, USCG, EPA, USDA, and FPC. (ELR Order No. 60822.)

White Lake Harbor, Mitigation of Shore damage, Muskegon County, Mich., June 3: Proposed is a project to mitigate shore damage that is partly attributable to federal navigation structures at White Lake Harbor. The plan entails establishment of five beach nourishment supply sites. Sediment accumulations in the mouth of the harbor will serve as the unpolluted source of material. The dredging and disposition of sand for the project will cause local benthos damage, temporary increases in noise, night time nuisance light, exhaust emissions discharge, and associated detraction in the recreational and aesthetic qualities of the area. (Detroit District.) Comments made by: USDA, DOI, USCG, EPA, DOC, State agencies, and concerned groups. (ELR Order No. 60812.)

Grand Haven Harbor, Grand River Dredging, Ottawa County, Mich., June 4: Proposed is the periodic maintenance dredging of the navigation channels in Grand Haven Harbor and the Grand River, Michigan. Unpolluted materials removed from the 14.5 mile long upstream channel will be placed primarily on shoreline reaches, particularly those that have been subject to erosion. Polluted materials dredged from the harbor proper will be contained in a confined disposal site. Disruption of benthic habitat will occur due to construction. (Detroit District.) Comments made by: EPA, DOI, DOC, USDA, DOT, AHP, State, and local agencies. (ELR Order No. 60833.)

DEPARTMENT OF DEFENSE, NAVY

Contact: Mr. Peter M. McDavitt, Special Assistant to the Assistant Secretary of the Navy (Installations and Logistics), Washington, D.C. 20350, 202-692-3227.

Final

Indian Island Annex, NTS Keyport, Jefferson County, Wash., June 4: Proposed is construction of new facilities at the existing Navy owned Indian Island Annex, NTS Keyport, Washington. Project plans include construction of a two berth ammunition pier, an ammunition segregation renovation facility, two missile magazines, four truck holding yards, an ordinance disposal facility, renovation of some existing buildings, construction of new support buildings and sewage treatment facility, and construction of road and utility systems to support the new facilities. Adverse effects include the clearance of 100 acres of timberland and discharge of approximately 50,000 gpd of sewage treatment plant effluent. Comments made by: USDA, DJUS, DOI, USN, and local agencies. (ELR Order No. 60832.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Rebecca W. Hanmer, Director, Office of Federal Activities, Room WSMW 537, 401 M Street, SW., Washington D.C. 20460, 202-755-0780 (stop 406).

Draft

Contra Costa County Wastewater Management, Contra Costa County, Calif., June 2: The proposed wastewater management plan for East/Central Contra Costa County consists of conveyance of sewage from Shore Acres, Pittsburg and Antioch to a subregional treatment facility located to the east of Pittsburg, local secondary treatment and land disposal by evaporation/percolation at Brentwood, Byron, Discovery Bay, and Oakley, and discharge to the surface waters of the Sacramento at Mountain View and at Port Costa. Direct impacts of the proposal include the continued discharge of effluent containing heavy metals and other toxic substances. Indirect impacts will result from project growth accommodation. (Region IX.) (ELR Order No. 60801.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, 202-343-4161.

Final

Motor Pool & Vehicle Maintenance Facility, Miami, Dade County, Fla., June 2: Proposed is the construction by the General Services Administration in Miami, Florida of a new motor pool and vehicle maintenance facility. The project is necessary because the land where it is now located, which is adjacent to the U.S. Post Office and Courthouse in downtown Miami, is required as the site for a new U.S. Courthouse Annex. Thus, GSA must relocate the facility to a permanent structure on a site to be acquired. No adverse effects are expected to result from the project. Comments made by: USDA, COE, DOC, HEW, HUD, DOI, DLAB, EPA, State, and local agencies. (ELR Order No. 60804.)

Otisville Federal Correctional Institution, Orange County, N.Y., June 4: The proposed action consists of construction of a new Federal Correctional Institution in Otisville, New York by the General Services Administration for the Fedferal Bureau of Prisons. The complex will contain a gross area of approximately 250,000 square feet of profile one and two story buildings, and will house approximately 500 adult Federal law offenders. Adverse effects include loss of some natural land cover and minor disruptions to wildlife. Comments made by: HEW, DOI, DJUS, USDA, DOT, AHP, and local agencies. (ELR Order No. 60834.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258,

451 7th Street, SW., Washington, D.C. 20410, 202–755–6308.

Draft

Harriman Park and Lakehurst West III, Jefferson County, Colo., June 4: The developers of Harriman Park and Lakehurst West are proposing to build 1089 single family and 334 multi-family housing units in southeastern Jefferson County, Colorado. Both developers have requested a Federal Housing Administration feasibility analysis for mortgage insurance on single family units in the Subdivisions. Adverse effects include groundwater and erratic subsoils upon structural foundations, increased traffic upon existing roads, and increased demand upon health and social services. (ELR Order No. 60824.)

Summerlakes, Warrenville, Ill., Du Page, County, Ill., June 3: Proposed is the construction of Summerlakes, a residential development of a 311 acre tract of land over approximately a 7 year period. Included in the plan is the construction of 1195 dwelling units and a community center. Adverse impacts of the project include the conversion of agricultural land to urban use, some increase in air pollution and community noise levels, increased storm water runoff, and some traffic congestion. (ELR Order No. 60814.)

Draft

Water Distribution System, Sumter Co., Sumter County, Ala., June 2: Proposed is the installation of a distribution system to provide potable water to the area between Livingston and Gainesville in Sumter County. This system proposes initially to install approximately 14 miles of 8 inch diameter water pipe, approximately 13 miles of 6 inch diameter water pipe, approximately 6 miles of 3 inch diameter pipe, a 200,000 gallon storage reservoir, and a pumping station. Construction disruption will result. (ELR Order No. 60808.)

Water Distribution System, DeKalb Co., DeKalb County, Tenn., June 2: Proposed is the installation of 12.5 miles of 6-inch potable water line in the northwest section of DeKalb County for approximately 70 families who either cannot find any water by drilling or can find only brackish water by drilling, and some of whom must transport their potable water from rather distant sources. Construction disruption will result. (ELR Order No. 60809.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

BUREAU OF INDIAN AFFAIRS

Draft

Navajo Indian Irrigation Project, San Juan County, N. Mex., June 3: Proposed is the construction for the Navajo Tribe of Indians of a 110,630 acre irrigation project. The Navajo Tribe proposes to construct a related agribusiness complex near Farmington in northwestern New Mexico. Water for farming will come from the Navajo Reservoir on the San Juan River. Public services for the increased population can be provided without substantially increasing taxes, or other problems, only if "front end" financing is obtained and other proposed energy-producing projects are not developed concurrently. Social impacts of the proposed irrigation project alone will be manageable, but if experienced at the same time, the cumulative effect will be considerable. (ELR Order No. 60816.)

BUREAU OF LAND MANAGEMENT

Draft

Challis Planning Unit Grazing Program, Custer County, Idaho, June 4: The statement concerns domestic livestock management plans for the Challis Unit, which includes 330,617 acres of national resource lands. The plan would include permanent grazing systems, range improvements including water developments, fencing, cattleguards and gates, vegetative manipulation and stock trails. Adverse impacts would include periodic increases of sedimentation in pastures where livestock would be concentrated for early spring use, short-term impacts of vegetation because of plants not being permitted to meet growth requirements, occasional competition of wildlife and wild horses for vegetation, and a decrease of grazing for operators. (ELR Order No. 60827.)

OCS Lease Sale No. 44, Gulf of Mexico, Texas and Louisiana, June 3: This statement concerns the leasing of 61 tracts of OCS land offshore Texas and Louisiana, for oil and gas exploration and development. All tracts offered pose some degree of pollution risk to the environment. Adverse environmental impacts will result from accidental or chronic spillage. (ELR Order No. 60813.)

BONNEVILLE POWER ADMINISTRATION

Draft

FY 1978 Program, June 4: The proposed construction for fiscal year 1978 will include new transmission lines and reconducted lines, three possible new substations, equipment additions to six existing substations, maintenance of 12,500 miles of existing transmission lines, control of vegetation on approximately 16,500 acres of transmission line rights-of-way and 950 acres of substation property. Adverse impacts include construction disruption and increased risk of man-caused accidents. (ELR Order No. 60830.)

NUCLEAR REGULATORY COMMISSION

Contract: Mr. Benard Rersche, Director of Division of Reactor Licensing, P–722, NRC, Washington, D.C. 20555, 301–492–7373.

Draft

Diable Canyon Nuclear Plant, Units 1 and 2 (S), California, June 3: This statement is a supplement to a final EIS filed with CEQ June 4, 1973. The proposed action is the issuance of operating licenses to the Pacific Gas and Electric Company for Diable Canyon Units 1 and 2 located on the California Coast 12 miles southwest of San Luis Obispo, California. Both Units employ pressurized water reactors to produce up to 3568 megawatts thermal each. Each turbine generator will use this heat to provide about 1150 MW of electrical power capacity. The exhaust steam will be cooled with a once-through flow of water from the Pacific Ocean. (ELR Order No. 60821.)

DEPARTMENT OF TRANSPORTATION

Contract: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202–426–4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

I–66 Corridor, Capital Beltway to Potomac River, Arlington and Fairfax Counties, Va., June 4: Proposed is the construction of a 9.6 mile segment of a 4-lane, limited access road connecting the existing I–66 west of the Beltway to Theodore Roosevelt Bridge across the Potomac River. Traffic management would promote the high occupancy usage of privately owned automobiles by restricting peak flow traffic to buses and automobiles with four or more occupants. Thirty-four residential streets would be severed or connected to service streets, visual intrusion would occur, 8.79 acres of park land would be required, 67 families and 1 business would be displaced, and noise levels would increase, at nine locations in excess of Federal standards. (ELR Order No. 60831.)

S.R. 82 and S.R. 97 Connection, Union Gap, Yakima County, Wash., June 4: The proposed project consists of a 1.9 mile connection via a loop type interchange between existing SR 82 and SR 97 south of the City of Union Gap in central Washington State. The improvement would also add an additional two lanes to a short segment of rural two lane roadway which joins a four lane segment. The proposed roadway would consist of a four lane asphalt concrete roadway with 10' asphalt concrete shoulder and a 16' median with median barrier. Adverse effects include removal of 31 acres of wildlife habitat and displacement of one family residence. (ELR Order No. 60828.)

I–43 Manitowoc Road, Manitowoc County, Wis., June 3: The proposed project is located in the City and County of Manitowoc, Wisconsin. The project begins at the intersection of U.S.H. 141 and Waldo Boulevard and extends westerly to the future interchange with I–43. The length of the proposed project is approximately 1.5 miles. The project will require the acquisition of 30 acres of land. (ELR Order No. 60819.)

Final

Coast Highway (SR 1) Bridge, Upper Newport Bay, Orange County, Calif., June 4: This statement refers to the construction of a 0.6 mile, 6-lane bridge over Upper Newport Bay, replacing the existing 4-lane structure and widening the approaches. The proposed project displaces up to 31 living units, 8 businesses, 13 families, and 36 employees. An historical landmark monument commemorating the first boat landing in Newport Beach will be relocated to a suitable location in the vicinity of the existing site. (Region 9.) Comments made by: EPA, DOI, COE, USCG, and local officials. (ELR Order No. 60825.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.76-17018 Filed 6-10-76;8:45 am]

ENVIRONMENTAL IMPACT STATEMENTS

Availability of Report to President

The Council on Environmental Quality hereby gives notice of the availability of its report to the President "Environmental Impact Statements: An Analysis of Six Years' Experience of Seventy Federal Agencies." The report presents the results of a year long review in 1975 of the experiences of federal agencies in implementing section 102(2)(C) of the National Environmental Policy Act of 1969. It examines the use and effect of the impact statement process in federal planning and decisionmaking, time required to complete the process, content and quality of impact statements, and the comment process, among other topics. It recommends further CEQ and agency action to improve the process. Based on this report and its recommendations, the Council will hold public meetings later in the year to solicit views of industry, labor, environmental and other interest groups and members of the general public. Notice of these public meetings will appear in the FEDERAL REGISTER.

The Council's report is being distributed to Federal agencies, Members of Congress, State Governors and State and local agencies. Copies may be obtained by writing: "EIS Report", Coun-

cil on Environmental Quality, 722 Jackson Place, NW., Washintgon, D.C. 20006.

GARY L. WIDMAN,
General Counsel.

[FR Doc.76-17057 Filed 6-10-76;8:45 am]

COUNCIL ON WAGE AND PRICE STABILITY

RISING HEALTH CARE COSTS

Public Hearing

This notice is intended to provide the time, date and place of a public hearing about rising health care costs, to be held by the Council on Wage and Price Stability in New York City. This hearing will be held on June 29, 1976, in Room 305 of 26 Federal Plaza in New York City, starting at 9 a.m. and continuing until completed.

The above hearing, and hearings to be subsequently held in Chicago and San Francisco, were previously announced in a notice in the June 3, 1976 FEDERAL REGISTER. (See 41 FEDERAL REGISTER 22407.) As explained in that notice, the hearing will focus principally on the following topics:

(1) What factors are responsible for the rapid rise in health care costs?

(2) What can and is being done by the medical care industry, by third-party payers, by the consumer, or by labor and management in other sectors of the economy to stem the increases in costs?

The above June 3, 1976 FEDERAL REGISTER notice directed parties interested in presenting oral and/or written testimony to contact Susanne Tierney of the Council on Wage and Price Stability at Room 4002, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20506 (telephone 202-456-7113).

WILLIAM LILLEY III,
Acting Director.

[FR Doc.76-17058 Filed 6-10-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 560-6; OPP-50171]

ARIZONA UNIVERSITY

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to the University of Arizona, Tucson, Arizona 85721. Such permit is in accordance wth, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 1471-EUP-47) allows the use of 150 grams of the pheromone (Z,Z)-7,11-hexadecadien-1-ol and (Z,E)-7,11-hexadecadien-1-ol in traps in cotton fields to evaluate control of the pink bollworm moth through mass trappings. The program calls for the use of 150,000 traps; the program is authorized only in the State of Arizona. The experimental use permit is effective from May 18, 1976, to May 18, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Moday through Friday.

Dated: June 7, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-17084 Filed 6-10-76;8:45 am]

[FRL 560-7; OPP-50173]

CITIES SERVICE CO.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Cities Service Company, Cranbury, New Jersey 08512. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 1109-EUP-2) allows the use of 410 pounds of the fungicide copper salts of fatty and rosin acids (copper as metallic) on potatoes to evaluate control of early and late blight. A total of 27 acres is involved; the program is authorized only in the States of Iowa, Minnesota, and North Dakota. The experimental use permit is effective from May 21, 1976, to May 21, 1977. An exemption from the requirement of a tolerance for residues of the active ingredient in or on potatoes has been established (40 CFR 180.1001 (b)(1)).

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: June 7, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-17085 Filed 6-10-76;8:45 am]

[FRL 561-4; OPP-50178/50180]

FISONS CORP.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to Fisons Corporation, Bedford, Massachusetts 01730. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

These experimental use permits (No. 10065-EUP-4, 10065-EUP-6, and 10065-EUP-7) allow the use of 15,540 pounds of the herbicide 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate on sugarbeets to evaluate control of certain broadleaf weeds and grasses. A total of 34,020 acres is involved, if the applications are made on a banded basis; the programs are authorized only in the States of Arizona, California, Colorado, Idaho, Kansas, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, Oregon, Texas, Utah, Washington, and Wyoming. The experimental use permits are effective from May 17, 1976, to May 17, 1977. A temporary tolerance for residues of the active ingredient in or on sugarbeets has been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: June 7, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-17090 Filed 6-10-76;8:45 am]

[FRL 561-2; OPP-50176]

GAF CORP.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to GAF Corporation, New York, New York 10020. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 1529-EUP-2) allows the use of 1,000 pounds of the plant regulator ethephon on pineapples. A total of 600 acres is involved; the program is authorized only in

the State of Hawaii. The experimental use permit is effective from May 24, 1976, to May 24, 1977. A permanent tolerance for residues of the active ingredient in or on pineapples has been established (40 CFR 180.300).

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: June 7, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-17088 Filed 6-10-76;8:45 am]

[FRL 561-1; OPP-50175]

MOBAY CHEMICAL CORP.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Mobay Chemical Corporation, Kansas City, Missouri 64120. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 3125-EUP-131) allows the use of 9,300 pounds of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate on forest and shade trees to evaluate control of the Spruce Budworm and the Western Spruce Budworm. A total of 12,000 acres is involved; the program is authorized only in the States of Maine and Montana. The experimental use permit is effective from May 24, 1976, to May 24, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: June 7, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-17087 Filed 6-10-76;8:45 am]

[FRL 561-3; OPP-50177]

MOBAY CHEMICAL CORP.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Mobay Chemical Corporation, Chemagro Agricultural Division, Kansas City, Missouri 64120. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 3125-EUP-133) allows the use of 1,200 pounds of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1, 2, 4-triazan-5(4H) one on soybeans to evaluate control of certain grasses and broadleaf weeds. A total of 2,400 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, and Wisconsin. The experimental use permit is effective from May 24, 1975, to May 24, 1976. A permanent tolerance for residues of the active ingredient in or on soybeans has been established (40 CFR 180.332).

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: June 7, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-17089 Filed 6-10-76;8:45 am]

[FRL 560-3; OPP-50174]

SELLERS CHEMICAL CORP.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Sellers Chemical Corporation, Haraham, Louisiana 70183. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 9538-EUP-2) allows the use of 652 pounds of the herbicide n-decanol on tobacco to evaluate control of sucker growth. A total of 76 acres is involved; the program is authorized only in the States of Georgia, Kentucky, and North Carolina. The experimental use permit is effective from May 21, 1976, to May 21, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: June 7, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-17086 Filed 6-10-76;8:45 am]

[FRL 560-1]

STATE-FEDERAL WATER PROGRAMS ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following subcommittee meeting:

Name: Municipal Operations Strategy Subcommittee.
Date: June 30, 1976.
Place: U.S. Environmental Protection Agency, 1600 Patterson Street, Dallas, Texas.
Time: 9:00 a.m.-4:00 p.m. (approximately).
Proposed Agenda: Further consideration of issues involved in municipal operations strategy.

Date: June 4, 1976.

ANDREW W. BREIDENBACH,
Assistant Administrator
For Water and Hazardous Materials.

[FR Doc.76-17083 Filed 6-10-76;8:45 am]

[FRL 560-2; PP6G1744/T67]

THOMPSON-HAYWARD CHEMICAL CORP.

Establishment of a Temporary Tolerance

Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City KS 66110 has submitted a pesticide petition (PP 6G1744) to the Environmental Protection Agency (EPA). This petition requests that temporary tolerances be established for residues of the insecticide N-[[(4-chlorophenyl) amino]-(carbonyl)] 2,6-difluorobenzamide in or on the raw agricultural commodities cottonseed at 0.20 part per million (ppm), and in eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm.

Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that is being is-

sued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerances are adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. The temporary tolerances are established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Thompson-Hayward Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire June 7, 1977. Residues not in excess of 0.20 ppm in or on cottonseed and 0.05 ppm in eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep remaining after this expiration date will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].)

Dated: June 7, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-17082 Filed 6-10-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 559-9; OPP-30000/3A]

PESTICIDE PROGRAMS

Presumption Against Registration and Continued Registration of Pesticide Products Containing Chlorobenzilate

On May 26, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 21517) that the Deputy Assistant Administrator of the Office of Pesticide Programs had determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing chlorobenzilate as an ingredient for all uses. Registrants and applicants for registration identified in the notice were notified by certified mail of this action.

Recently, an additional application for registration of a product containing chlorobenzilate has come to the attention of the Agency. In light of the above action, a notice of presumption against registration is being issued at this time to:

Applicant	EPA file symbol	Product name
Chempar Chemical Co., Inc., 2600 Madison Ave., New York, N.Y. 10016.	7173-RGA	Chempar chlorobenzilate technical.

The above applicant for registration is being notified by certified mail of the rebuttable presumption issued on May 26, 1976.

The above applicant for registration shall have until July 20, 1976, to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days in which such evidence may be submitted. Notice of such an extension, if granted, will appear in the FEDERAL REGISTER.

During the time allowed for submission of rebuttal evidence, any member of the public or any other federal agency is invited to submit written comments and other information relevant to the presumption against registration and continued registration contained in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments should bear the identifying notation "OPP-30000/3". Comments and information received within the specified time limit shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii). Comments received after the specified time period will be considered only to the extent feasible consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. during normal working days.

Dated: June 4, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.76-16909 Filed 6-10-76;8:45 am]

[FRL 559-6; OPP-33000/411]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [P.L. 94-140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Decision (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed on or before August 10, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for

which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before July 12, 1976.

Dated: June 2, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP-33000/411)

EPA Reg. No. 264-138. Amchem Products Inc., Brokside Ave., Ambler PA 19002. AMIBEN PREEMERGENCE HERBICIDE. Active Ingredients: Ammonium salt of chloramben (3-amino-2,5-dichlorobenzoic acid) 21.1%; Ammonium sals of related aminochlorobenzoic acids 2.3%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use and revised offer to pay statement submitted. Application for reregistration. PM25

EPA File Symbol 8612-OU. B & G Co., PO Box 20372, Dallas TX 75220. B & G DURSBAN ½G. Active Ingredients: Chlorpyrifos (O,O-Diethyl O-(3,5,6-Trichloro-2-Pyridyl) Phosphorothioate 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA Reg. No. 3125-288. Chemagro Div., Baychem Corp., PO Box 4913, Kansas City MO 64120. MESUROL 75% WETTABLE POWDER INSECTICIDE. Active Ingredients: 3,5 - Dimethyl - 4 - (methylthio) phenol methylcarbamate 75%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. Application for reregistration. PM12

EPA Reg. No. 2204-12. Diamond Shamrock, Process Chemicals Div., PO Box 2386-R, 350 Mt. Kemble Ave., Morristown NJ 07960. NOPCOCIDE N-96. Active Ingredients: Chlorothalonil (tetrachloroisophthalonitrile) 96.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. Application for reregistration. PM12

EPA Reg. No. 464-448. The Dow Chemical Co., Midland MI 48640. LORSBAN 4E INSECTICIDE. Active Ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 40.7%; Aromatic petroleum derivative solvent 22.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA Reg. No. 34292-1. Dow Corning Corp., South Saginaw Rd., Midland MI 48640. DOW CORNING Q9-5700. Active Ingredients: 3-(trimethoxysilyl)-propyldimethyloctadecyl ammonium chloride 42%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA Reg. No. 352-342. E. I. DU Pont De Nemours & Co., Inc., Biochemicals Dept., 7056 Dupont Bldg., Wilmington DE 19898. LANNATE. Active Ingredients: S-methyl N-[(methyl carbamoyl)oxy] thioacetimidate 90%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. Application for reregistration. PM12

EPA Reg. No. 352-362. E. I. Du Pont De Nemours & Co., Inc., Biochemicals Dept., 7056 Dupont Bldg., Wilmington DE 19898. LANNATE WP. Active Ingredients: S-methyl N-[(methylcarbamoyl)-oxy]thioacetimidate 25%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. Application for registration. PM12

EPA Reg. No. 352-370. E. I. Du Pont De Nemours & Co., Inc. LANNATE L. Active Ingredients: S-methyl N-[(methylcarbamoyl)-oxy]thioacetimidate 24%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. Application for reregistration. PM12

EPA Reg. No. 352-375. E. I. Du Pont De Nemours & Co., Inc. LEXONE METRIBUZIN WEED KILLER. Active Ingredients: 4-Amino - 6 - (1,1 - dimethylethyl) - 3-(methylthio) - 1,2,4 - triazin - 5(4H) - one 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use and revised offer to pay statement submitted. Application for reregistration. PM25

EPA File Symbol 9198-GI. Free Flow Fertilizer, PO Box 119, Maumee OH 43537. FORTIFY LAWN FUNGICIDE. Active Ingredients: Chlorothalonil (Tetrachloroisophthalonitrile) 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA Reg. No. 2596-50. The Hartz Mountain Corp., 700 S. 4th St., Harrison NJ 07029. HARTZ 2 IN 1 COLLAR FOR DOGS. Active Ingredients: 2-Chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 9.5%. Method of Support: Application proceeds under 2(a) of interim policy. PM15

EPA Reg. No. 891-23. Hercules, Inc., Synthetics Dept., 910 Market St., Wilmington DE 19899. HERCULES TOXAPHENE 72% EMULSIFIABLE CONCENTRATE. Active Ingredients: Toxaphene (technical chlorinated camphene containing 67-69% chlorine) 72%; Xylene Range Aromatic Solvent 23%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use and general revision of label. Application for reregistration. PM12

EPA Reg. No. 707-71. Rohm and Haas, Independence Mall, West, Philadelphia PA 19105. KARTHANE LIQUID CONCENTRATE AGRICULTURAL FUNGICIDE AND MITICIDE: Active Ingredients: 2,4-Dinitro-6-octyl phenyl crotonate) 35.0%; 2,6-Dinitro-4-octyl phenyl crotonate) Nitrooctyl phenol (principally dinitro) 2.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 38962-3. Mississippi Authority for Control of Fire Ants. PO Box 1609, Jackson, MS 39205. MIREX GRANULATED BAIT 10-5. Active Ingredients: Dodecachlorooctahydro - 1,3,4 - Metheno - 2H cyclobuta(CD)pentalene 0.1%. Method of Support: Application proceeds under 2(b) interim policy. Republished: Name change from "2x Mirex", and formulation change. PM15

EPA File Symbol 11273-RO. Sandoz Inc. Crop Protection, PO Box 1489, Homestead FL 33030. SOLICAM 80 WP HERBICIDE. Active Ingredients: norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] 80%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 9078-0. Tennessee Farmers Cooperative, Box 157, General Office, LaVergne TN 37086. CO-OP 36% DAIRY CONCENTRATE. Active Ingredients: 2-chloro-1-(2,4,5-trichloro-phenyl) vinyl dimethyl phosphate 0.087%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 9078-RN. Tennessee Farmers Cooperative, CO-OP 12% CATTLE MINERAL (CONTAINS RABON ORAL LARVICIDE). Active Ingredients: 2-chloro-1-(2,4,5-trichloro-phenyl) vinyl dimethyl phosphate 0.93%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA Reg. No. 1016-78. Union Carbide Corp., 1730 Pennsylvania Ave., NW, Washington DC 20006. TEMIK 15% GRANULAR. Active Ingredients: Aldicarb [2-methyl-2-(methylthio) propionaldehyde O-(methylcarbamoyl)oxime] 15%. Republished: Method of Support changed from 2(b) to 2(a) of interim policy. Application for reregistration. PM12

EPA Reg. No. 400-104. Uniroyal Chemical, Div. of Uniroyal, Inc., 74 Amity Rd., Bethany CT 06525. COMITE AGRICULTURAL MITICIDE (WEST OF THE ROCKY MOUNTAINS). Active Ingredients: Propargite 2-(p-tert-butylphenoxy)cyclohexyl 2-propynyl sulfite 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. Application for reregistration. PM13

EPA File Symbol 6704-TT. U.S. Department of the Interior, U.S. Fish & Wildlife Service, Washington DC 20240. ZINC PHOSPHIDE ON ROLLED OAT GROATS FOR THE CONTROL OF CALIFORNIA GROUND SQUIRRELS ON NONCROP RIGHT-OF-WAYS AND ADJACENT NONCROP AREAS. Active Ingredients: Zinc Phosphide 2.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM11

EPA Reg. No. 2935-407. Wilbur-Ellis Co., PO Box 1286, Fresno CA 93175. RED-TOP GOLDEN-DEW. Active Ingredients: Sulfur 92.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. Application for reregistration. PM22

[FR Doc.76-16910 Filed 6-10-76;8:45 am]

[FRL 559-7; OPP-33000/410]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB–31, East Tower, 401 M Streets, S.W., Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed on or before August 10, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before July 12, 1976.

Dated: June 3, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP–33000/410)

EPA Reg. No. 3276–25. A & L Laboratories, Inc., 1001 Glenwood Ave., Minneapolis MN 55405. AL-CLOR 6.6 SANITIZER. Active Ingredients: Sodium Hypochlorite 6.6%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 7043–RA. American Oil & Suppy Co. Distributors, 238 Wilson Ave., Newark NJ 07105. PQ PROVEN QUALITY BLEACH. Active Ingredients: Sodium Hypochlorite 12%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 1317–IA. An-Fo Manufacturing Company, 3129 Elmwood Ave., Oakland CA 94601. DAIRY-DU SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 8.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 33283–E. Branchemco, Inc., 8286 Western Way Circle, D–9, Jacksonville FL 32216. BRANCHEMCO NO. 331. Active Ingredients: Sodium Dimethyldithiocarbamate 40%; Isopropanol 2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA File Symbol 33283–G. Branchemco, Inc. BRANCHEMCO 314. Active Ingredients: Sodium pentachlorophenate 21.5; sodium salts of other chlorophenols 3.0%; Isopropanol 5.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 10082–AE. Athea Laboratories, Inc., 4180 N. First St., Milwaukee WI 53212. COCKROACH KILLER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2 - dimethyl - 3 - (2 - methylpropenyl) - cyclopropanecarboxylate 0.250%; Related Compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 1459–LI. Bullen Chemical Co., Hook Road, Folcroft PA 19032. BULLEN INDUSTRIAL WATER COOLING TOWER ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 5429–EG. Cello Chemical Co., A Grow Chemical Subsidiary, 8200 Fischer Rd., Baltimore MD 21222. CELLO MINT DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Essential Oils 0.20%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 35495–1. Chemax, Inc., Industrial Chemistry, 2106 N.W. 24th Ave., Portland OR 97210. PASTADE 474 DISINFECTANT-SANITIZER FUNGICIDE-DEORDERIZER. Active Ingredients: Alkyl (C14 68%, C16 30%, C12 5%, C18 5%) Dimethyl Benzyl Ammonium Chlorides 5.0%; Alkyl (C12 68%; C14 32%) Dimethyl Ethylbenzyl Ammonium Chlorides 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 35495–G. Chemax, Inc. 488. Active Ingredients: Disodium cyanodithioimidobarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 11598–2. Connecticut Aerosols, Inc., 85 Furniture Row, Milford CT 06460. INSECT REPELLENT SPRAY FOR PERSONAL USE. Active Ingredients: N,N-diethyl-m-toluamide 6.65%; Other isomers 0.35%; N-Octyl bicycloheptene dicarboximide 2.00%; 2,3:4, 5-Bis (2 butylene) tetrahydro - 2 - furaldehyde .50%; Di-n-propyl isocinchomeronate 0.50%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 677–166. Agricultural Chemicals Div., Diamond Shamrock Corporation, 1100 Superior Ave., Cleveland OH 44114. DACTHAL W–75. Active Ingredients: Dimethyl tetrachloroterephthalate 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM23

EPA File Symbol 464–LGE. Dow Chemical Co., #2030 Dow center, Indianapolis IN 46268, Midland MI 48640. DISINFECTANT BATHROOM CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.1%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.1%; Tetrasodium ethylenediamine tetraacetate 2.92%. Methods of Support: Application proceeds under 2(a) of interim policy. PM31

EPA File Symbol 38807–R. Du-Well Products, Div. of Wal-Ben Industries, Inc., 516 Chicopee St., Chiopee MA 01013. DU-WELL SO CLEAR. Active Ingrgedients: Sodium Hypochlorite 12½%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 352–346. E. I. DuPont De Nemours Co., 6054 DuPont Bldg., Wilmington DE 19898. HYVAR X–L BROMACIL WEED KILLER. Active Ingredients: Lithium salt of bromacil (5-bromo-3-sec-butyl-6 methyluracil) 21.9%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 1471–RNG. Elanco Products Co., PO Box 1750, Indianapolis IN 46206. SPIKE 5%P. Active Ingredients: N-[5-(1,1 - dimethylethyl) - 1,3,4 - thiadiozol-2-yl]-N,N'-dimethylurea 5%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 1471–RNU. Elanco Products Co. SPIKE 1%P. Active Ingredients: N-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-N,N'-dimethylurea 1%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 2098–GR. Empire Chemical Co., 715 Lamar St., Los Angeles CA 90031. 75 SC–10. Active Ingredients: N-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.2%; N-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.2%; Sodium Carbonate 2.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 912–IG. Farmers Union Central Exchange, Inc., PO Box "G", General Offices, St. Paul MN 55165. CENEX A D E (CONTAINS RABON ORAL LARVICIDE). Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 4.78%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA File Symbol 912–IE. Farmer Union Central Exchange, Inc. CENEX MILK BOOSTER-FLY MINERAL. Active Ingredients: 2 - chloro - 1 - (2,4,5 - trichlorophenyl) vinyl dimethyl phosphate 1.19%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA Reg. No. 2596-50. Hartz Mountain Corp., 700 So. 4th St., Harrison NJ 07029. HARTZ 2 IN 1 COLLAR FOR DOGS. Active Ingredients: 2 - Chloro - 1 - (2,4,5 - trichlorophenyl) vinyl dimethyl phosphate 9.5%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added claims. PM15

EPA File Symbol 2617-RT. Geisler Pet Products, Inc., 3902 Leavenworth St., Omaha NE 68105. GEISLER DOG FLEA & TICK POWDER. Active Ingredients: Carbaryl (1-naphthyl N-methylcarbamate) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA File Symbol 35300-R. Guardian Pools, Inc., 650 N. State Rd. 7, Hollywood FL 33021. ALLIED POOL GUARD. Active Ingredients: Sodium Hypochlorite 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 19605-A. Gulf Chemicals Co., 6840 Piccadilly, Houston TX 77061. SWIMCHEM SWIMMING POOL ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 5905-UUE. Helena Chemical Co., Clark Tower—5100 Poplar Ave., Suite 2900, Memphis TN 38137. HELENA. Active Ingredients: Alkanolamine salts (of the ethanol and Isopropanol series) of dinoseb (2-sec-butyl-4,6-dinitrophenol) 2.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM23

EPA File Symbol 8730-I. Herculite Protective Fabrics Corp., 1107 Broadway, New York NY 10010. HERCON "INSECTAPE" PROFESSIONAL STRENGTH WITH DIAZINON. Active Ingredients: [O,O-diethyl-O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA Reg. No. 6962-19. Madison Bionics, 11250 W. Addison St., Franklin Park IL 60131. DIE-SECT SPRAY POWDER. Active Ingredients: Orthoboric Acid 6.83%; Sodium Tetraborate Decahydrate 0.07%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added claims. PM15

EPA Reg. No. 6962-19. Madison Bionics. DIE-SECT SPRAY POWDER. Active Ingredients: Orthoboric Acid 6.83%; Sodium Tetraborate Decahydrate 0.07%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added claims. PM15

EPA File Symbol 1307-REN. Magnolia Chemical Co., Inc., 2646 Rodney Lane, PO Box 29179, Dallas TX. MAGNOLIA SUPERKILL. Active Ingredients: Prometon (2,4-bis(isopropylamino) - 6 - methoxy - s - triazine) 1.75%; Pentachlorophenol 0.74%; 2,3,4,6-Tetrachlorophenol 0.10%; Petroleum Hydrocarbons 92.16%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM24

EPA File Symbol 18962-A. Med-Tex, Inc., 16255 Ventura Blvd., Encino CA 91436. ALGAE FREE. Active Ingredients: Benzethonium Chloride 20%; (Diisobutylphenoxyethoxyethyl dimethyl benzyl ammonium chloride). Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 10454-T. Metropolitan Petroleum, Petrochemicals Co., Inc., 25 Caven Point Rd., Jersey City NJ 07305. BIOSUL. Active Ingredients: Disodium cyanodithioimidocarbonate 4.90%; Potassium N-methyldithiocarbamate 6.76%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 38835-R. Midgewater Enterprises, Box 364, Guilderland NY 12084. ADIRONDACK BUG BAR. Active Ingredients: N,N-Diethyl-m-Toluamide 50%; Oil of Cedarwood 2%; Oil of Citronella 2%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 10535-G. Professional Chemists, Inc., 700 Center Point Rd., N.E., Cedar Rapids IA 52402. PRO-SAN. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 11547-UR. Share Corp., PO Box 9, Brookfield WI 53005. PINE ODOR DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%; Pine Oil 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA Reg. No. 201-369. Shell Chemical Co., Suite 200 1025 Connecticut Ave., N.W., Washington DC 20460. VENDEX 50 WETTABLE POWDER. Active Ingredients: Hexakis (2-methyl-2-phenylpropyl)-distannoxane 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM13

EPA File Symbol 38819-R. Solvent Manufacturing Co., Inc. 1517 Ocama Blvd., Midwest City OK 73110. SWIMMING POOL ALGAECIDE CONCENTRATE. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 436-EL. Standard Chemical, Box 3844, 701 So. 42nd St., Omaha NE 68103. CATTLE PRE-MIX NO. 6. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 0.28%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 436-EA. Standard Chemical. STANDARD'S DAIRY BASE MIX. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 0.18%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 436-EU. Standard Chemical. 1½ x 1 MINERAL NO. 6. Active Ingredients: 2 - chloro - 1 - (2,4,5 - trichlorophenyl) vinyl dimethyl phosphate 2.80%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 148-RELD. Thompson-Hayward Chemical Co., PO Box 2383, Kansas City, Kansas 66110. DIMILIN W-25. Active Ingredients: N-[[(4-chlorophenyl) amino]carbonyl] - 2,6 - difluorobenzamide 25.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 400-75. Uniroyal Chemicals, 74 Amity Rd., Bethany CT 06525. DYANAP. Active Ingredients: Sodium N-1-naphthylphthalamate 22.3%; Sodium salt of dinoseb (2-sec-butyl-4,6-dinitrophenol) 11.5. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses and Revised offer to pay statement submitted. PM25

EPA File Symbol 1386-LII. Universal Cooperatives, Inc. 111 Glanorgan St., Alliance Ohio 44601. UNICO ATRAZINE 4L HERBICIDE. Active Ingredients: 2-chloro-4-ethylamino - isopropylamino - s triazine 40.8%; Related Compounds 2.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Offer to pay statement submitted. PM25

EPA File Symbol 7401-ELG. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham TX 95418. DIPEL. Active Ingredients: Bacillus thuringiensis, Berliner, 4,320 International Units of potency per milligram; At least 6.75 billion viable spores per gram 0.86. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 3525-AG. Utility Chemical Co., 145 E. Peel St., Paterson NJ 07524. UTIKEM SODIUM HYPOCHLORITE LIQUID CHLORINATING AGENT FOR SWIMMING POOLS. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 11659-RN. Walling Chemical Co., PO Box 408, 2008 Westport Ave., Sioux Falls SD 57101. A-229. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene (dimethyliminio) ethylenedichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 99-RRU. Watkins Products, Inc., 150 Liberty St., Winona, MN 55987. SWAT FOR DAIRY CATTLE. Active Ingredients: 2 - chloro - 1 - (2,4,5 - trichlorophenyl) vinyl dimethyl phosphate 0.70%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

[FR Doc.76-16911 Filed 6-10-76;8:45 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1976 No. 21]

ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS

Week Ending May 22, 1976

In the matter of actions of the Board of Governors and applications and reports received during the week ending May 22, 1976.

ACTIONS OF THE BOARD

Statement by Governor J. Charles Partee before the Senate Committee on Banking, Housing and Urban Affairs, on S. 50, the "Full Employment and Balanced Growth Act of 1976", the bill would amend the Employment Act of 1946.

Report on bill H.R. 12344, a bill to amend Title VIII of the Civil Rights Act of 1968; letter in response to request for comments sent to Honorable Gladys Noon Spellman.

Report on bill S. 2347, a bill that would impose certain standards and limitations upon the issuance of standby letters of credit, ineligible acceptances, and related instruments; letter in response in request for Board's comments sent to Chairman Proxmire Senate Committee on Banking, Housing and Urban Affairs.

Regulation Y interpretation regarding the underwriting of credit life and credit accident and health insurance by subsidiaries of bank holding companies.

First Missouri Bank of Gasconade County, Hermann, Missouri, issuance of subordinated capital notes.

First National Charter Corporation, Kansas City, Missouri, extension of time to December 23, 1976, within which to divest of a tract of land it acquired indirectly in connection with the acquisition of Bank of Carthage, Carthage, Missouri.

Davenport Bank and Trust Company, Davenport, Iowa, to make an investment in bank premises.[1]

First Bancshares of Florida, Inc., Boca Raton, Florida, extension of time until September 19, 1976, within which to acquire 90 per cent or more of the voting shares of Vero Beach National Bank, Vero Beach, Florida.[1]

Republic of Texas Corporation, Dallas, Texas, 90-day extension of time to August 18, 1976, within which to consummate the acquisition of First National Bank of Henderson, Henderson, Texas, and First Bank in Groveton, Groveton, Texas.[1]

Southern Illinois Bancorporation, Inc., Highland, Illinois, extension of time to May 31, 1976, within which to file its registration statement.[1]

SWB Corporation, Oklahoma City, Oklahoma, extension of time to August 19, 1976, within which to consummate the acquisition of The Southwestern Bank & Trust Company, Oklahoma City, Oklahoma.[1]

Union Illinois Company, East St. Louis, Illinois, 30-day extension of time to June 17, 1976, within which to acquire a majority of the shares of Union National Bank of East St. Louis, East St. Louis, Illinois.[1]

First Freeport Bank, National Association, Freeport, Illinois, proposed merger with First National Bank of Freeport, Freeport, Illinois; report to the Comptroller of the Currency on competitive factors.[1]

First National Bank of Mount Savage, Mount Savage, Marvland, proposed merger with The First National Bank and Trust Company of Western Marvland, Cumberland, Marvland; report to the Comptroller of the Currency on competitive factors.[1]

Westgate Plaza Branch, San Diego, of Bank of Montreal (California), San Francisco, California, proposed acquisition by Japan California Bank, Los Angeles, California; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

TO FORM A BANK HOLDING COMPANY PURSUANT TO SECTION 3(A)(1) OF THE BANK HOLDING COMPANY ACT OF 1956

Approved

Crawford State Company, Crawford, Nebraska, for approval to acquire 94 per cent or more of the voting shares of Crawford State Bank, Crawford, Nebraska.

Elgin Bancshares, Inc., Elgin, Oklahoma, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of The Bank of Elgin, Elgin, Oklahoma.[3]

Woodbine Agency, Inc., Woodbine, Kansas, for approval to acquire 50.8 per cent or more of the voting shares of The Citizens State Bank, Woodbine, Kansas.

Panhandle Bancshares, Inc., Panhandle, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of The First National Bank of Panhandle, Panhandle, Texas.[3]

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 3(A)(3) OF THE BANK HOLDING COMPANY ACT OF 1956

Approved

Southwest Florida Banks, Inc., Fort Myers, Flordia, for approval to acquire 80 per cent or more of the voting shares of First National Bank and Trust Company of Naples, Naples, Florida.

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 4(C)(8) OF THE BANK HOLDING COMPANY ACT OF 1956

Approved

Dakota Bancorporation, Rapid City, South Dakota, for approval to continue to engage in the activity of a general insurance agency, through Columbus Insurance Agency, Columbus, North Dakota.

Crawford State Company, Crawford, Nebraska, for permission to acquire Crawford Bank Agency, Crawford, Nebraska.

Woodbine Agency, Inc., Woodbine, Kansas, for permission to continue to engage in general insurance agency activities in a community with a population not exceeding 5,000 persons.

Republic of Texas Corporation, Dallas, Texas, for approval to continue the lending activities of its trusteed affiliate, The Howard Corporation, Dallas, Texas.

Delayed

Liberty National Corporation, Oklahoma City, Oklahoma, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or the account of others, loans or other extensions of credit) at 100 Broadway, Oklahoma City, Oklahoma (5/21/76).[3]

Reactivated

Commercial Security Bancorporation, Ogden, Utah, notification of intent to engage in *de novo* activities (to act as a lender in the making or acquiring of consumer loans; CSB Leasing, Inc., will act as a regulated lender as provided for under the provisions of the Utah Uniform Consumer Credit Code) at 2491 Washington Boulevard, Ogden; 3565 Harrison Boulevard, Ogden; 3775 Wall Avenue, South Ogden; 124 West 4600 South, Washington Terrace; 79 South State Street, Salt Lake City; 2299 Highland Drive, Salt Lake City; 130 West 2100 South, Salt Lake City; 5625 South Waterbury Way, Salt Lake City; 5101 South State Street, Murray; 924 East Union Fort Boulevard, Midvale; 201 North Main Street, Tooele; 50 West Main Street, Grantsville; 185 South State Street, Orem; 207 North University Avenue, Provo; 3081 South State Street, Salt Lake City; 290 South 1300 East, Salt Lake City; and 280 North Main Street, Logan, all located in Utah, through its subsidiary, CSB Leasing, Inc. (5/20/76)[3]

Permitted

First National Boston Corporation, Boston, Massachusetts, notification of intent to engage in *de novo* activities (providing bookkeeping or data processing services for the internal operations of First National Boston Corporation and its subsidiaries, storing and processing banking, financial, or related economic data such as performing payroll, accounts receivable or payable, or billing services for others and providing all such other data processing services and engaging in all other activities as are presently permissible as incidental activities) at the intersection of Route 9 and Lyman Street, Westborough, Massachusetts, through a subsidiary, Firstbank Data Services, Inc., Boston, Massachusetts (5/22/76)[3]

Industrial National Corporation, Providence, Rhode Island, notification of intent to relocate *de novo* activities (origination and sale of residential mortgages, servicing of residential mortgage loans, and insurance agency for any insurance directly related to an extension of credit or provision of other financial services or otherwise sold as a matter of convenience to the purchaser) from 609 East Jolly Road, Lansing, Michigan to 700 North Washington, Lansing, Michigan, through a subsidiary, Mortgage Associates, Inc. (5/21/76)[3]

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in *de novo* activities (mortgage banking, including the making, acquiring, and servicing for its own account or the account of others, loans and other extensions of credit) at Suite 301, 71 Broadway, New York City, New York, through its wholly-owned subsidiary, The Kissell Company, Springfield, Ohio. (5/17/76)[3]

Southern Bancorporation, Inc., Greenville, South Carolina, notification of intent to engage in *de novo* activities (making extensions of credit as a licensed consumer finance lender under the Consumer Finance Act of South Carolina as supervised by the South Carolina Board of Bank Control, Consumer Finance Division; and acting as agent for the sale of credit related life/accident and disability insurance, and credit related property and casualty insurance issued in connection with the above-mentioned extensions of credit) in Goose Creek, South Carolina, through its subsidiary, World Finance Corporation of South Carolina (5/16/76)[3]

United Carolina Bancshares Corporation, Whiteville, North Carolina, notification of intent to relocate *de novo* activities (making loans, including but not limited to, loans under the Georgia Industrial Loan Act, first and second mortgage loans, purchase of retail paper; and acting as agent with respect to the sale of credit life, credit accident and health, and physical damage insurance that is directly related to an extension of credit made by First Credit Corporation of Georgia) from 42 West Railroad Avenue, Pine Mountain, Georgia to 34 South Court Square, LaGrange, Georgia, through its subsidiary, First Credit Corporation of Georgia (5/22/76)[3]

Combanks Corporation, Winter Park, Florida, notification of intent to engage in *de novo* activities (the sale to mortgage applicants of credit life insurance on an agency basis) at 411 Wymore Road, Winter Park, Florida, through a subsidiary, Combanks Mortgage Company (5/22/76)[3]

Southern Bancorporation of Alabama, Birmingham, Alabama, notification of intent to engage in *de novo* activities (providing bookkeeping or data processing services for the internal operations of the holding company and its subsidiaries and storing and processing other banking, financial, or other related economic data such as performing payroll, accounts receivable or payable, or billing services for others) at 2430 Fairlane Drive, Montgomery, Alabama and 1820 Montgomery Highway, Dothan, Alabama, through a subsidiary, Southern Data Services, Inc. (5/22/76)[3]

Commercial Security Bancorporation, Ogden, Utah, notification of intent to engage in *de novo* activities (to act as a lender in the making or acquiring of consumer loans; CSB Leasing, Inc., will act as a regulated lender as provided for under the provisions of the Utah Uniform Consumer Credit Code) at 2491 Washington Boulevard, Ogden; 3565 Harrison Boulevard, Ogden; 3775 Wall Avenue, South Ogden; 124 West 4600 South, Washington Terrace; 79 South State Street, Salt Lake City; 2299 Highland Drive, Salt Lake City; 130 West 2100 South, Salt Lake City; 5625 South Waterbury Way, Salt Lake City; 5101 South State Street, Murray; 924 East Union Fort Boulevard, Midvale; 201 North Main Street, Tooele; 50 West Main Street, Grantsville; 185 South State Street, Orem;

See footnotes at end of document.

207 North University Avenue, Provo; 3081 South State Street, Salt Lake City; 290 South 1300 East, Salt Lake City; and 280 North Main Street, Logan, all located in Utah, through its subsidiary, CSB leasing, Inc. (5/20/76) [2]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in *de novo* activities (operating as an industrial loan company in the manner authorized by the law of the State of Washington which law does not permit the acceptance of demand deposits; the company will not make commercial loans) at 3000 South Main Street, Union Gap, Washington, through a subsidiary, Rainier Industrial Loan Company, a subsidiary of Rainier Credit Company (5/17/76) [2]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in *de novo* activities (operating as an industrial loan company in the manner authorized by the law of the State of Washington which law does not permit the acceptance of demand deposits; the company will not make commercial loans) at 824 East Pike, Seattle, Washington, through a subsidiary, Rainier Industrial Loan Company, a subsidiary of Rainier Credit Company (5/17/76) [2]

APPLICATIONS RECEIVED

TO ESTABLISH A DOMESTIC BRANCH PURSUANT TO SECTION 9 OF THE FEDERAL RESERVE ACT

The Richwood Banking Company, Richwood, Ohio. Branch to be established at 601 West Main Street, Plain City, Union and Madison Counties.

New Bank of Roanoke, Roanoke, Virginia. Branches to be established at the following locations:

A. At 5301 Williamson Road, N.W., Roanoke.

B. At the Oak Grove Plaza, Virginia Route 410, Roanoke County.

Louisville Trust Bank, Inc., Louisville, Kentucky. Branch to be established at 3940 Westport Road, Louisville, Jefferson County.

TO FORM A BANK HOLDING COMPANY PURSUANT TO SECTION 3(a)(1) OF THE BANK HOLDING COMPANY ACT OF 1956

Central Bancorp, Inc., Owensboro, Kentucky, for approval to acquire 80 per cent of the voting shares of Central Bank & Trust Company, Owensboro, Kentucky, Owensboro, Kentucky.

First Yukon Bankshares, Inc., Oklahoma City, Oklahoma, for approval to acquire 84.77 per cent of the voting shares of The First National Bank of Yukon, Yukon, Oklahoma.

United Bankshares, Inc., Salina, Kansas, for approval to acquire 80 per cent or more of the voting shares of Planters State Bank and Trust Company, Salina, Kansas.

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 3(a)(3) OF THE BANK HOLDING COMPANY ACT OF 1956

First United Bancorporation, Inc., Fort Worth, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Las Colinas National Bank of Irving, Irving, Texas, a proposed new bank.

First Security Corporation, Salt Lake City, Utah, for approval to acquire 98.75 percent of the voting shares of First Security Bank of Orem, National Association, Orem, Utah, a proposed new bank.

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 4(C)(8) OF THE BANK HOLDING COMPANY ACT OF 1956

C.I.T. Financial Corporation, New York, New York, for approval to acquire substantially all of the assets of 27 offices of Guardian Commercial Corp., Roslyn Heights, New York. (engaged in making, acquiring and servicing loans and other extensions of credit such as would be made by a finance company; and making available to customers credit life, accident and health insurance in connection with such loans and other extensions of credit and casualty insurance in connection with collateral securing such loans and extensions of credit)

Walter E. Heller International Corporation, Chicago, Illinois, for approval to acquire the shares of PepsiCo Leasing Corporation, Lexington, Massachusetts. (to engage in the business of (1) commercial finance, (2) leasing (but not operation) of personal property, and (3) furnishing electronic data processing service of a financial or economic nature)

Root River Agency, Inc., Preston, Minnesota, notification of intent to engage in *de novo* activities (an agricultural credit company) at 100 St. Anthony 1 North, Preston, Minnesota (5/21/76) [3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in *de novo* activities (the origination and acquisition of mortgage loans including development and construction loans on multi-family and commercial properties for its own account or for sale to others and the servicing of such loans for others) at 710 South Broadway Street, Walnut Creek, California, through its subsidiary, Security Pacific Mortgage Corporation (5/13/76) [3]

REPORTS RECEIVED

OWNERSHIP STATEMENT FILED PURSUANT TO SECTION 13(D) OF THE SECURITIES EXCHANGE ACT

Received

Bank of Commonwealth, Detroit, Michigan (Amendment #2—filed by Ghaith Pharson)

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, June 4, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-17072 Filed 6-10-76;8:45 am]

BAYBANK NEWTON-WALTHAM TRUST CO.

Order Approving Application for Merger of Banks

Baybank Newton-Waltham Trust Company, Waltham, Massachusetts ("Applicant"), a member State bank of the Federal Reserve System, has applied for the Board's approval pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) of the merger of that bank with The Union Market National Bank of Watertown, Watertown, Massachusetts ("Union Market"), under the charter and title of Applicant. Incident to the proposed merger, the existing offices of Union Market would become branches of Applicant. The merging banks involved in this proposal are subsidiaries of Baystate Corporation, Boston, Massachusetts, a registered bank holding company under the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 et seq.)

As required by the Act, notice of the proposed transaction, in a form approved by the Board, has been published, and the Board has requested reports on competitive factors from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered the application and all comments received in the light of the factors set forth in the Act.

Applicant, with deposits of approximately $236.1 million, is the eleventh largest commercial bank in Massachusetts [1] and controls approximately 1.8 percent of the total deposits in commercial banks in the Boston banking market.[2] The Boston banking market is the relevant banking market for purposes of this proposal.[3] Union Market, with deposits of $64 million, is also located in the Boston banking market and controls 0.5 percent of total deposits in the market.

Since both of the banks involved in this proposal are subsidiaries of the same bank holding company, consummation of the proposal would not eliminate any existing or potential competition, or increase the concentration of banking resources; nor does it appear that the proposal would have any adverse effect on other banks within the relevant banking market. Acctordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and Union Market are consistent with approval of the application. It is anticipated that the proposed merger would result in operational economies and a more efficient use of management skills and resources by Baystate Corporation. In addition, public convenience in the service area of Union Market may be enhanced as a result of access to services provided by Applicant including a broader range of trust and commercial lending services. Accordingly, considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposal would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calen-

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated atuhority.

[1] Unless otherwise indicated, all banking data are as of December 31, 1975.

[2] Banking data with respect to the Boston banking market are as of June 30, 1974.

[3] The Boston banking market is approximated by the Boston Ranally Metropolitan Area.

dar day following the date of this Order nor (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[4] effective June 4, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-17066 Filed 6-10-76;8:45 am]

CENTRAL BANCORP, INC.

Formation of Bank Holding Company

Central Bancorp, Inc., Owensboro, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent of the voting shares of Central Bank and Trust Company, Owensboro, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 28, 1976.

Board of Governors of the Federal Reserve System, June 4, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-17067 Filed 6-10-76;8:45 am]

FIRST COLONIAL CORP.

Formation of Bank Holding Company

First Colonial Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Colonial Bank and Trust Company of Chicago, Chicago, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 2, 1976.

[4] Voting for this action: Chairman Burns and Governors Gardner, Coldwell, Jackson, and Lilly. Absent and not voting: Governors Wallich and Partee.

Board of Governors of the Federal Reserve System, June 3, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-16953 Filed 6-10-76;8:45 am]

FIRST UNITED BANCORPORATION, INC.

Acquisition of Bank

First United Bancorporation, Inc., Fort Worth, Texas, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Las Colinas National Bank of Irving, Irving, Texas, a proposed new bank. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 25, 1976.

Board of Governors of the Federal Reserve System, June 7, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-17068 Filed 6-10-76;8:45 am]

FORT SAM HOUSTON BANKSHARES, INC.

Proposed Acquisition of Life Insurance Co.

Fort Sam Houston Bankshares, Incorporated, San Antonio, Texas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Greenwood Life Insurance Company, San Antonio, Texas. Notice of the application was published on May 6, 1976 in The San Antonio Light, a newspaper circulated in San Antonio, Texas.

Applicant states that the proposed subsidiary would engage in the following activities: act as underwriter for credit life insurance and credit accident and health insurance which is directly related to extensions of credit by the bank holding company system. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 7, 1976.

Board of Governors of the Federal Reserve System, June 7, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-17069 Filed 6-10-76;8:45 am]

MONTGOMERY BANCORPORATION, INC.

Formation of Bank Holding Co.

Montgomery Bancorporation, Inc., Winchester, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The Montgomery National Bank of Mt. Sterling, Mt. Sterling, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 6, 1976.

Board of Governors of the Federal Reserve System, June 4, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-17070 Filed 6-10-76;8:45 am]

UNITED BANKSHARES, INC.

Formation of Bank Holding Company

United Bankshares, Inc., Salina, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Planters State Bank and Trust Company, Salina, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 28, 1976.

Board of Governors of the Federal Reserve System, June 4, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-17071 Filed 6-10-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19989; FCC 76-497]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Transmittal No. 11935; and Revisions to the Wide Area Telecommunications Service (WATS) Tariff F.C.C. No. 259

By the Commission: Commissioner Hooks concurring in the result; Commissioner Washburn concurring and issuing a statement.*

TABLE OF CONTENTS

I. Procedural history
II. Findings
- A. Background
- B. Bell's justification for initial and additional period monthly charges for measured time (MT) and full business day (FBD) subclasses of outward and inward WATS
  1. Discussion of Bell's "alignment" ratemaking theory
  2. Discussion of "Revenue requirements" test of Docket No. 13914
- C. Inward and outward WATS services as different classifications of service
- D. Validity of incremental and embedded cost justification, and traffic and revenue projections
- E. Non-recurring and other charges
  1. Non-recurring charges
  2. Conversion charges
  3. Extension charges
  4. Revision of allowance of service interruption
- F. Usage sensitive pricing changes
  1. Need for FBD service and change of full time (FT) service to FBD
  2. Additional charge for large volumes of completed calls under one minute
- G. Two termination requirement for inward WATS service and effect of inward and outward WATS on peak hour usage
- H. Decrease of number of service areas to five by combining prior service areas five and six
- I. 1973 WATS rate increases and WATS use of service provisions
- J. Interconnection issues

III. Conclusions
Appendix A

1. Before setting forth our decision in detail, we believe it would be useful to briefly summarize our major conclusions in this proceeding. This proceeding involves significant and substantial changes in Bell's Wide Area Telecommunications Service (WATS) rate structure filed by Bell under AT&T Transmittal No. 11935 in January 1974. Our major conclusion is that Bell has failed to carry its burden of showing that the resulting Outward and Inward WATS rate structure and rate levels are just, reasonable and free of unlawful discrimination within the meaning of Sections 201(b) and 202(a) of the Act. 47 U.S.C. 201(b) and 202(a). Among other things, we conclude that in designing Outward and Inward WATS monthly service charges, Bell proposed a novel ratemaking approach which results in unjustified and therefore unlawful charges; that Bell's identical pricing of Outward and Inward WATS services results in unjustified and therefore unlawful charges because Outward and Inward WATS services are different classifications of communications service within the meaning of Section 201(b) of the Act which must be separately justified and priced accordingly; and, more generally, that Bell's WATS tariff filing is unjustified and unlawful because serious questions exist regarding the validity of the embedded and incremental cost justification, and traffic and revenue projections, which were provided by Bell, in part, as evidence of the lawfulness of its WATS tariff.

I. PROCEDURAL HISTORY

2. On January 15, 1974, the American Telephone and Telegraph Company-Long Lines Department [1] filed significant and substantial changes in the internal rate structure for its Wide Area Telecommunications Service (WATS). After an exchange of pleadings,[2] we designated the tariff revision filed with Transmittal No. 11935 for hearing and investigation by Memorandum Opinion and Order released April 5, 1974, 46 FCC 2d 81, and suspended their effective date until July 1, 1974.[3] The investigation of the rate structure changes filed with Transmittal No. 11935 is referred to herein as "Phase I" of Docket No. 19989. Our decision herein concerns primarily these changes. Phase II of Docket No. 19989 concerns the lawfulness of certain changes in the WATS tariff filed by AT&T in March 1975 under Transmittal No. 12303. Phase II was initiated in accordance with our Memorandum Opinion and Order released March 27, 1975, 52 FCC 2d 155, and was recently deferred pending our Phase I decision, FCC 76-305, adopted March 30, 1976.[4] Bell filed further changes in its WATS tariff, under Transmittal No. 12497, effective February 29, 1976, Docket No. 20732, 58 FCC 2d 1 (1976).

3. In our Designation Order for Phase I and a subsequent procedural order released July 9, 1974, FCC 74-730, 39 F.R. 26929, we established "paper" hearing procedures and determined that the Commission would issue a final decision upon the close of the record in Phase I without preparation of an initial or recommended decision by the Administrative Law Judge (ALJ).[5] Our Designation Order established the following specific issues for investigation, without limiting in any way the scope of the proceeding:

(1) Whether the charges, classifications, practices, and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of Section 201(b) of the Act;

(2) Whether such charges, classifications, practices, and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of Section 202(a) of the Act;

(3) Whether the revised tariff schedules conform to the requirements of Section 203 of the Act and Part 61 (47 CFR Part 61) of our Rules implementing that Section;

(4) If any such charges, classifications, practices, or regulations are found to be unlawful, whether the Commission, pursuant to Section 2$5 of the Act, should prescribe charges, classifications, practices and regulations for the service governed by the tariffs, and if so, what should be prescribed.

In addition, our Designation Order, 46 FCC 2d at 84-85, referred to questions of lawfulness raised in connection with other dockets, e.g., Docket No. 13914, Re-WATS, 37 FCC 688 (1964), 38 FCC 475 (1965) and Docket No. 19129.

4. The record for decision consists of AT&T's original justification and other material filed with Transmittal No. 11935 pursuant to Section 61.38 of the Rules, as supplemented, plus the direct cases of the other participants, several rounds of interrogatories and responses filed by participants in the hearing and Proposed Findings of Fact and Conclusions of Law and Replies thereto. The filing parties in this proceeding were AT&T, the Trial Staff of the Common Carrier Bureau (Trial Staff), the Committee of Corporate Telephone Users (CCTU), CARSI, McGraw-Hill, and National Data. MCI, Computoll, the National Retail Merchants Association, Inc.

---

*Commissioner Washburn's statement filed as part of the original document.

[1] Our Designation Order herein, designated as respondents AT&T and all carriers listed in AT&T's Tariff FCC Nos. 259 and 264 as concurring carriers. AT&T Long Lines and the Bell System operating companies are referred to herein as AT&T or Bell.

[2] Petitions for suspension and investigation were filed by Computoll Corporation (Computoll), The Committee of Corporate Telephone Users (CCTU), Aerospace Industries Association (AIA), Computerized Automotive Reporting Service Inc. (CARSI), McGraw-Hill, Inc. (McGraw-Hill), National Data Corporation (National Data), Ad Hoc Telecommunications Committee (Ad Hoc), and MCI Telecommunications Corporation, Microwave Communications Inc., MCI New York West, Inc. and Interdata Communications, Inc. (MCI). MCI's petition for rejection was denied by the Chief, Common Carrier Bureau by Order adopted March 27, 1974, 46 FCC 2d 13.

[3] Certain changes as described below became effective six months later on January 1, 1975.

[4] See also our Memorandum Opinion and Orders released March 6, 1975, 51 FCC 2d 619, and December 11, 1975, 57 FCC 2d 11 (1976).

[5] See also our order adopted July 17, 1974, 47 FCC 2d 1183, and the ALJ's orders released September 5, 1974, FCC 74M-1092; November 26, 1974, FCC 74M-1544; February 24, 1975, FCC 75M-341; March 6, 1975, FCC 75M-434; March 25, 1975, FCC 75M-567; April 14, 1975, FCC 75M-674; and May 6, 1975, FCC 75M-827.

(NRMA) and the Chicago and North Western Transportation Company [8] participated at various stages of the hearing but did not file Proposed Findings of Fact and Conclusions of Law or Reply Findings and Conclusions. The presiding ALJ certified the record in Phase I to the Commission for decision by order released July 10, 1975, FCC 75M–1220.

II. FINDINGS

A. BACKGROUND

5. AT&T introduced interstate Outward WATS service in 1961 to provide a subscriber having requirements for substantial amounts of communications to diverse geographical points with the means of making telephone calls from his premises to telephones anywhere within a specified Service Area(s) at monthly rates. See generally Re WATS, supra. Outward WATS is a customer-dialed service, i.e., it does not include person-to-person, collect, conference, credit card calls or calls charged to a third number. Interstate Inward WATS service was introduced by AT&T in 1967. Outward and Inward WATS customers do not have the option of making or receiving calls which require the service of an operator except Inward WATS calls from a coin telephone. Inward WATS calls are dialed by the caller but are paid for by the Inward WATS subscriber. Although both Outward and Inward WATS services utilize the same public switched network they do so in a significantly different manner. While Outward WATS calls are screened and blocked (to determine whether a call is in the authorized Service Area or not) in the originating toll office, such screening and blocking of Inward WATS calls occurs after the call has traversed the telephone network, in a terminating toll office serving the Inward WATS access line. A single access line is precluded by Bell's tariff from both originating Outward WATS and receiving Inward WATS calls. Both Outward and Inward WATS services are used in computer applications, reservation services, credit verification services, store and forward message services, etc.

6. During the period since 1961, Outward and Inward WATS have experienced substantial growth. For example, overall WATS revenues have grown from $18 million in annual revenue in 1961 to approximately $925 million in 1974. At this writing annual revenues exceed $1 billion. The annual growth rate in revenues during the last three years is about 25%. The number of WATS access lines have grown from 1900 in 1961 to 108,000 in 1974. In particular, access line growth in Inward WATS service has been at an average of 35% annually.

7. Prior to the rate structure changes at issue herein, Outward and Inward WATS were offered on both a Full Time (FT) and Measured Time (MT) basis. Under FT service the customer was provided an access line which he could use 24 hours a day, 7 days a week, for which he paid a flat monthly rate irrespective of the time of use or number of duration calls made. In MT service the access line was also continuously available but the monthly initial period rate covered 10 hours of use per month with additional charges applying for each additional hour or portion thereof of use during the month. In both FT and MT services, the customer had a choice of six progressively larger geographic Service Areas. The largest included the entire United States, excluding Alaska and Hawaii and the customer's home state. In both monthly initial and additional periods, charges varied generally with the size of the geographical areas service. Itemized billing was not provided as part of the WATS offering and payment of monthly initial period charges was in advance.

8. The WATS tariff changes filed by Bell under Transmittal No. 11935 and at issue herein are: [9]

(1) "Alignment" of the rates for WATS MT service "more closely" with the current MTS dial station-to-station rates (MTS DDD). In the MT service the initial period and additional period rates in the low mileage rate steps (below 250 miles) are increased and the initial period and additional period rates in the medium and high mileage rate steps (over 300 miles) are generally reduced. Initial period rates remain the same for distances from 251–300 miles.

(2) The FT service is changed to Full Business Day (FTB) service with a flat rate for 240 hours a month service and additional period rates for usage in excess of 240 hours per month. The additional period rates for usage over 240 hours are set at a level of two-thirds of the equivalent hourly rate for the initial period.

(3) "Alignment" of the rates for FBD service with the revised rates for MT service. In the FBD service the initial period rates in the low and medium mileage rate steps are increased (below 1200 miles) and the initial period rates in the high mileage rate steps (over 1200 miles) are reduced.

(4) In both the FBD and MT services additional charges are imposed for large volumes of completed calls when the average length of each call is less than one minute.

(5) Two physical terminations are required for Inward WATS. The first Inward service in each service group arranged for either MT or FBD to a Service Area requires two physical terminations. The usage of the dual terminations is rated as one service. No additional charge applies for the additional termination. This change became effective six months later than other changes.

(6) The number of geographical Service Areas is reduced from 6 to 5 by combining existing Service Areas 5 and 6.

(7) The following non-recurring charges are increased:

Description of charge	Former	Revised and effective July 1, 1974
Installation of service	$10	$50
Move:		
Same premises	10	25
Different premises	10	50
Suspension of service	15	50
Maintenance of service	10	25
Adjustment of signal power	10	25

Installation and Move charges became effective six months later than other charges.

(8) A "Conversion Charge" of $25.00 is established to apply to requested changes in class of service, service area, or telephone number assignment subsequent to the initial service installation. This change became effective six months later than other changes.

(9) The monthly rates for WATS extension stations are increased as follows:

	Former	Revised and effective July 1, 1974
First station in an exchange	$12.50	$15
Each additional station in an exchange	7.50	10

(10) The allowance for service interruptions is revised by reducing the period for an allowance for MT service to two hours or more, the same as for FBD service. The proposed regulation will provide for an allowance equal to a full day's rate (1/30 of the monthly initial period rate) for an interruption of eight hours or more per day.

(11) Various changes and clarifications are made in the text of the tariff including definition of the following terms:

Access Line	Premises
Customer	Rate Center
Exchange Area	Service Group
Interexchange Channel	Service Terminal
Move	Station

AT&T stated that the estimated effect of these revisions would be to increase the charges for about 40% of the existing WATS customers and reduce the charges for about 60% of such customers. However, AT&T alleged that there would be no significant change in total WATS revenues or earnings. In this regard, AT&T stated that the changes in the MT monthly rates would result in reduction of about $10 million in net annual revenues; that the changes in FT (now FBD) monthly rates would produce a net annual revenue increase of about $5 million; and that increases in nonrecurring charges and other changes referred to above would produce an increase of about $5 million a year.

[8] Chicago and North Western Transportation Company filed a notice of withdrawal of participation on September 20, 1974.

[9] Initial and additional period rates for MT and Full Business Day (FBD) have been revised as a result of Bell's March 1975 (Transmittal No. 12303) and February 1976 (Transmittal No. 12497) WATS tariff filings. Adjustments were also made at the same times in nonrecurring and other charges.

B. BELL'S JUSTIFICATION FOR INITIAL AND ADDITIONAL PERIOD MONTHLY CHARGES FOR MT AND FBD SUBCLASSES OF OUTWARD AND INWARD WATS

1. Discussion of Bell's "alignment" ratemaking theory

9. In purported justification of the WATS tariff changes filed with Transmittal No. 11935, Bell claims that initial and additional period monthly charges for MT and FBD subclasses of Inward and Outward WATS may be justified solely on the basis of maintaining "consistent" rate relationships over distance between WATS and MTS rates and that therefore independent cost of service studies, such as studies of WATS costs by length of haul, are not required to support or explain WATS charges resulting from such "alignment".[8]

10. In Bell Exhibit No. 2, Bell provides the following explanation of its "alignment" theory. It claims that "over the past few years changes in MTS dial station-to-station [MTS DDD] rates have had the effect of reducing rates for longer distances while increasing them for shorter distances."[9] Thus, Bell indicates that "as a part of its current review of WATS, the relationships over distance between WATS rates and MTS dial station-to-station [MTS DDD] rates were compared for consistency." It states that "economies inherent in WATS should be reflected in the rates more consistently over distance," and that "in view of the cross-elasticity between Measured Time WATS and MTS, it is desirable to maintain a consistent rate relationship between the two services over distance." Bell claims that the MT rates it has filed accomplish this objective. The methodology employed by Bell to demonstrate "alignment" consists of comparing graphically initial period Outward MT WATS rates with "repriced" or "equivalent" MTS DDD rates at specific points over distance at 10 hours of usage. "Equivalent" MTS DDD charges were developed by applying MTS DDD rates to 10 hours of usage consisting of messages having average Outward MT WATS characteristics as to lenth of conversation, time of day, length of haul, and day of the week. The changes in MT monthly charges which Bell alleges were necessary to achieve "alignment" with MTS DDD charges over distance result generally in increased MT rates at shorter distances and decreases at longer distances.[10]

11. According to Bell, the next step in its "alignment" theory was to align rates for FT (now FBD) service with the revised rates for MT service. Bell claims the revisions in FBD service are "similar" to those described for MT service and were made "to maintain appropriate rate relationships between them over distance." It alleges that without "alignment" of MT and FBD over distance the hours of use at which charges for MT service would be equal to charges for FBD service, range from 44 to 87 hours. It asserts this "economic crossover range" is "significantly narrowed" by the FBD rate revisions. The FBD revisions which Bell claims were necessary to achieve "alignment" of FBD charges with MT charges result generally in increased FBD rates at shorter distances and decreased rates at longer distances.[11]

12. For the reasons discussed below, we find that support for Bell's justification for its ratemaking approach is either nonexistent in this record or where presented it is unexplained. Further, Bell's "alignment" approach results in unjustified discriminations in favor of long-haul WATS users vis-a-vis short-haul WATS users. Further, we find that Bell's "alignment" approach contradicts well-established Commission policy which holds that costs of providing service are at the heart of the statutory requirement of Sections 201–205 of the Act for just, reasonable and non-discriminatory charges and that such costs are the benchmark from which the lawfulness of departures from costs are to be measured and justified.[12] We shall discuss our later findings first.

13. Bell's "alignment" theory is a departure from conventional ratemaking methodology whereby charges for a service are based upon the independent costs of providing the service and other pertinent characteristics indigenous to the service. Well-established Commission policy holds that cost of providing service is at the heart of the statutory requirements under Sections 201–205 of the Act for just, reasonable and non-discriminatory rates and that costs are to be directly controlling in the fixing of rates, or are to be considered as reference points or benchmarks, from which to measure the extent of any departures therefrom. Private Line Rate Cases, 34 FCC 244, 297 (1961), 34 FCC 217, 231 (1963); Re WADS, 35 FCC 149, 153–56 (1963); Re WATS, 37 FCC 695, 698 (1964); Re Part 61 of the Rules, 25 FCC 957, 965 (1970), 40 FCC 2d 149, 154 (1973); Re 48 khz, 29 FCC 2d 493 (1971); and Hi-Lo, 55 FCC 2d 224, 241 (1975), 58 FCC 2d 362, 266 (1976). Further, we have held that departures from costs in rate design must be "clearly warranted". Private Line Rate Cases, 34 FCC at 231, 291. Thus, even assuming arguendo, "aligment" might be an appropriate ratemaking concept, the independent costs of providing WATS services must be provided in the first instance so that the Commission may have a benchmark from which to measure the lawfulness of departures from costs, such as those which may result from "alignment". Accordingly, to the extent that Bell's "alignment" theory ignores the independent costs of providing Inward and Outward MT and FBD WATS services, such as studies of WATS costs by length of haul, we must find it is contrary to clearly established Commission policy and unacceptable. The specific cost and other data which must be submitted to permit reasoned consideration of the lawfulness of WATS rate changes is set forth in the guidelines for filing WATS tariff revisions in accordance with this decision at paras. 82–86 below.

14. In view of Bell's sole reliance on "alignment" in developing the initial and additional period monthly charges for MT and FBD subclasses of Outward and Inward WATS services an our findings that such approach is unjustified and unacceptable, we must find that the lawfulness of such charges has not been shown by Bell.

15. Apart from the patent illegality of Bell's "alignment" approach we find it is unjustified and unacceptable for other reasons. The Bell "alignment" approach is based on key assumptions and judgments for which there is no record support. Bell fails to explain on the record why it believes MTS and WATS rates should be "consistent" over distance or even what it means by "consistent". Nor does Bell explain why the mere existence of cross-elasticity between WATS and MTS services justifies "alignment" and its failure to supply independent WATS cost and revenue data.

Further, there is no record support for the proposition that transmission costs over distance for WATS and MTS services are similar, such as independent WATS cost data by length of haul compared to MTS cost data by length of haul. Even assuming that "alignment" could be a valid rate making tool, Bell's application of the approach in this case to develop Outward and Inward MT and FBD WATS monthly charges is unjustified. Bell attempts only a graphic comparison of Outward MT charges with "equivalent" MTS DDD charges.[13] It does not make such graphic comparisons for Outward FBD, Inward MT and FBD, but rather piggybacks them on the Outward MT comparison.

[8] In a February 18, 1976 hearing conference in Phase II of this proceeding, counsel for Bell characterized Bell's Phase I ratemaking theory as follows, Transcript, Vol. 3, p. 94: "* * * and bear in mind our ratemaking theory is that you do not justify WATS rates by virtue of WATS costs and revenues. Now rightly or wrongly, that is the position that was submitted in Phase I." A further description of Bell's ratemaking methodology for WATS rates is set forth at footnote 2 of our Memorandum Opinion and Order released in Phase II herein on December 11, 1975, 57 FCC 2d 11, 12 (1976).

[9] We note that the lawfulness of varying MTS rates over distance is an issue in Docket No. 19129, Phase II.

[10] As noted above, in March 1975, and February 1976, Bell filed further WATS tariff changes. These changes resulted in further rate increases for short-haul WATS users and generally reduced or unchanged charges for long-haul WATS users. According to Bell, these changes were necessary in order to maintain "consistent" WATS–MTS rate relationships over distance.

[11] Supra, n. 10.

[12] This is not to say that ratemaking factors other than costs may not be relevant. However, costs of providing service must be provided in any event.

[13] We note some of the non-Bell parties challenge the validity of the specific reprice model utilized by Bell.

16. In the case of Inward WATS MT and FBD charges, Bell's failure to explain or justify its piggyback procedure is significant. Bell admits that "Inward WATS and Dial Station-to-Station [MTS DDD] are not substitutes for each other and are not considered highly cross-elastic." Thus, to the extent that Bell considers cross-elasticity between WATS and MTS DDD services necessary for "alignment", which the record appears to indicate it does, then Bell's admission that Inward WATS is not cross-elastic with MTS DDD means that according to Bell's own theory Inward WATS charges may not be aligned with MTS DDD charges.[14] Similarly, the record does not indicate whether or to what extent the cross-elasticity between WATS service and MTS DDD service, which Bell appears to consider necessary for "alignment", exists between Outward FBD service and MTS DDD service. As to Bell's claim that "alignment" of Outward FBD rates with Outward MT rates "significantly narrows" the "economic crossover range" between FBD and MT services we find Bell fails to explain in the record why the narrowing of the "economic crossover range" is of decisional significance in or itself or why it justifies "alignment". Accordingly, the record does not support Bell's purported "alignment" of Outward WATS FBD, Inward WATS MT and FBD monthly charges with MTS DDD charges over distance.

17. Bell's purported "alignment" of Outward MT charges with "equivalent" MTS DDD charges, upon which Bell depends to justify "alignment" of the entire WATS service offering, is also of questionable validity. Although there may be cross-elasticity between Outward MT and MTS DDD services, Bell fails to explain on the record what level of cross-elasticity is necessary before "alignment" of Outward MT and MTS DDD charges becomes appropriate or how it would measure this cross-elasticity. Further, on the face of Bell's "alignment" presentation, serious questions also arise as to the reasonableness of Bell's judgment to align Outward MT rates with "equivalent" MTS DDD rates at 10 hours of usage. For example, the only justification Bell provides is its statement that the "appropriate point" to determine the rate relationship between Outward MT WATS and MTS DDD is at 10 hours of use since "that is the entry point between those classes of service, from the users' standpoint." If Bell means to imply that the customer will always evaluate his decision on whether to switch from MTS DDD to Outward MT WATS at the 10 hour usage level, we believe its view is questionable. It would seem irrational for a customer not to make this evaluation on any other basis than that of comparing the cost of procuring either Outward MT WATS or MTS DDD at his particular level of usage. Moreover, Bell's rationale is based upon the perspective of the individual customer and ignores the body or Outward MT WATS users as a whole. Bell fails to explain why "alignment" at the average usage level of 25 hours, which on its face seems more equitable to Outward MT WATS users as a whole, was not considered and why it would not be appropriate. In sum, Bell's judgment to align at 10 hours of usage appears to be a judgment for which there is no record support and therefore it is subject to serious question. Accordingly, Bell has not justified "alignment" in theory, and its mechanical presentation of "alignment", assuming *arguendo* it could be a valid ratemaking approach in general, has not been justified on this record.

18. Bell's "alignment" theory must also be rejected because it results in unjustified discriminations in favor of long-haul WATS subscribers vis-a-vis short-haul WATS subscribers. In further implementation of its "alignment" approach, Bell determined the Outward and Inward FBD and MT WATS monthly charges applicable to each of 58 originating service areas by matching the weighted mileage figures for these areas against a WATS rate table consisting of 19 rate steps and associated mileage bands.[15] As already noted the result of the process is Outward and Inward FBD and MT WATS monthly rates which vary considerably over distance with short-haul WATS users paying proportionately higher charges over distance than long-haul WATS users.[16]

19. We find the differing rate treatment accorded short-haul WATS users vis-a-vis long-haul WATS users constitutes a "discrimination" or "preference" within the meaning of Section 202(a) of the Act which must be justified by Bell. Hi-Lo, 58 FCC 2d at 368. The only justification Bell offers in support of setting MT and FBD WATS rates in the manner it has over distance in its "alignment" theory. No independent WATS cost and revenue data by length of haul was supplied by Bell for the record. For the reasons stated above, we have found Bell's "alignment" theory unjustified and in violation of Commission policy. Therefore, we must find also that Bell has failed to justify the price discrimination between short-haul and long-haul WATS users on this record. When Bell files tariff revisions in accordance with this decision it shall be required to furnish independent WATS cost and revenue data by length of haul in addition to any other ratemaking factors upon which it may rely, to enable the Commission to consider the lawfulness of any rate preferences given Outward and Inward WATS subscribers on the basis of considerations of distance. By requiring such data, we are not implying that it may not be appropriate to vary Outward and Inward WATS charges over distance. Our finding merely reflects the necessity for having sufficient evidence provided so we can give reasoned consideration to the lawfulness of WATS charges.

20. Accordingly, for the reasons set forth above, we find that Bell has failed to justify its "alignment" approach, the discrimination resulting thereunder, and its departure from Commission policy and conventional ratemaking methodology. Therefore, we must find the Outward and Inward FBD and MT WATS monthly rates filed by Bell and based upon its "alignment" theory are unjustified and unlawful.

2. Discussion of "revenue requirement" test of Docket No. 13914

21. Before we discuss our finding that Outward and Inward WATS are different classifications of communications service within the meaning of Section 201(b) of the Act which must be separately justified and priced accordingly, weshall address the Trial Staff's position that there is considerable doubt regarding whether or to what extent the existence of a "discounted" WATS service, i.e., "discounted" from MTS, is justified. The Trial Staff's concern was reflected in its challenge of Bell's "alignment" reprice model. For example, the Trial Staff alleges that Bell's "alignment" reprice model results in "sharp unjustified discounts" in the amounts a user must pay for Outward and Inward MT and FBD WATS services vis-a-vis MTS DDD.[17] The Trial Staff bases its position and analysis on our Decision in Docket No. 13914, Re WATS, supra, wherein the initial Outward WATS service offering was considered.

22. It was Bell's contention in Docket No. 13914 that the offering of Outward WATS service was made possible because of technological advances in communication, advances which allowed the service to be provided in a more economical manner compared to MTS. Re WATS, 37 FCC at 692. This ability to supply the Outward WATS service at rates "discounted" from MTS was one consideration in Bell's decision to offer Outward WATS. Another important consideration was Bell's perception of a demand for an interstate service for large volume communications users allowing access to telephones anywhere within a specified geographic service area.

---

[14] Moreover, our findings at paras. 26–35 below that Outward and Inward WATS services are different classifications of service under Section 201(b) of the Act which must be separately justified and priced accordingly, make invalid under any circumstances Bell's attempted piggyback "alignment" of Inward MT and FBD charges.

[15] Bell's March 1975 WATS tariff changes reduced the number of rate steps and mileage bands to 18.

[16] Supra, n. 9.

[17] On June 16, 1975, Bell filed a Motion to Strike substantial portions of the Trial Staff's Proposed Findings of Fact and Conclusions of Law, including the Trial Staff's entire challenge of its reprice model as follows: (1) para. 158, p. 100; (2) paras. 163–66, pp. 105–06; (3) para. 168, pp. 108–09; (4) para. 169, p. 109; (5) para. 192, pp. 126–27; (6) paras. 200–03, pp. 133–34; (7) pp. 135–95; (8) paras. 250–53, pp. 197–98; and (9) Appendices I, II and III. Bell contends in support of its Motion that the material contains both factual and opinion evidence which is not part of the record and that it has had no opportunity

23. Since MTS and Outward WATS each provided service from one point to any one of many other points, it was reasonable to assume in Docket No. 13914 that the initial users of the new Outward WATS service would for the most part be former or "diverted" MTS users. Given this source for initial Outward WATS users, and the ability to offer Outward WATS service at a "discount" from MTS, Bell designed the initial Outward WATS rate structure to maintain unchanged the net operating income from MTS traffic diverted to Outward WATS. As explained in Docket No. 13914, the initial Outward WATS rate structure "[s]ought to equate the estimated reduction in total revenues because of such diversion with the resulting reductions in expenses or costs associated with that diversion." Re WATS, 37 FCC at 692. Bell provided an estimate of cost reductions resulting from its initial offering of Outward WATS in Docket No. 13914 in the form of a list of the ways in which Outward WATS would bring about economies and cost savings vis-a-vis MTS. Re WATS, 37 FCC at 603–04. The Trial Staff calls this the "revenue requirements" test for the lawfulness of WATS and asserts it is the only appropriate method to test the lawfulness of WATS services and WATS rates. We approved generally the so-called "revenue requirements" concept in Docket No. 13914 and accepted with reservations Bell's calculation of estimated cost savings accompanying the diversion of calls from MTS to Outward WATS. Re WATS, 37 FCC at 697. The Trial Staff seeks in this proceeding to re-apply this "revenue requirements" concept as a test for determining the validity of the WATS rate filing in issue herein. In arguing that the Bell WATS filing at issue does not meet the "revenue requirements" test it contends that the economies and cost savings originally attributed to WATS vis-a-vis MTS have either been reduced since 1961 or have disappeared. For example, the Trial Staff contends operator savings are now common to both WATS and MTS. Bell argues that Outward and Inward WATS continue to offer economies or cost savings, e.g., it notes there is not itemized billing under the WATS tariff. Bell did not provide, however, a specific dollar amount for such alleged economies and cost savings.

24. We find that a rigid application of the "revenue requirements" concept is no longer appropriate today. The "revenue requirements" concept was proposed and explained in an investigation made fifteen years ago for the purpose of initiating Outward WATS service. Outward and Inward WATS services now account for in excess of $1 billion in revenues annually and WATS revenues overall are growing faster than revenues for any other Bell service. In light of the level of growth and maturity achieved by WATS services, we believe that the most appropriate method to examine the lawfulness of Outward and Inward WATS services and rate levels is to consider them for this purpose as distinct services. As distinct services, they must be considered on the basis of their own costs and other indigenous characteristics. In this regard, both the "revenue requirements" concept and Bell's "alignment" theory rely on MTS costs and revenues as the benchmark for considering the lawfulness of WATS rates rather than independent WATS costs and revenues.

Our rejection of the "revenue requirements" concept does not mean that economies or cost savings Bell may realize in the provision of Outward and Inward WATS services are no longer an important factor in justification for the offering of the services and the applicable rate levels. To the extent that economies and cost savings arise from Bell's provision of Outward and Inward WATS services, we expect that they will be reflected in the independent WATS cost of service studies and other justification provided by Bell in support of Outward and Inward WATS services and rate levels when it files tariff revisions in accordance with this decision.[18]

25. Although we find herein that Inward and Outward WATS services can be considered distinctly from other Bell services for the purpose of evaluating their lawfulness, that does not mean that Bell has established on this record that such services, in particular, Outward WATS, are distinguishable functionally and economically from MTS and other Bell services. Indeed, Bell's attempt herein to "align" the entire WATS service offering including Outward WATS to MTS service, and its failure to provide independent and valid cost data for Outward WATS, seems to indicate that Bell itself may perceive no significant difference between Outward WATS services and MTS service. Thus there is a distinct implication that Outward WATS may be no more than a bulk-rate offering of a form of MTS service. When Bell files tariff revisions in accordance with this decision, we expect it to separately justify its offering of Inward and Outward WATS services (see paras 26–36 herein) and to distinguish clearly all categories and subclasses of WATS service from other Bell services including MTS. In the case of Outward WATS, however, Bell must either demonstrate that it is not merely a form of MTS and provide complete cost and other justification for it as a separate service, or provide complete cost and other justification for it as a bulk-rate offering of MTS. In the event Bell chooses to justify the lawfulness of Outward WATS separately from other Bell services including Inward WATS and MTS, we expect it to provide all cost, marketing, operational data, etc., relied upon in arriving at its decision.

C. INWARD AND OUTWARD WATS AS DIFFERENT CLASSIFICATIONS OF COMMUNICATIONS SERVICE

26. Since the initiation of Inward WATS service in 1967, Bell has priced Inward WATS service identically with Outward WATS service. Thus, an Inward WATS subscriber has been able to obtain either Inward FT (now FBD) or MT service at the same monthly charges as he could obtain Outward FT (now FBD) or MT service. The Trial Staff contends that Inward and Outward WATS services should be considered as entirely different services for pricing purposes. In support of its position, it urges basically that the two services have different costs, serve different markets and use the public switched network in a significantly different manner. It also raises the question of possible unlawful cross-subsidization of Inward WATS subscribers by Outward WATS subscribers. In reply, Bell asserts Inward and Outward services are merely rate elements of the aggregate WATS service and that the concern should be whether WATS service is compensatory overall, not whether one or more rate elements therein cross-subsi-

---

to challenge such evidence. We shall deny Bell's motion to the extent set forth below. We have carefully examined the challenged portions of the Trial Staff's Proposed Findings and conclude that the vast majority of the material is entirely within the appropriate scope of argument and does not involve the presentation of new evidence. Instances where it appears the Trial Staff may have improperly presented extra-record evidence are at para. 158, which refers to certain inquiries the Trial Staff made to the Common Carrier Bureau Staff concerning termination or refusal of service to customers who refused to purchase a second Inward WATS termination when their volume indicated the need for a second termination, and at paras. 163–66, where the Trial Staff refers to letters of complaint to the Commission from Bell customers concerning the two termination requirement for Inward WATS service. On June 25, 1975, in their Proposed Findings of Fact at para. 167, p. 107, and Proposed Conclusions at para. 6, p. 205, the Trial Staff requested that certain portions of the Bell presentation be stricken from the record. We have carefully examined this challenge also and it likewise shall be denied. We note the challenged Trial Staff and Bell material are not essential to our basic determination in this proceeding that Bell has failed to meet its burden of proof. For the most part, we have exercised our expertise in determining the findings and conclusions to be drawn from the underlying facts of record and Bell's presentation. *Market Street Railway Co.* v. *Railroad Commission*, 324 U.S. 548, rehearing denied, 324 U.S. 890 (1945).

[18] We note one of the issues in Docket No. 13914 was whether the economies made possible by direct distance dialing, which were presented, in part, as justification for Outward WATS, are fairly and adequately reflected in MTS DDD charges or whether the relatively small group of WATS users was being given an undue preference in this respect. Re WATS, 37 FCC at 701. The extent to which MTS DDD charges may reflect the aforementioned economies is more appropriately before the Commission in Docket No. 19129, Phase II.

dize another.[19] Further, Bell argues that the Trial Staff distorts the issue of "compensativeness" by claiming Outward WATS users are subsidizing Inward WATS users. It argues that the Trial Staff is in error in assuming that all rates must be set in some fixed relationship to cost. While costs are an important consideration in the setting of rates Bell argues they are not the only consideration. AT&T claims that the Commission recognized this in discussing the relationship of FT and MT classes of WATS in Docket No. 13914. At page 27 of its Reply Findings, Bell cites to Docket No. 13914 as follows:

Thus, Bell asserts "appropriate and economically sound ratemaking should take into account demand and other pertinent ratemaking factors in addition to cost between Outward and Inward WATS," e.g., the elimination of customer confusion between Outward and Inward WATS by identical pricing.

27. For the reasons to follow, we find that Outward and Inward WATS services are not mere rate elements of the aggregate WATS service. We find they are different classifications of communications service within the meaning of Section 201(b) which must be separately justified nad priced accordingly. Subscribers to Outward WATS service or Inward WATS service do not obtain the same communications service as implied by Bell's identical pricing of the two services.[20] The two services are functionally different and they serve different subscriber communication needs.[21] Moreover, we find that the support given by Bell for the identical pricing of Outward and Inward WATS services does not constitute justification for identical pricing. The services are functionally different because, as noted at para. 5 above, the two services use the public switched network in significantly different ways. An Outward WATS call is screened and blocked (to determine whether a call is in the authorized Service Area or not) in the originating toll office while such screening and blocking for the Inward WATS call occurs at the terminating toll office. In addition, a single WATS access line is precluded by Bell from both receiving Inward WATS calls and originating Outward WATS calls. Bell's tariff also embodies the functional distinctiveness of the two services by requiring, among other things, two terminations for Inward WATS subscribers for the first service group (see our discussion at paras. 61–65 below), but not Outward WATS subscribers, and by setting forth a special "termination of service for cause regulation" (Section 2.5.2 of Tariff FCC No. 259), applicable only to Inward WATS. The essence of the termination for cause provision is that Bell may terminate or refuse service if the Inward WATS subscriber impairs or adversely effects Bell's ability to provide other services.

28. Another factor supporting our finding that Outward and Inward WATS are different classifications of service is that Inward WATS serves different subscriber communication needs than Outward WATS.[22] Bell has gone to great lengths in the record to distinguish Inward WATS service from Outward WATS service and other Bell services on the basis of the markets they serve. For example, Bell asserts that from the customer's viewpoint, there is no viable alternative to Inward WATS. It indicates that it is a unique and valuable service, stating that "[o]perator handled collect MTS, Enterprise service, and Foreign Exchange service simply are not acceptable as substitutes by the Inward WATS customers who require automatic collect service from widely dispersed points," and that "[s]ince Inward WATS is a unique direct dialed inward service, it represents in large part business that would not otherwise exist." Bell further contends that the very existence of some businesses is dependent on the Inward WATS service offering. The distinctiveness of Outward and Inward WATS services in terms of type of customer served is also demonstrated, in part, by Bell internal company correspondence. For example, a July 24, 1972 memorandum from Bell's Director (Sales Projects) and Traffic Operations Director (Network Administration) to various Bell marketing and other managers stated that: "* * * inward WATS and Outward WATS are comparable only from a pricing standpoint. The amounts of traffic offered to the network with Outward WATS can be anticipated and controlled at the point of origin; but the calling characteristics, volumes and patterns of calls to Inward WATS lines are influenced by the promotional efforts of the customer and are therefore not controllable from the originating point."

29. Finally, the only justification we find Bell alleges for the identical pricing of Inward WATS and Outward WATS services, other than claiming they are merely rate elements, are its statements to the effect that ratemaking factors other than costs, e.g., the elimination of customer confusion between Outward and Inward WATS services, must also be taken into account in designing rates. While it is true as Bell points out (see para. 2 above) that in Docket No. 13914 we stated there need not be "* * * precise and absolute correlation between costs of serving different classes of customers and rates applicable to the service rendered each class to the exclusion of other relevant considerations of ratemaking," Re WATS, 37 FCC at 698, we find that Bell misinterprets our discussion in Docket No. 13914. The discussion referred to by Bell involved the lawfulness of the internal rate levels and rate relationships within Outward WATS service. We were not discusing the pricing of two different classifications of communication service which must be separately justified and priced accordingly such as is the case with Outward WATS service and Inward WATS service.[23] Further, in any event, Bell cites our language out of context. In the sentence which follows the language

[19] See following table:

1973 Revenue/cost comparisons
(in cents)

	Average incremental revenue/min	Average incremental cost/min	Incremental revenue less incremental cost
Outward WATS	22	12	10
MTS dial, station-to-station	21	13	8
Total, difference	1	(1)	2
Inward WATS	21	15	6
MTS operator, station-to-station	27	23	4
Total, difference	(6)	(8)	+2

Source: Bell proposed findings, p. 100.

It is Bell's contention that these figures demonstrate that Outward and Inward WATS services in general are compensatory and not a "burden" on users of other Bell services, in particular, users of MTS. Bell also alleges that the aggregate Fully Distributed Cost results of record show that WATS service overall is compensatory and not a "burden" on other Bell services. We note that the figures above are not studies of the effects of the rate changes at issue but are studies of increments of the market used to determine marginal revenue/cost relationships. The cost figures were, in part, derived from Bell's Incremental Network Cost (INC) system. The validity of the above cost figures is questionable in light of our findings at Appendix A attached hereto.

It cannot be accepted that the relative costs of furnishing both full-time and measured-time WATS are to be ignored in ascertaining the propriety of the rates for each class of service. *This does not mean that there must be precise and absolute correlation between costs of serving different classes of customers and the rates applicable to the service rendered each class to the exclusion of other relevant considerations of ratemaking.* (37 FCC at 698) (Emphasis supplied.)

[20] Before us here are more than subclasses of a particular category of communications service such as was the case in Hi-Lo, wherein we found that Hi-D, Lo-D and Short Haul were separate but like services of Series 2000/3000 private line service within the meaning of Section 202(a) of the Act. 55 FCC 2d 224, 231. We find that Outward and Inward WATS services are entirely dissimilar classifications of service within the meaning of Section 201(b) of the Act.

[21] Because of the manner in which Inward WATS uses the public switched network, it would appear reasonable to find that it also costs Bell more to provide Inward WATS service than Outward WATS service. In this connection, see our discussion of the Inward WATS two termination requirement at paras. 61–65 below.

[22] Our finding that Inward and Outward WATS serve different subscriber communication needs should not be interpreted necessarily as a finding that Bell's provision of both Inward and Outward WATS services has been justified on this record. As noted above, reasoned consideration of Bell's justification for Inward and Outward WATS services and rate levels is not possible absent the provision of independent studies of WATS costs and revenues in conjunction with any other ratemaking factors upon which Bell may rely. We expect Bell to provide separate justification for the offering of Inward and Outward WATS services and their respective subclasses of service when it files WATS tariff revisions in accordance with this decision.

[23] Supra, n. 20.

quoted by Bell we qualified our remarks regarding the need for cost data in rate design by stating "[b]ut *for one class of user to bear an inordinate share of costs generated by other classes of users clearly gives rise to undue discrimination which should not be tolerated in the absence of other overriding circumstances*" (Emphasis supplied). Re WATS, 37 FCC at 698. Thus, our discussion in Docket No. 13914, when considered in its entirety, cannot be construed as a recognition by the Commission that the independent costs of providing Outward and Inward WATS services are irrelevant to considering the lawfulness of WATS rates. In addition, we are of the view that the alleged ratemaking factor relied upon by Bell for pricing Inward WATS and Outward WATS services identically, namely, the elimination of customer confusion between Inward and Outward WATS, does not constitute justification for identical pricing. The validity of Bell's argument is premised on its erroneous assumption that Inward WATS and Outward WATS are merely rate elements of an aggregate WATS service. Bell's purported justification is invalid on its face in light of our finding that Inward WATS and Outward WATS are different classifications of communications service within the meaning of Section 201(b) of the Act which must be separately justified and priced accordingly.

30. In separately justifying Inward and Outward WATS services Bell must show that Inward and Outward WATS services, respectively, are compensatory and otherwise lawful. This means for future WATS tariff filings we shall consider Outward and Inward WATS services separately for the purposes of satisfying the statutory requirements of Sections 201–205 of the Act for just, reasonable and non-discriminatory rates and for the purposes of compliance with applicable Commission Rules.[24] Bell must also show that the internal rate levels and rate relationships within Outward and Inward WATS services, respectively, are just, reasonable and free of unlawful discrimination within the meaning of Sections 201(b) and 202(a) of the Communications Act. See Re WADS, 35 FCC at 93, Re WATS, 37 FCC at 698–99 and Hi-Lo, 55 FCC 2d at 231. Thus, within both Inward and Outward WATS services, respectively MT and FBD subclasses of service must be examined to determine whether and to what extent there may be unlawful cross-subsidies or discriminations between the subclasses of service and whether such subclases of service are each compensatory.[25] Bell's failure to treat Outward and Inward services as distinct service classifications cast serious doubt on the lawfulness of the internal rate levels and rate relationships within the two services respectively. Further questions of lawfulness arise because of Bell's reliance on an "alignment" ratemaking theory which ignores independent WATS costs and revenues, such as WATS costs and revenues by length of haul. Thus, on the basis of these findings alone we cannot find herein that Bell has shown the lawfulness of the internal rate levels and rate relationships within Outward and Inward WATS services respectively.

31. Where cost or other data were provided by Bell in purported justification of the lawfulness of the internal rate levels and rate relationships of Outward and Inward WATS services we find it fails to establish the lawfulness of such internal rate levels and rate relationships. The Trial Staff requested Bell to provide FDC studies disaggregated for Outward MT and Outward FBD services, and also for Inward MT and Inward FBD services, but Bell declined on the basis that such studies could not be completed within the time frame contemplated for the proceeding. Bell also indicated that collection of a substantial amount of additional data would be required and a study methodology would have to be developed. In the case of Outward WATS service, however, Bell did provide in response to a Trial Staff request relative 1973 incremental revenue/cost minute figures for Outward MT and FBD services,[26] which it alleges demonstrate that both Outward MT and FBD services are compensatory. In regard to providing incremental minute revenue/cost figures for Inward MT and FBD WATS services, Bell declined to provide such studies on the basis that "the requested figures cannot be developed as data are not available to separately produce incremental annual cost studies for these elements of inward WATS."

32. On the basis of the workpapers submitted by Bell underlying its incremental minute revenue/cost figures for Outward WATS, the Trial Staff calculated incremental annual revenue/cost ratios for Outward MT WATS (2.178) and Outward FBD WATS (1,569), utilizing the same methodology it employed in developing similar ratios for Outward WATS overall (1.802) and Inward WATS overall (1.398). The Trial Staff urges that since the incremental annual revenue/cost ratios for Outward MT WATS (2.178) is 39% higher than the incremental annual revenue/cost ratio for Outward FBD WATS (1.569), it appears the Commission's concerns in Docket No. 13914 about MT users possibly being burdened with FT (now FBD) costs are warranted. Re WATS, 37 FCC at 698. In response to the Trial Staff, Bell alleges essentially what it alleged in purported justification of pricing Outward and Inward WATS services identically, i.e., general statements that ratemaking factors other than costs are pertinent in rate design (see para. 26 above). In this case, Bell claims that effects of price on market demand must be considered in designing rates.

33. The data and arguments set forth above are all that is available on this record to examine the lawfulness of the internal rate levels and rate relationships within both Outward and Inward WATS services. We find that Bell's 1973 incremental minute revenue/cost figures and the incremental annual revenue/cost ratios calculated by the Trial Staff are of little value as far as showing compensatory charging or demonstrating cross-subsidies due to the questions we raise at Appendix A below, regarding the validity of Bell's incremental cost data which underlies the figures and ratios presented by Bell and the Trial Staff. We express no opinion herein regarding the appropriateness of Bell's use of WATS incremental minute revenue/cost figures or the Trial Staff's use of WATS incremental annual revenue/cost ratios as tools to demonstrate that Outward and Inward MT and FBD WATS subclasses are compensatory or to show that cross-subsidizations may exist. Whether incremental-type cost data and/or FDC-type cost data is appropriate for establishing compensatory charging or cross-subsidies is an issue that is before the Commission in Docket No. 18128. However, when Bell files WATS tariff revisions in accordance with this decision it is obvious we must have sufficient data available to give reasoned consideration to the lawfulness of the internal rate levels and rate relationships within Outward and Inward WATS services respectively. Therefore, during the pendency of Docket No. 18128, we believe it is appropriate that Bell provide both incremental and FDC cost studies disaggre-

[24] We express no opinion herein regarding the treatment of Outward and Inward WATS services as far as implementation of such guidelines and principles as we may adopt in Docket No. 18128. Our comments at para. 25 above are also pertinent with respect to Outward WATS.

[25] We find that MT and FBD subclasses of Inward and Outward WATS services, respectively, are separated but like communications services within the meaning of Section 202(a) of the Act. An Outward WATS subscriber's choice of either MT or FBD service is dictated by the parameters Bell has established in its tariff for the respective services. Hi-Lo, 55 FCC 2d at 368. The same is true for an Inward WATS subscriber's choice of MT or FBD service. For example, a single Outward or Inward WATS access line may not be simultaneously arranged for both MT and FBD service. Even assuming arguendo that MT and FBD services were not separate but like services, however, they could still be found unlawful pursuant to Section 202(a) of the Act if they give any "unreasonable preference to any particular person, class of persons, or locality." Hi-Lo, 58 FCC 2d at 368. Outward and Inward FBD WATS subscribers clearly received a rate preference vis-a-vis Outward and Inward MT subscribers.

[26] See following table:

[In cents]

	Incremental revenue/min	Incremental cost/min
Measured outward WATS	32	15
Full business day outward WATS	19	12

Source: Bell response 16g to trial staff second interrogatories.

These figures were developed in a manner similar to the 1973 incremental minute revenue/cost figures for Inward WATS service overall and Outward WATS service overall set forth earlier, supra, n. 19.

gated for the respective subclasses of Outward and Inward WATS services.[27] We set forth specific guidelines for filing this cost and revenue data at paras. 82–86 below.

34. To the extent that Bell may rely on ratemaking factors other than the cost data which we are requiring it to file in accordance with our decision herein, we expect it to provide more than mere statements to the effect that ratemaking factors other than costs are pertinent in designing rates. While it is true that effecs of price on market demand are relevant, marketing studies and marketing data should be provided which relate directly to and establish the reasonableness of managerial judgments as to the particular internal rate levels and rate relationships chosen for the subclasses within Outward and Inward WATS services. For example, in this record, Bell relies on a Colorado WATS/MTS Correlation Study and a Social Research, Inc. Report in support of its position that price is an important motivating factor in a customer's utilization of WATS and was taken into account by Bell in designing the rates in issue. However, Bell does not show how either study relates directly to, or establishes the reasonableness of, managerial judgments as to the particular internal rate levels and rate relationships chosen for Outward and Inward MT and FBD WATS services.[28]

35. Accordingly, for the reasons set forth above, we find that Inward and Outward WATS services are different classifications of communication service within the meaning of Section 201(b) of the Act which must be separately justified and priced accordingly. We also find that Bell has not separately justified Outward and Inward WATS services and rates on this record. In view of this finding we cannot find that the Outward and Inward MT and FBD WATS monthly charges filed are just, reasonable and otherwise lawful.

D. VALIDITY OF INCREMENTAL AND EMBEDDED COST JUSTIFICATION AND TRAFFIC AND REVENUE PROJECTIONS

36. As was the case in Hi-Lo, 55 FCC 2d at 245, substantial questions are raised herein regarding, among other things, the validity of Bell's incremental and embedded cost justification and traffic and revenue projections, filed in purported compliance with Section 61.38 and 1.363 of the Commission's Rules and offered, in part, as evidence of the lawfulness of Bell's WATS tariff. More generally, substantial questions arise regarding the validity of the outputs, i.e., incremental costs, from Bell's INC model which are offered by Bell to show costs for the Inward WATS two termination requirement, costs for WATS extension stations, costs associated with short-hold calls of less than one minute, costs for hourly usage beyond 240 hours, incremental minute costs for Outward and Inward WATS, etc. Our concerns do not arise from the nature of the selected measures of economic effect, such as ROR, LRIC, incremental minute revenue/cost figures, etc., which have been selected as compute output parameters, nor are they with the magnitudes of the specific results which were obtained and introduced into the record as indications of the lawfulness of the WATS tariff. Rather, our concern is that we cannot determine from the record before us the validity of these results which have been presented in part, as evidence of lawfulness. This failure of Bell to meet its burden of proof constitutes still another ground for finding its WATS tariff filing is unjustified and unlawful. Our detailed findings are attached as Appendix A hereto.

E. NONRECURRING AND OTHER CHARGES

1. Nonrecurring charges

37. Installation and Move charges were raised by Bell from $10 for either to $50 for Installation, $25 for Inside Moves and $50 for Outside Moves.[29] The Suspension of Service charge was increased from $15 per suspension to $50 per month.[30] The Maintenance of Service and Signal Adjustment charge, which is for customer related work, was increased from $10 to $25.[31] The cost studies in support of the foregoing changes were based upon costs of individual operations which were compiled in 1971 through "consultation with Operating Methods personnel in the various responsible departments." Installation items were assumed to require at some point in the future a corresponding removal cost. Costs associated with removals were discounted by the average installation life for a WATS service of approximately five years as determined through analysis of Market Research Information System data. Through the use of multipliers, labor costs were "grown to estimated 1974 levels for installations and 1979 levels for removals." Bell claims generally that the changes in non-recurring charges were necessary to "better reflect costs since non-recurring charges had remained substantially unchanged since 1961."

38. The Trial Staff claims the Bell cost figures underlying the changes are questionable. First, it alleges they were based on "consultation" and not upon actual studies of the time spent in performing the indicated operations for which cost figures are supplied. Second, it alleges that they are based on a four-year out-of-date 1971 study, which may or may not be reflective of current operational techniques and concommitant time for each operation and may well change by 1979. Third, it asserts the questionable 1971 results were adjusted to 1974 levels by multiplying by 1.23, for which factor there is no justification of record. Fourth, the Trial Staff alleges the questionable 1971 results were adjusted to 1979 levels, on the unsupported assumption that an average WATS installation will last for five years, by multiplying the 1971 results by the factor 1.65. The Trial Staff also claims there is no justification presented for the 1.66 multiplier. The Trial Staff also submits tables showing generally that Bell's proposed charges are insufficient to recover Bell's reported costs for performing the indicated operations. The Trial Staff claims that cost figures in support of non-recurring charges should be supported by "current, valid data, derived on the basis of time studies and not 'consultations' and without unsupported multipliers applied to stale, unreliable data." However, assuming that the Bell figures have some validity the Trial Staff urges that (a) the installation rates for Inward and Outward WATS should differ in proportion to their attributable costs; (b) the costs which are not universal to all WATS customers should be recovered from the customer who incurs them; and (c) the Inside Move, Outside Move, Maintenance of Service and Adjustment of Signal Power charges should be raised to levels which recover the costs of performing these operations upon condition that AT&T supply reliable, current, valid cost data in support of such increased charges. In regard to the Suspension of Service charge, the Trial Staff recommends that pending submission of valid cost data in support of a continuing monthly suspension charge, the $50 charge be limited to once per suspension.

39. Bell claims in reply to the Trial Staff that there is nothing in the record to suggest that studies based on consultations or interview are "inherently inappropriate and do not yield valid results." As to the Trial Staff's contention that the data are stale, Bell argues there is no evidence in the record which would indicate that the study data are not reflective of current operations techniques. It also asserts there is no probative evidence in the record which would support the use of any costs other than those actually employed by Bell. Bell further alleges that the Trial Staff's assertion that "the $50 charge be limited to once per suspension" is predicated on the erroneous assumption that the $39 monthly carrying cost for access lines is unsupported. Bell cites to a portion of the record where it alleges the cost is developed, Bell Ex. 14, p. 36.

40. It appears that increases in non-recurring charges may be warranted in view of the fact that such charges have remained substantially unchanged since

[27] Our requiring the filing of both types of cost data in this case is, of course, subject to such principles and guidelines as we may adopt in Docket No. 18128. In this regard, under present court schedules, our decision in Docket No. 18128 will be issued prior to August 2, 1976.

[28] We note the Colorado MTS/WATS correlation Study itself cautions that "[t]hese findings are not statistically valid and provide only indication of results warranting further study." Attachment to Bell Response 6a. Thus, by Bell's own admission, its study is of questionable value.

[29] Following Bell's March 1975 and February 1976 tariff filings Installation charges are now $54.15, Outside Move charges are $54.15 and Inside Move charges are $27.07.

[30] Following Bell's March 1975 and February 1976 tariff filings Suspension of Service charges are now $54.15.

[31] Following Bell's March 1975 and February 1976 tariff filings Maintenance of Service and Signal Adjustment charges are now $27.10.

1961. However, on the basis of this record we cannot make a definitive finding that the actual charges filed by Bell are just, reasonable and otherwise lawful. While there appears to be nothing "inherently inappropriate" in utilizing a "consultation" procedure to develop historic cost figures, Bell provides no basis in this record for its judgment as to why the specific consultations conducted for this proceeding can be relied upon to produce reasonable results. Further, the procedure may be subject to serious question where, as here, less than recent data (in this case 1971 data) and unexplained and undocumented multipliers are used in conjunction with it. We also have other questions and observations on the non-recurring charges filed. From Bell's presentation it appears that costs attributable to the operations for which there is a non-recurring charge are covered, in part, by recurring monthly charges. We believe in appropriate circumstances the recurring monthly charges may cover the remainder of the costs which are not covered by non-recurring charges. Where this occurs, however, we expect that any deviations in the percentages of costs which are not covered by non-recurring charges, as shown in Bell Ex. 14, p. 71, should be fully explained and justified. This may be of importance in those cases where the non-recurring costs which are incurred are not universal to all Outward and Inward WATS customers but can be traced directly to the customer who incurs them. Moreover, consistent with our findings above that the Outward and Inward WATS services are different services, in those cases where it costs more to perform a particular operation for Inward WATS than Outward WATS, the non-recurring charges should reflect that difference. Accordingly, in light of the above questions and observations, we cannot reach a definitive finding as to the lawfulness of the non-recurring charges filed.

2. Conversion charge

41. There had not previously been a charge for converting an existing service to another class of service or Service Area at the customer's request, e.g., changing from Outward MT service to Outward FBD service or from Service Area 1 to Service Area 5, or for changing the telephone number assigned to an Inward WATS access line. Bell claims that since there are substantial costs associated with such changes, such as processing of service orders, making equipment changes in central offices and record keeping, a Conversion charge of $25 has been introduced to reflect these costs.[32]

42. The Trial Staff challenges the Conversion charge on the same basis as it challenges the non-recurring charges, i.e., it is based on 1971 data which were derived by "consultation" and not by time studies and an unjustified multiplier was used for projection forward to 1974. The Trial Staff also provides a chart which shows the $25 Conversion charge fails to cover the reported conversion costs for Inward WATS and Outward WATS respectively. Assuming, however, that the figures have some validity to Trial Staff urges that (a) the rates for all conversions other than a change in class of service unaccompanied by other changes should differ for Inward and Outward WATS in proportion to their costs; (b) the costs for changes of service should be recovered from the customer who incurs them; and (c) the Conversion of service charges should be raised to levels which recover the costs of performing these operations upon condition that Bell supply reliable, current, valid cost data in support of such increased charges.

43. Bell reiterates its response to prior Trial Staff assertions regarding non-recurring charges. It further argues that the Trial Staff's assertion that the Conversion charges "are not being recovered through the imposition of charges on the customers who incur them and * * * the cost are therefore * * * a burden on other WATS customers," is erroneous. Bell claims that the Trial Staff fails to recognize that these charges will be recovered through recurring monthly charges to users.

44. Our findings and observations above with respect to non-recurring charges are generally applicable here. Although we find that the institution of a Conversion charge is appropriate, we are unable to make a definitive finding that the actual charge filed is justified and lawful.

3. Extension charges

45. Bell increased the monthly rate for the first WATS extension station in an exchange from $12.50 to $15, and the rate for each additional extension station was increased from $7.50 to $10.00.[33] Bell states that these increases were required to "better reflect the costs" incurred in providing extension stations. The facilities used to furnish WATS extensions are similar to those used for private line service and the revised rates are the same as those applicable for service terminals for voice grade private line services at the time the rates were filed. AT&T states that the WATS access line station is considered as the first station for the purpose of rating extension stations in that exchange. Bell derived what it considered to be the relevant incremental costs of providing extensions by utilizing information on WATS exchange and subscriber plant investments developed from its INC model to estimate the investment associated with WATS extensions. A five percent sample of WATS services made in 1969 by Bell Telephone Laboratories was relied upon by Bell to provide information on numbers of extensions. This sample was used to estimate the fraction of extensions on premises and off premises in order to arrive at a weighted average cost. Bell assumed that all off premise extensions required a complete local loop but that no extension requires a remote exchange line. Bell concluded that the monthly incremental cost for both the first and any additional extension in an exchange was $13.59.

46. The Trial Staff questions the validity of the incremental figures developed by Bell on the basis that they were predicated on out-of-date 1969 data and that the five percent sample relied upon to obtain information on extensions may have been insufficient. Further, it claims embedded cost data should have been provided. It urges that since the relevant costs of extensions are the same regardless of whether an extension is the first or an additional extension, the rates for an extension should be "equalized" at $15 regardless of whether it is a first or an additional extension. Otherwise, it claims the manner in which Bell plans to price additional extensions ($10 for additional extensions when Bell's alleged costs are $13.59 per extension) results in noncompensatory charges.

47. We have serious questions regarding the validity of the 1969 study data relied upon by Bell to obtain information on extensions. Not only does it appear to be outdated but we have no way of knowing whether the sampling methodology utilized produced reliable results. In this connection, Bell failed to comply with Section 1.363 of the Commission's Rules which requires, among other things, a clear and complete description of sampling techniques, assumptions, etc. relating to such studies. Moreover, Bell does not provide an explanation for setting monthly rates for additional extensions ($10.00) below what it contends are relevant costs ($13.59). Nor does it explain how the revenue deficiency arising in such circumstances will be covered. Also, the questions raised above regarding the validity of Bell's incremental cost analyses make Bell's claimed extension costs of questionable validity. Because of these unresolved questions we cannot make a definitive finding on this record that the extension charges proposed by Bell are just, reasonable or otherwise lawful.

4. Revision of allowance for service interruptions

48. The minimum length of interruption previously required before a credit allowance applied was two hours for FT service and 24 hours for MT service. Under the Bell revisions, an allowance is given when either MT or FBD service is interrupted for two hours or more. The new provision also provides for an allowance equal to a full day's rate (1/30 of the monthly initial period rate) for an interruption of eight hours or more per day. We find that this change appears to be appropriate for both Outward and Inward WATS services.

F. USAGE SENSITIVE PRICING CHANGES

1. Need for FBD service and change of FT service to FBD

49. As noted above, the tariff revisions in issue replace the flat rate structure of

[32] Following the March 1975 and February 1976 WATS tariff changes the Conversion charge is now $27.10.

[33] The charge for the first extension is now $16.20 and the additional extension charge is now $10.80 following Bell's March 1975 and February 1976 WATS tariff filings.

FT Outward and FT Inward WATS services by setting an initial period rate for 240 hours usage. Additional period rates are introduced for usage in excess of 240 hours per month at a level of two-thirds of the equivalent hourly rate for the initial period. We noted in our Designation Order that this change appeared to be a step in the right direction away from flat rate pricing to usage sensitive pricing. 46 FCC 2d at 84. A closely related question is whether there is a need for a full time class of service at all and whether all WATS services should be priced on a measured time basis. This latter question was left unresolved in Docket No. 13914. Re WATS, 37 FCC at 699–700.

50. In support of the need for FBD service Bell claims basically that if some form of FBD had not been offered (FT), much of the present WATS business would never have developed. For example, it asserts that some 70% of total WATS usage on access lines (Inward and Outward) is FBD. Bell claims that many customers for FBD WATS would not have otherwise ordered service and others would not have developed the same volumes of use. Further, Bell contends that FT/FBD service permits maximum realization of the operating economies that are possible through WATS services with resultant low unit costs. Bell claims that it has shown that FT/FBD traffic on the public switched network is less apt to fall in peak hours than is MT traffic. For example, according to Bell, a higher percentage of FT/FBD calls occur on the weekend such that Outward FT/FBD costs $0.12/minute whereas Outward MT costs $0.15/minute on an incremental cost basis and relative to MTS. Bell also asserts that having both FBD and MT available permits customers to subscribe concurrently to both, or shift from one to the other as their needs require, thus making WATS attractive to more users. In this connection, Bell claims that FBD and MT are integrated in the WATS offering. If only MT were offered, Bell argues, many customers with requirements for substantial volumes of communications would not have a fully satisfactory and economically advantageous way of benefitting from WATS.

51. The Trial Staff contends that Bell's allegations as to broad customer acceptance of FBD WATS and their desire for such service in addition to MT WATS do not constitute sufficient justification for FBD WATS service. The Trial Staff claims that "need and desire are not necessarily synonomous." It asserts that "assuming that a customer of FBD WATS has a viable communications alternative (which would be the case for Outward WATS—all communications on Outward WATS may be made through the use of MTS), then there is no necessity for him to have the service." The Trial Staff contends, "the discount available to him in WATS as compared to MTS makes WATS more desirable, but not necessary."

52. In support of the change from FT service to FBD service Bell argues that the monthly usage of FT WATS has averaged about 110 hours but that new and emerging applications of WATS by customers have resulted in use of some WATS access lines in excess of 300 hours per month, and substantial growth of this type of use is expected to continue. Bell argues that the incremental costs of serving customers with such heavy use are greater than the incremental costs associated with average usage, and it is appropriate that the extra costs should be borne by the customers whose usage occasions them, rather than by the general body of WATS customers. Bell states that so that the rates for this class of service will "better reflect the related costs," additional period charges for usage in excess of 240 hours per month are appropriate. In this connection, Bell argues that only about four percent of FT access lines exceeded that level of usage, so the great majority of customers will not incur the new charges, but with the additional period charges the minority of customers whose usage is unusually heavy will bear their share of related costs.

53. In opposing the FBD revision, but supporting instead retention of the FT class of service, the customer parties (CARSI, CCTU and National Data) allege generally that the additional perior rates will result in a shift of traffic to peak period usage, thereby causing increased costs; that the additional period rates will have an unreasonable impact on customers; and that Bell incorrectly calculated the costs for additional period usage, by including separations costs which they claim are not "true" costs at all. The Trial Staff, relying on its analysis of, and calculations based on, Bell's incremental cost data, challenges the FBD revision on the basis that "AT&T set the cut-off level of 240 hours such that they do not recover the monthly costs of an access line for usage between 218 and 240 hours in a month, and the additional period rates are set such that the costs per hour beyond 240 hours are not fully recovered." Therefore, the Trial Staff argues that service rendered to an access line with more than 218 hours of usage a month is not compensatory and that the cut-off should be set at 210 hours instead. The Trial Staff also requested embedded cost data per hour of usage up to 240 hours but Bell did not provide the requested data on the ground that it could not be developed using presently available data and methodology.

54. We cannot resolve on the basis of this record the question of whether there is a continued need for some form of Inward and Outward FT service, such as FBD, or whether all Inward and Outward WATS service should be priced on a measured time basis. Moreover, while we continue to believe that a FBD change is a positive step away from flat rate pricing and toward usage sensitive pricing, we cannot make a definitive finding on this record that the change of FT service to FBD service is just, reasonable or otherwise lawful. As noted above, the validity of Bell's incremental cost data which is presented, in part, to justify the FBD change, is questionable. Further, substantial cost and other data was not provided for the record with respect to, among other things, Inward WATS service overall, Outward WATS overall, Inward MT and FBD services and Outward MT and FBD services. We have found herein that such data is essential for a reasoned and comprehensive consideration of the lawfulness of Outward and Inward WATS services and their respective internal rate levels and rate relationships. In regard to the question of the need for a FT-type WATS service, such as FBD, it could be that a FT/FBD WATS service has gained wide customer acceptance merely because applicable rate levels are not reflective of costs incurred in providing the service. Therefore, the extent to which internal rate levels and rate relationships within both Outward and Inward MT and FBD WATS services are lawful is a key factor in assessing the need for a full time class of service, such as FBD, or whether all service should be priced on a measured time basis. Moreover, the lawfulness of internal rate levels and rate relationships within Outward and Inward WATS, respectively, is also of substantial importance in determining the lawfulness of Bell's change of FT service to FBD service. For example, Bell's justification for the FBD change is based, in part, upon its contention that because WATS FBD initial and additional period rate levels are set where they are; there is no economic advantage to motivate customers with more than 240 hours of monthly usage to alter their calling habits and place calls during peak usage periods and increase costs. Absent the cost and other data noted above, we have no way of determining the validity of this aspect of Bell's alleged justification for the FBD change. Finally, we note that Bell's FBD change itself and Bell's arguments for the need for a fulltime class of service such as FBD, treat Outward and Inward WATS services in the aggregate. We have found that Outward and Inward WATS are different services which must be separately justified and priced accordingly. Thus, we have no way of determining from this record whether and to what extent Outward and Inward WATS services should be considered distinctly for purposes of usage sensitive pricing and as far as justification for the existence of a full time class of service. Accordingly, we can make no definitive finding herein regarding the need for a full time class of service, such as FBD, or whether the change from FT to FBD service is lawful.

2. Additional charges for large volumes of completed calls under one minute

55. In support of this change, Bell argues that the costs necessary to complete or "set-up" a connection on the public switched network are a significant part of the total cost of a WATS call. Since the prior WATS rates were not sentitive to the number of calls made and charges were on the basis of conversation time only, Bell undertook a study to find the relationship between incre-

mental set-up costs and conversation time costs and to determine how much chargeable time (i.e., length of conversation) must result from a completed call if setup costs were to be recovered. Bell claims that this study indicated that on the average, under the former WATS rate structure, costs were not recovered when the chargeable time is less than about one minute.

56. Bell states that the average length of WATS calls is 4.5 minutes for Outward WATS and 3 minutes for Inward WATS. Although presently, less than two percent of Bell WATS customers have usage with average call durations of less than one minute, Bell expected the strong growth in this segment of the market to continue. Under such circumstances, Bell claims it is appropriate to introduce an element in the rate structure so that revenues from this rapidly growing market segment will "better reflect" the costs of serving it.

57. Accordingly, Bell revised its WATS rate structure for Outward and Inward WATS so that monthly charges are determined on the basis of (1) total conversation time, or (2) number of completed calls multiplied by one minute, whichever is greater. Bell states that the second alternative becomes operative only when the "average length of calls in a month" is less than one minute. In such event, Bell states that "the appropriate additional period charge is billed if the result (number of calls multiplied by one minute and then expressed in hours and a fraction of an hour) exceeds the initial period for the class of service involved (10 hours for measured time, or 240 hours for Full Business Day)." Bell further states that the information needed to charge customers on this basis, i.e., the number of calls completed a month is already being collected on almost all WATS access lines, since it is used for customer servicing and administrative purposes. Bell claims this rate structure change results in no significant added cost.

58. Customer parties such as CCTU, CARSI, McGraw-Hill, and National Data challenge the foregoing rate structure change for several reasons. For example, they claim the set-up costs used by Bell are excessive because they do not take into account the allegedly higher call completion ratios of computer related calls; that Bell's under one minute cost data is invalid because Bell employed completion ratios based on MTS experience and not WATS experience; that the rate structure for short-hold calls should charge customers at their average length of conversation time rather than at the one-minute level where revenues equal costs; that the surcharge for short-haul charges will encourage inefficient utilization of computer communications facilities and hinder further development of computer technology; and that it is unreasonable to increase charges to a class of WATS users as long as WATS revenues exceed WATS costs for the overall WATS service.

59. The Trial Staff takes the position that the minimum average time requirement should be rejected due to Bell's failure to provide embedded cost data in justification thereof. Further, it challenges Bell's incremental cost study methodology. Using Bell provided data, it recalculated the set-up and conversation time costs separately for Inward and Outward WATS. After comparing its calculations with Bell provided incremental revenue data, it concluded that the appropriate minimum average time period should be 30 seconds rather than one minute, claiming that the cross-over point between revenues and costs was at 30 seconds rather than one minute. National Data supports this view if there is to be a charge for short-haul calls. The Trial Staff conclusion was also based in part on its view that the revenues from completed calls with an average duration of 60 seconds do not cover the costs incurred by such calls.

60. Although we continue to believe that the establishment of additional charges for large volumes of short-haul calls under one minute is a step in the right direction towards usage sensitive pricing, we cannot make a definitive finding on this record that the actual charges filed are just reasonable and otherwise lawful. First, the validity of Bell's incremental cost data utilized to show costs and thus support the change is subject to question for reasons already noted above. Secondly, the additional charges would appear to be directed primarily at those customers with very high volumes of hourly usage, such as FBD users. This is evident from the positions taken by the customer parties herein. Until it is demonstrated by Bell that there is a need for a full time class of WATS service, such as FBD, definitive findings on usage sensitive tariff changes directed primarily at that class of customers would be premature. In this connection, as noted at para. 54 above, no determination is possible on this record as to the need for a full time class of service, such as FBD. Finally, in light of our finding that Outward and Inward WATS are entirely different services which must be separately justified and priced accordingly, such services should be considered separately for usage sensitive pricing purposes.

G. TWO TERMINATION REQUIREMENT FOR INWARD WATS SERVICE AND EFFECT OF INWARD AND OUTWARD WATS ON PEAK HOUR USAGE

1. Two termination requirement for inward WATS

61. One of the tariff revisions at issue required installation of a second physical termination for the more than 7,000 previous one-access line Inward WATS installations. The second termination was provided at no additional charge to Inward WATS subscribers.[34] According to Bell, the purpose of this revision was to improve the call completion ratio for Inward WATS, and thereby reduce network congestion and costs associated with blocking. Bell measured the annual costs associated with blocking of calls made to single termination Inward WATS access lines as being $1,731,000. Bell estimated that the provision of the second termination would reduce these costs to $239,000. In determining the cost of the additional terminations and in determining annual separations cost savings Bell utilized investments attributed by its INC system.

62. While requiring additional terminations for Inward WATS subscribers may appear to be a reasonable response to the Inward WATS network congestion problem, for several reasons, we cannot make a definitive finding on this record that the two termination requirement is just, reasonable and otherwise lawful. As noted above, questions exist regarding the validity of the incremental cost data relied upon by Bell to show costs associated with the two termination requirement. We also question the reasonableness of Bell's decision not to charge Inward WATS subscribers fully for the additional terminations made necessary by their usage of the network in light of our finding above that Inward and Outward WATS are distinct services which require separate justification. As a general rule, it appears WATS subscribers whose usage results in network congestion and inordinate costs should be charged rates which reflect the extent of such usage. We note that Bell appeared to rely on this consideration in attempting to justify the FBD revision and charges for large volumes of calls under one minute.

63. Other questions which must be answered are raised by the Trial Staff. The Trial Staff raised several questions which addressed the capability of the two termination requirement to achieve its stated goal, i.e., improvement of the call completion ratio for Inward WATS, thereby reducing network congestion and costs. It determined that: (a) there was doubt as to whether the second termination would be used by all Inward WATS subscribers to whom it was provided, i.e., subscriber office structure and organization would not be able to incorporate use of the second termination; (b) there would be little incentive to use the second termination in cases where there was little or no congestion caused by a particular subscriber's use of Inward WATS to begin with; and (c) the second termination might be neglected in instances where subscribers with key telephone systems, PBXs, Centrex systems, etc., may not want to incur the additional charges which would apply if the second Inward WATS termination were connected to this existing equipment. In these cases, the Trial Staff notes, "AT&T will have incurred the added costs of providing the non-utilized second termination, an unnecessary expenditure and inefficient use of plant and equipment." We find that the observations of the Trial Staff, in which we concur, may cast some doubt on the reasonableness of Bell's approach to the

[34] This revision applies only to Inward WATS since Inward WATS subscribers, under Bell's rate structure, cannot effectively control the time when calls are placed. This contrasts with Outward WATS subscribers, who can dial only one call per access line at a time. This difference between the services, along with others already noted, supports our finding that the two services are different services which must be separately justified.

Inward WATS network congestion problem.

64. Finally, a question also exists as to whether appropriate consideration was given by Bell to other available alternatives to the Inward WATS network congestion problem. For example, the record does not provide a sufficient explanation as to why it was not possible to make rate structure changes, such as charging Inward WATS subscribers or busy calls. The Bell approach seems to address only the supply side of Inward WATS service without giving equally important consideration to the demand side of the service.

65. Accordingly, absent further documentation on the record regarding the record deficiencies and observations noted above, we cannot make a definitive finding that the two termination requirement for Inward WATS is just, reasonable and otherwise lawful.

2. Effect of inward and outward WATS on peak hour usage

66. Observations are warranted with respect to the effect of the provision of Outward and Inward WATS services on peak hour usage of the public switched network. In further support of its argument that the "revenue requirements" test of Docket No. 13914 is the appropriate method to test the lawfulness of WATS services and rate levels, the Trial Staff argues that the stimulation of WATS usage during peak period which has occurred over the years since WATS has been offered has caused additional and unjustified costs, thereby upsetting the equilibrium achieved through the "revenue requirement" objective in Docket No. 13914.[35] At paras. 21–24 above, we set forth our view that it is inappropriate to apply standards developed for initiating Outward WATS service in 1961, i.e., the "revenue requirements" test, to circumstances as they exist today in Outward and Inward WATS. However, certain positions taken by Bell in response to the Trial Staff raise questions regarding whether or to what extent WATS rate structures encourage efficient utilization of the public switched network. These Bell positions warrant comment.

67. In responding to the Trial Staff, Bell claims that the Trial Staff misinterprets the nature of the Commission's concern in Docket No. 13914 with respect to the effect of WATS an peak hour usage. Bell contends that the Commission's questioning in Docket No. 13914 of the effect of WATS on peak hour traffic and whether stimulation would result in increases in costs, was raised as part of an underlying concern that WATS revenues should be sufficient to recover costs incurred in furnishing the service, i.e., be compensatory. Bell further claims that the Commission's concern was not simply whether stimulated usage would be in off-peak hours. Rather, it asserts the Commission directed its attention to the issue of whether any stimulation of use on a WATS access line above the average use would produce revenues sufficient to cover costs associated with increased use regardless of Bell asserts that a complete reading of the Commission's decision in Docket No. 13914 makes it apparent "that the Commission was * * * concerned with whether increased use of a single average FT access line because of stimulation would result in additional peak hour use with additional network costs but no increase in revenue." AT&T asserts that a complete reading of the Commission's decision in Docket No. 13914, concerning MT service, "also shows clearly that the Commission's concern was whether additional stimulation would result in increased costs without increased revenues." Thus, Bell's position appears to be that the sole factor in assessing the lawfulness of WATS rate structures is whether or not resulting WATS revenues are sufficient to recover the costs incurred in furnishing WATS service, regardless of whether or to what extent those costs are incurred by WATS through peak hour usage.

68. At the outset, we believe it is important to consider Bell's view regarding WATS rate structures and peak hour usage from a fresh perspective and not in terms of our decision in Docket No. 13914. Our conclusions there with respect to the effect of the provision of Outward WATS on peak hour traffic on the public switched network for example, were based solely upon 1961 projections by Bell and no actual experience was then before us. Re WATS, 37 FCC at 697. Further, Inward WATS was not before us in Docket No. 13914 since Bell introduced the service in 1967.[36] Moreover, Outward WATS since 1961, and Inward WATS since 1967, have experienced substantial growth. These services are growing faster than any other Bell service including MTS, and account for at this writing in excess of $1 billion in revenues annually. Thus, unlike 1961, Outward and Inward WATS services are now a significant factor in public switched network investment and planning.

69. We are not persuaded that the sole criterion for judging the lawfulness of WATS rate structures, or rate structures in general, is whether or not the rate structures generate compensatory revenues.[37] We believe that sound regulatory policy should encourage the development of rate structures which in addition to being compensatory, tend to promote efficiency in the use of the public switched network by allowing and encouraging subscribers to shift usage out of peak peeriods.[38] The WATS rate structure before us does not provide for alternatives such as off-peak pricing incentives. In this regard, Bell indicated that "[i]ntroduction of off-hour rates for WATS, involving as it would, message accounting procedures not presently employed, is not considered feasible at this time" (Bell Response 6(c) to Trial Staff First Interrogatories). This is the extent of the consideration given in the record to the subject of alternative Outward and Inward WATS rate structures which might tend to promote our policy goal noted above. Thus, no firm findings or conclusions are possible. However, given our general policy view we expect consideration to be given by Bell to the development of rate structures for Outward and Inward WATS services which allow and encourage efficient use of the public switched network.[39]

H. DECREASE THE NUMBER OF SERVICE AREAS TO FIVE BY COMBINING EXISTING SERVICE AREAS 5 AND 6

70. Prior to the tariff changes in issue, WATS was offered to a total of six Service Areas of progressively greater sizes. Re WATS, 37 FCC at 690–91. Bell claims that a study of the six Service Areas showed that Service Area 5 had the least customer appeal. It states that as of September 1973, only 6.3 percent of all interstate access lines were for Service Area 5 and it accounted for only 5.1 percent of all interstate access lines added in the 12 month period ending September, 1973. According to Bell, combining Service Areas 5 and 6 into one Service Area (Number 5) simplifies tariff structure and its administration and simplifies physical arrangements in central offices. Bell claims that the combination of Service Areas 5 and 6 will have minimal customer impact because it coincides with rate reductions at longer distances with the result that most existing subscribers to Service Area 5 will have the benefit of considerably expanded calling areas with little or no increase from their present rates.

71. We cannot make a definitive finding on this record that the combination of Service Areas 5 and 6 into one Service Area is just, reasonable and otherwise lawful. Among other things, Bell alleges that it will have minimal customer impact because it coincides with rate reductions at longer distances. As noted

[35] That is, reduced revenues resulting from diversion of MTS calls to WATS should be equalized by cost economies achieved in the provision of WATS.

[36] In light of our finding that Inward and Outward WATS are distinct services which require separate justifications, we expect Bell to undertake studies so that the impact of Inward and Outward WATS services and their respective subclasses of services on peak hour usage may be separately evaluated. Our comments at para. 25 with respect to Outward WATS are also pertinent.

[37] We note that no studies were provided by Bell which demonstrate that WATS usage during peak periods is compensatory. The studies submitted by Bell merely attempt to demonstrate that the WATS rate structure in the aggregate and certain disaggregated categories of WATS, such as Outward WATS, may be compensatory.

[38] We note that rate structures which strive for such efficiency would appear to be very much in the interest of the ratepayers and Bell stockholders. Rate structures which allow provision of an adequate supply of communications at the least possible cost, i.e., minimum investment and expenses, insure that society as a whole is allocating as few of its resources as possible in order to obtain the service, leaving the maximum amount of resources available for other desirable uses.

[39] This concern was present in our consideration of Bell's two termination requirement for Inward WATS.

in our above findings, the lawfulness of the preferential rate treatment and rate reductions given to long-haul Outward and Inward WATS subscribers has not been shown on the record. Accordingly, the validity of Bell's statement in support of the change, and thus the validity of the change itself, cannot be determined.

I. 1973 WATS RATE INCREASES AND WATS USE OF SERVICE PROVISIONS

72. On January 12, 1973 Bell filed increases in WATS rates (Transmittal No. 11657) pursuant to authority granted by us in Docket No. 19129 and by Memorandum Opinion and Order released March 13, 1973, we placed the lawfulness of such revised WATS schedules in hearing in Docket No. 19129, 40 FCC 2d 18 (1973). These WATS rate increases were estimated to increase WATS revenues by about $11 million based on the 12-month period ending September 30, 1972. Our Designation Order included the lawfulness of this 1973 rate increase for consideration herein.

73. On the basis of the record before us we must find that Bell has failed to show the 1973 rate increases filed under Transmittal No. 11657 were just, reasonable and otherwise lawful. As was the case with the WATS tariff revisions filed under Transmittal No. 11935 Bell failed to present sufficient record evidence to justify, among other things, the lawfulness of the 1973 WATS rate levels and rate structure with respect to all categories of WATS service as called for by the issues set forth in the Commission's March 13, 1973 order, 40 FCC 2d at 19 and our Designation Order herein. Instead, Bell chose to address the lawfulness of the 1973 WATS changes only in the aggregate which is insufficient for reasons already noted above.

74. Our Designation Order also placed in issue the reasonableness of the restrictive language in the WATS tariff concerning the use of service by WATS customers which was an issue in a formal complaint filed against AT&T by the Associated Students of the University of Arizona in 1974, 43 FCC 2d 197. Since this subject is more appropriately before the Commission in Docket No. 20097, Resale and Shared Use Inquiry, 47 FCC 2d 744 (1974), we make no findings herein on the question of resale or shared use of WATS services.

J. INTERCONNECTION ISSUES

75. As noted in our Designation Order, we intended that the prospective interconnection issues raised in Computoll's pending complaint filed in March 1973, be considered in this proceeding, i.e., that portion of the complaint which challenges the validity for the present and future of the provisions of the WATS tariff relating to interconnection filed under Transmittal No. 11935. We indicated that any action on Computoll's request for damages for alleged past unlawfulness of the WATS tariffs would be deferred pending our decision on the lawfulness of the revised WATS tariffs. We find that the regulatory interconnection issues raised by Computoll's complaint could be more appropriately addressed in the context of a separate proceeding.

III. CONCLUSIONS

76. We have set forth in the above findings our reasons for concluding that Bell has not met its burden of showing that the initial and additional period monthly charges for Outward and Inward MT and FBD WATS services filed under Transmittal No. 11935 are just, reasonable and free of unlawful discrimination. A novel "alignment" ratemaking theory was relied upon by Bell in designing the aforementioned charges. The basis of Bell's "alignment" approach was that initial and additional period monthly charges for Outward and Inward MT and FBD WATS services could be justified solely by maintaining "consistent" rate relationships with MTS DDD charges over distance, and that therefore independent cost of service studies were not required to explain or support Outward and Inward MT and FBD WATS monthly charges. We have found that Bell's use of the "alignment" theory as the sole basis for justifying WATS charges is unacceptable and violative to clearly established Commission policy. Further, while ratemaking factors other than costs may be relevant, we found that the costs of providing Outward and Inward WATS services must be provided in the first instance as a benchmark to permit reasoned consideration of the lawfulness of departures from costs in rate design which might result from "alignment." Apart from the patent illegality of Bell's "alignment" approach, we found it was not justified for other reasons. Assuming arguendo it could be a valid ratemaking approach in general, there was no basis provided in the record for the key assumptions and judgments upon which "alignment" was based and the manner in which Bell applied "alignment," was theoretically and mechanically unsound and unacceptable. Finally, we found Bell's "alignment" approach resulted in preferential rate treatment for long-haul Outward and Inward WATS subscribers vis-a-vis short-haul Outward and Inward WATS subscribers and that this preference and discrimination had not been justified by Bell on the record. In view of the foregoing, we must conclude that the Outward and Inward MT and FBD WATS monthly charges filed under Transmittal No. 11935 are unjustified and unlawful. Since the Outward and Inward MT and FBD WATS monthly charges filed by Bell in March 1975 (Transmittal No. 12303) and February 1976 (Transmittal No. 12497) were also designed under Bell's "alignment" approach we must also conclude that the WATS monthly charges resulting from those filings are also unjustified and unlawful. We also found above that Bell had failed to justify the lawfulness of its 1973 WATS rate increases (Transmittal No. 11657).

77. We conclude that the initial and additional period monthly charges for Outward and Inward MT and FBD WATS services must be found unjustified and unlawful for an additional reason. We found above that Bell had not justified the identical pricing of Outward and Inward WATS services. Indeed, we found that Outward and Inward WATS are different classifications of communications service within the meaning of Section 201(b) of the Act which must be separately justified and priced accordingly. In particular, we found that Inward and Outward WATS services are functionally different and serve different customer needs. We also found on the basis of this record we could not determine that the internal rate levels and rate relationships within Outward and Inward WATS services, respectively were just, reasonable and free of unlawful discrimination within the meaning of Sections 201(b) and 202(a). Thus, it was not possible to determine whether or to what extent MT and FBD subclasses of Outward and Inward WATS services, respectively, are compensatory or whether there may exist unlawful cross-subsidies or discriminations between such subclasses of service. We further found that Bell must either demonstrate that Outward WATS is not merely a form of MTS and provide complete cost and other justification for it as a separate service, or provide complete cost and other justification for it as a bulk-rate offering of MTS.

78. We also found that, in general, the validity of the incremental and embedded FDC cost data filed in purported compliance with Sections 61.38 and 1.363 of the Commission's Rules is subject to serious question in this proceeding. Further, Bell failed to justify the traffic and revenue projections it filed in purported compliance with Section 61.38. We found that the validity of the outputs from Bell's INC model, which were utilized by Bell to show costs and otherwise support several of its WATS tariff revisions, is questionable. We conclude that the questions of validity raised are of such a fundamental nature that they constitute still another ground for concluding Bell has failed to demonstrate the lawfulness of the WATS tariff revisions filed under Transmittal No. 11935 and related filings.

79. We further found above, that although rate increases for non-recurring changes appeared timely, we could not make a definitive finding on this record that the actual charges filed were just, reasonable and otherwise lawful absent the filing of sufficient documentation. Similarly, no definitive findings could be made with respect to conversion and extension charges or the change from six Service Areas to five Service Areas. In regard to usage sensitive pricing tariff changes, we found that the record was insufficient to permit a definitive ruling on the need for a full time class of service such as FBD, or the lawfulness of the FBD change itself. As to Bell's imposition of additional charges for large volumes of calls under one minute, we also found that no definitive ruling was possible. With respect to the tariff provisions filed under Transmittal No. 11935 relating to interconnection we found that the regulatory interconnection issues raised by Compatoll could be more ap-

propriately addressed in a separate proceeding. We further found above that the WATS use of service provisions were more appropriately before the Commission in Docket No. 20097, supra.

80. In addition, we found that no definitive finding could be reached regarding the lawfulness of Bell's two termination requirement for Inward WATS service. Basically, we found that while requiring additional terminations appeared reasonable the lawfulness of Bell's approach addressing the problem of network congestion caused by Inward WATS had not been demonstrated on the record. Further, we raised a question as to whether Bell had given sufficient consideration to other available alternatives, such as revising the Inward WATS rate structure to charge Inward WATS subscribers for uncompleted or busy calls. We also made certain observations regarding the extent to which Outward and Inward WATS rate structures encourage efficient utilization of the public switched network.

81. In view of the foregoing, we conclude that, except for the exceptions noted herein, Bell has not satisfied its burden of justifying the WATS tariff revisions filed under Transmittal Nos. 11657, 11935, 12303 and 17497. Its failure to submit sufficient and appropriate evidence to justify WATS tariff charges and other tariff revisions is fatal to its case. Re Part 61 of the Rules, 40 FCC 2d at 151–2 (1973). Therefore, we conclude the tariff schedules at issue are null and void.

82. In light of our findings and conclusions above with respect to the insufficiency of this record, the following specific guidelines are offered to Bell for filing tariff revisions in accordance with this decision. In this connection, material which must be filed pursuant to Section 61.38 of our Rules should be developed, and supplemented where appropriate, in light of these guidelines. For example, in estimating traffic, revenue and cost effects of tariff changes on other Bell interstate services and on Bell traffic, revenues and costs overall for the 12-month historical period and the three-year prospective period, such estimates should also be provided in terms of the effects caused by rate changes in each category and subclass of WATS service, and in terms of the effects caused by rate changes in each such category and subclass by rate step. Accordingly, for the 12-month historical period immediately preceding the tariff revisions filed in accordance with this decision: [40]

(a) Compute the rate of return (ROR) for the aggregate WATS service using FDC Method 1 and any other methodologies which Bell wishes to provide;

(b) Compute the ROR for Outward and Inward WATS services, respectively, and their respective subclasses of service (and the ROR for each such category and subclass broken down by rate step) using FDC Method 1 and any other methodologies which Bell wishes to provide;

(c) Provide the traffic and revenue data by individual rate elements underlying the ROR calculations above;

(d) Provide the expenses and investment data underlying the ROR calculations above, with detailed breakdown (in terms of nomenclature, quantities and dollar value) for each category and subclass of WATS service setting forth the facilities, facilities mix, investments by plant facilities classes, and equipment categories;

(e) Show the effects of the proposed rate revisions on (a)–(d) above taking into account the appropriate price elasticities and cross-elasticities;

(f) Using appropriate incremental cost and revenue analyses:

(1) Compute the revenue/cost ratios for Outward and Inward WATS services, respectively, and their respective subclasses of service (and for each such category and subclass broken down by rate step);

(2) Show the effects, allowing for appropriate elasticities and cross-elasticities of demand, that the proposed tariff revisions would have on the revenue/cost ratios computed for (1) above; and

(3) Show the effects that the proposed tariff revisions would have on the costs and revenues for Outward and Inward WATS services, respectively, and their respective subclasses of service (and for each such category and subclass broken down by rate step), providing detailed breakdown (in terms of nomenclature, quantities, and dollar value) for each category and subclass of WATS service setting forth the facilities, facilities mix, investment by plant facilities classes, and investment by equipment categories.

83. Data must also be filed to show the likely changes in Outward and Inward WATS traffic, revenues and costs that will occur over the three-year prospective period immediately following the filing of tariff revisions in accordance with this decision. For this three-year prospective period estimate the effects of the proposed tariff changes on traffic, revenues and costs for Outward and Inward WATS services, respectively, for their respective subclasses of service, and for each such category and subclass broken down by rate step, providing the following:

(a) The traffic, revenues and costs assuming no tariff changes were to take place;

(b) The traffic, revenues and costs assuming that the proposed tariff revisions were in effect, taking into account the appropriate price elasticities and cross-elasticities of demand; and

(c) The expenses and investments with detailed breakdown (in terms of nomenclature, quantities and dollar value) of the facilities, facilities mix, investment by plant facilities classes, and investment by equipment categories.

84. For the 12-month historical period, and for the three-year prospective period, any other revenue and cost data, or other data and studies, which have been relied upon in developing and justifying the proposed tariff charges should be provided. In all cases where the incremental cost methodology is utilized in supporting or explaining Inward and Outward WATS tariff changes, Bell should also provide where possible, embedded cost data developed under FDC Method 1 and any other methodologies Bell wishes to provide.[41]

85. The information specified in paras. 82–84 above should include all derivations, necessary workpapers, explanations and narratives required to support and justify the calculations and computations made. Specifically this must include:

(a) Justification of the cost and investment allocations made between and among Outward and Inward WATS services and their respective subclasses of service and between such categories and subclasses and other interstate services offered by Bell, especially explaining the relation of the allocation factors, and the "busy hour" and "total day" message minute mile (MMM) studies;

(b) Justification of the use of all factors, ratios and costs not studied currently, which were derived from earlier studies, showing the dates of the studies, and the basis and accuracy of trending and extrapolating data to be used in the filing; and

(c) For Inward and Outward WATS services and their respective subclasses of services and for the rate steps of each such category and subclass, introduce, show the derivation of, and justify elasticities of demand, growth factors, and cross-elasticities of demand with other Bell interstate services, and between and among WATS service categories and subclasses. Show the relationship of these elasticities, cross-elasticities, and growth factors to other important factors such as changes in economic conditions.

86. It is likely that computer and other sophisticated statistical, econometric and marketing analysis techniques will be utilized in developing information requested in paras. 82–85 above as well as in developing other information which Bell may submit. The following guidelines are presented to demonstrate the kind of documentation which we believe would be consistent with Section 1.363 of the Commission's Rules, and which should provide the Commission with an adequate basis to evaluate Bell's filing:

(a) Documentation: (1) A detailed systems flow chart should be presented, showing the logical sequence by which primary data is collected, processed, and ultimately transformed into the results presented. This flowchart should identify the inputs and outputs, and summarize the operation of function of each study, model or program used in the overall process. A narrative explanation and discussion of this should be included, setting forth in complete detail the explanation and justification of the complete process and all the algorithms used:

[40] Supra, n. 27. Our guidelines set forth in paras. 82–86 shall also apply in the event Bell chooses to justify Outward WATS as a bulk-rate offering of MTS service (see para. 25 above).

[41] Supra, n. 27.

(2) A detailed flowchart should be included for all computer programs (except standard statistical packages) used in the process. Detailed flowcharts should be written using standard flowcharting symbols and algebraic notation, should correspond very closely to the version of the program submitted, and should contain a minimum of computer language statements;

(3) Wherever possible, computer programs should be internally documented. Non-standard statements and calls to special library routines should be explained. Specific program initiation and operating procedures should be documented;

(4) A program listing of each program used should be included;

(b) In each instance where statistical, econometric, marketing, or other analytical techniques are used as part of a system or study, or in the development of parameters, factors, inputs or coefficients of a system or study, the following types of information should be included:

(1) The exact procedure followed;

(2) Alternate formulations which logically could have been used, and the reason for their rejection;

(3) The statistical confidences which are associated with the output of these procedures;

(4) Any data or logic which tends to verify the output of these procedures, especially boundaries within which the outputs are known to lay:

(5) The justification of all assumptions implicit in the procedure followed;

(c) Document all procedures used to validate the system output, and show the sensitivity of system output to error in the inputs, or in the internal parameters; and

(d) In some cases it may be desirable for the staff to obtain computer programs and input data files and to make independent runs. Sufficient materials are to be retained so that a speedy conversion may be made if necessary.

87. As found above, the record is insufficient to support the lawfulness of the four WATS tariff filings at issue herein. We conclude that the record is also insufficient to permit us to justify any rate structure or rate prescription, even for an interim period. It is thus incumbent on Bell to file tariff revisions accompanied by the material required by Section 61.38 of our Rules, which meet our guidelines set forth herein, and which are otherwise lawful. Among other things, we expect Bell to separately justify the lawfulness of Inward and Outward WATS services, and their respective subclasses of service, and to clearly distinguish its offering of all categories and subclasses of WATS service, in particular, Outward WATS services, from other Bell services including MTS. However, if our decision were effective after the minimum 30 day period allowed pursuant to Section 408 of the Act, 47 U.S.C. 408, the result could be a hiatus in Inward and Outward WATS services for Bell customers, since we believe a 30 day period would be insufficient to permit Bell to file a revised tariff containing the justification required herein. In this regard, it appears that Bell may have to gather substantial new data and in some cases develop new study methodologies to justify the tariff revisions which must be filed in accordance with this Decision. In particular, we are requiring Bell to separately justify the lawfulness of Inward WATS services and rates which it has not attempted to do in the past. Further, we are requiring Bell to address in detail the functional and economic relationship of Outward WATS service to MTS service. In our expert judgment, it is likely to require approximately five months for Bell to prepare its filing. Therefore, we shall require Bell to file tariff revisions to become effective on the effective date of this Decision, which shall be 210 days after publication in the FEDERAL REGISTER. Such revisions shall be filed on not less than 60 days notice and actual notice to customers of such tariff changes shall be given at the earliest possible date. We believe in our expert judgment, the foregoing action is the most appropriate under the circumstances of this case. Although the WATS tariff has been found unlawful as indicated herein, there is a clear public interest requirement for continuity of Inward and Outward WATS service to the public. Further, this procedure will avoid the confusion and administrative difficulties which would likely arise if an alternative WATS tariff was filed to become effective during the interim period while Bell prepared the tariff filing required by our Decision. Finally, we note that existing accounting orders shall continue as set forth herein to protect the public and we retain our rights to investigate or reject or impose an accounting order with respcet to the tariff revisions which Bell must file. In view of the foregoing, the course outlined above will best serve the public interest.

88. Our Designation Order herein imposed an accounting order by individual customer account on Bell for all charges which were increased under the filing of Transmittal No. 11935, 46 FCC 2d at 86. No accounting order was imposed for the increased charges resulting from Bell's March 1975 filing under Transmittal No. 12303, 52 FCC 2d 155, 156, and a "class" accounting order was imposed for the increased charges resulting from Bell's February 1976 filing under Transmittal No. 12493, Docket No. 20732, 58 FCC 2d, 1, 4–5 (1976). Moreover, an accounting order by individual customer account remains outstanding with respect to the 1973 WATS rate increases, 40 FCC 2d 18, 20. As indicated above, we have found the foregoing WATS tariff filings unlawful. In the normal case where charges are found unlawful after hearing, we would prescribe lawful rates, and therefore know what portions of the increases are lawful. Here, however, we have an insufficient record to support a rate prescription, and we therefore believe it an appropriate exercise of our discretion not to order any refunds pending consideration of the tariff revisions filed in accordance with this Decision. Accordingly, we will leave the accounting orders now pending in effect. However, to the extent possible, we shall order Bell to convert the existing accounting orders by individual account into "class" accounting orders, i.e., for Outward MT, Outward FBD (FT), Inward MT and Inward FBD (FT) services, upon the effective date of this decision.

89. Some of the information required to be filed under our guidelines above should be readily available while other material may require some time to prepare. In order to isolate the specific filings which must be made with a new tariff and to determine the time necessary to develop such material, we shall direct the Chief, Common Carrier Bureau, to confer with Bell at a time and under procedures which he shall specify in a subsequent order. Should some of the requested information be considered sensitive or proprietary appropriate arrangements will be made to provide adequate protection. It may also be necessary to discuss the feasibility of converting accounting orders by individual account to "class" accounting orders at these conferences.

90. Accordingly, *it is ordered*, That pursuant to Sections 201(b) and 202(a) of the Act the tariff schedules filed with Bell Transmittal Nos. 11657 and 11935 (and revisions thereto) are found unlawful as indicated herein, are null and void, effective 210 days after publication of this Decision in the FEDERAL REGISTER.

91. *It is further ordered*, That Bell shall file tariff revisions accompanied by the information required by Section 61.38 of the Commission's Rules, 37 C.F.R. 61.38, and which meet the guidelines specified herein;

92. *It is further ordered*, That as indicated at para. 25 above, Bell must either demonstrate that Outward WATS is not merely a form of MTS and provide complete cost and other justification for it as a separate service, or provide complete cost and other justification for it as a bulk-rate offering of MTS;

93. *It is further ordered*, That the provisions of Section 61.58 of the Commission's Rules, 47 C.F.R. 61.58, are waived, and the tariff revisions to be filed as required herein must be filed on not less than 60 days notice;

94. *It is further ordered*, That the accounting orders ordered pursuant to 40 FCC 2d 18, 20 and 46 FCC 2d 81, 86 shall be converted to class accounting orders (for Outward MT, Outward FT/FBD, Inward MT, Inward FT/FBD categories of service) insofar as feasible;

95. *It is further ordered*, That the Bell and Trial Staff Motions to Strike are hereby denied as indicated at para. 21, fn. 17 herein;

96. *It is further ordered*, That Docket No. 19989 (Phase I and Phase II[42]) is terminated.

Adopted: May 27, 1976.

Released: June 2, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX A

1. EMBEDDED COST JUSTIFICATION

1. In purported compliance with Section 61.38 and 1.363 of our Rules, Bell filed a (FDC) study and embedded costs by rate element, accompanied by workpapers, intended to comprehend the most recent twelve-month period prior to the tariff filing. The twelve-month period ending June 30, 1973, was selected by Bell. For the same period Bell also provided estimates of the effects of its revised WATS rates upon WATS traffic and revenues, upon traffic and revenues for other Bell interstate services, and upon traffic and revenues of the Bell System overall. The Bell FDC study cited computed earnings ratios (net operating earnings to net investment) for the aggregate WATS service under the effective WATS tariff preceding the filing of Transmittal No. 11935. Revenues, expenses, investments and earnings ratios were calculated under FDC Methods 1–7. Earnings ratios (rates of return (ROR)) ranged from 9.5% (Method 1) to 17.5% (Method 3). Updated bottom line results furnished by Bell for the twelve-month period ending December 31, 1973 ranged from 12.6% (Method 1) to 17.9% (Method 2).[1]

2. Several problems of the nature encountered in Hi-Lo emerge from Bell's submission. In general, the amounts of investment, revenues and expenses allocated to WATS were not wholly derived from an analysis of historical records pertaining to the current test period but rather from the extrapolation of the data in an earlier study, in particular, a 1972 WATS study. For example, to determine the WATS interexchange (IXC) investment for FDC Methods 1 through 6, the 1972 investment was trended forward and then distributed between MTS and WATS on the basis of message-minute-miles (MMM). The remaining outside plant, central office equipment, and station equipment for WATS were trended forward based on the overall WATS revenue growth. Land and buildings investments for WATS were trended forward based on the increase in the investment in all central office equipment and IX outside plant. Other investment accounts were also derived by trending forward the results of previous studies. The record thus traces, to an extent, the manner in which the components of total plant investment allocable to WATS service overall were obtained.

3. Our major concern is that the record does not indicate the basis for determining investment, revenues and expenses for WATS services on a disaggregated basis, i.e., Outward, Inward, Outward MT and FBD (FT), Inward MT and FBD (FT) services. Further, there are several uncertainties associated with the validity of the expense and investment data filed in support of the aggregate historical cost of service study. As was the case in Hi-Lo, we are concerned with the methodoligies employed and the ambiguities and omissions in the explanations and workpapers filed. For example, we are concerned that trending and extrapolating data from earlier studies (some of which had also been trended) may not represent a reasonably current and accurate determination of embedded costs since the results of each study have been trended forward based on certain ratios, revenue trends and aggregated investment and expense experience to arrive at the data representing the current twelve-month period ended June 30, 1973. While the general textual description of the methodology may appear reasonable on the surface, we are particularly concerned that no quantitative demonstration was presented showing that the underlying assumptions are indeed reasonable or that the source data upon which the extrapolations are based have been accurately determined or that the computations have been properly performed.

4. Similarly, as was the case in Hi-Lo, we are concerned about the validity of the computer computation of the earnings ratios as well as the computation of intermediate results. Questions arise as to the sufficiency and validity of the computer program, logic, instructions, printouts and narrative as well as the derivation of the basic inputs and intermediate calculations and the resulting outputs and format. Basically, the documentation of the validity of the inputs to the computer model appears inadequate. Due to these cosiderations, we have no way of judging whether the investments and expenses allocated to WATS in total have been properly derived. Further, we do not know how much of this total is applicable to each of the disaggregated WATS services. In this connection, we are given the results for WATS service overall but we have no information that allows us to determine, on a disaggregated basis, the facilities mixes, the investments and expenses applicable to Outward and Inward WATS services and their respective subclasses of service. Lacking this information we cannot determine whether or to what extent the Outward and Inward WATS internal rate levels and rate structures, respectively, may be non-compensatory or may include internal cross-subsidies. Further, we have found that Inward and Outward WATS services use the network in entirely different ways, and that the demand for these services are predicated on different needs and affected by different factors. Thus, it is clear that the error of using a procedure dependent on trending and other estimates, will be compounded by failure to treat entirely different services distinctly.

2. INCREMENTAL COST JUSTIFICATION

We also have problems similar to those encountered in *Hi-Lo* with the validity of Bell's incremental cost submission. In purported compliance with Sections 61.38 and 1.363 of our Rules, Bell presented incremental cost projections derived from the Incremental Network Cost System (INC) for the calendar years 1974, 1975 and 1976. For the same three-year period, Bell also provided estimates of the effects of its WATS rate changes upon WATS revenues and traffic, upon the traffic and revenues for other Bell interstate services, and upon the traffic and revenues of the Bell System overall. This data was offered generally for the purpose of showing that WATS service overall is compensatory and will not adversely affect the business in the forecast period 1974–1976. Bell also relied on the outputs of its INC model for other purposes. For example, Bell utilized outputs from the INC model to estimate the cost effects related to the provision of two terminations for Inward WATS, costs for WATS extension stations, the costs associated with short-hold WATS calls under one minute, the costs for hourly usage beyond 240 hours, to derive incremental minute cost figures for Outward and Inward WATS services, etc. As noted previously, Bell does not rely on independent cost of service studies to develop or justify specific WATS monthly rates but rather it relies on its "alignment" theory.

6. It is evident from the foregoing that to the extent Bell relies upon incremental cost analyses to justify its three-year projections of costs filed in purported compliance with Section 61.38 or justify, in part, particular WATS tariff changes, such as to show the costs for the FBD revision or show costs for extension stations, the validity of the outputs from the INC model is of basic importance.[2] One of the key factors in assessing the validity of INC model outputs is to determine whether or to what extent the inputs to the INC model can be reliably used to produce valid results. Basically the INC model is designed to demonstrate the effects of changes in demand on investment and net expenses. In developing the INC model, it appears Bell considered the entire public switched network. Thus, changes in MTS, Inward WATS and Outward WATS demand are provided by Bell as inputs to the INC model. For WATS services, these demand estimates are provided on a system-wide basis (national total), disaggregated by mileage bands (length of haul). The WATS demand estimates are combined with growth estimates to produce estimates of the change in plant requirements of specific units and kinds of facilities, estimates of other elements of expenses, etc. Thus, one of the critical inputs into the INC model for assessing the cost effect of WATS tariff changes are WATS demand estimates.

7. For the reasons that follows we find that the validity of the WATS demand estimates used as inputs into the INC model is subject to question. This in turn raises questions regarding the validity of the INC model outputs, i.e., incremental costs, and the three-year cost projections and particular WATS tariff changes which such outputs alledgedly support. Although Bell's WATS demand estimates were not probed on their merits by the non-Bell parties we find several questions of validity arise on the face of Bell's presentation. An explanation of Bell's methodology in developing WATS demand estimates is pertinent.

8. Critical to the development and validity of WATS demand estimates is the separate determination of Outward and Inward WATS demand elasticities. Bell developed the WATS demand elasticities it relies upon in the following manner. Using the Centralized Message Data Sample (CMDS), AT&T measured WATS service usage during March, 1974. This CMDS sample enabled Bell to disaggregate the data by distance (15 mileage bands) and time of day (18 groups of one or more hours).

---

[42] Since the tariff filing which precipitated Phase II was based on Bell's "alignment" approach and has therefore been found unlawful herein no useful purpose would be served by continuing the proceeding in Phase II.

[1] National Data alleges that the WATS overall ROR is "excessive" and therefore urges that a ceiling be placed on the WATS ROR. National Data claims that such a ceiling on WATS would prevent the subsidization of MTS by WATS and would assure that "the most service is provided to the greatest number of customers at the lowest possible cost." We express no view herein on an appropriate ROR for WATS service as such question is subject to such policies and principles as we may adopt in Docket No. 18128. Supra, n. 27 of Decision.

[2] Bell's INC system, as it relates to MTS, is before the Commission in Docket No. 19129, Phase II.

This process resulted in 270 "cells" for Inward WATS and 270 "cells" for Outward WATS. This data represented current usage or, as Bell terms it, "Old WATS Demand". Bell estimated the level of usage it expected to occur after the rate changes in issue became effective by applying the following formula for each cell: [2]

$$\text{New WATS demand} = \text{Old WATS demand} \times \left[\frac{\text{Filed rate}}{\text{Existing rate}}\right] \text{Shift factor}$$

The "New WATS Demand" is then used as an input to the INC model. The exponent in the above formula labeled "Shift Factor" is the elasticities of WATS demand. AT&T has submitted 15 Inward WATS and 15 Outward WATS shift factors or elasticities of WATS demand, which correspond to the 15 mileage band breakdowns it uses. To arrive at these Outward and Inward WATS demand elasticities AT&T started its analysis with Business Station MTS price elasticities.[4] AT&T had available MTS price elasticities which corresponded to the 15 mileage band breakdowns, and to time of day breakdowns. For each mileage band, AT&T combined various time of day breakdowns to produce MTS "composite" price elasticities for each mileage band. AT&T then multiplied these composite MTS price elasticities by ½ to arrive at the Outward WATS elasticities of demand, and by ¼ to arrive at the Inward WATS elasticities of demand.

9. Several questions of validity arise from the procedure utilized by Bell to develop the Outward and Inward WATS demand elasticities which are basic to developing WATS demand estimates as inputs into the INC model. Section 1.363 of our Rules clearly directs that statistical procedures such as the one utilized by Bell in developing WATS demand elasticities, when offered in evidence, must be accompanied by a comprehensive dilineation of the assumptions underlying the study; the reasons for each assumption; alternative models and variables which have been employed; the formulas used to make statistical estimates; and the standard errors, and test statistics associated with these estimates. None of this information has been presented with respect to the MTS price elasticities which are fundamental to the whole procedure utilized in developing Outward and Inward WATS demand elasticities.[5] Further, assuming arguendo that the MTS price elasticities presented by Bell are valid and in some way are relevant to the calculation of Outward and Inward WATS demand elasticities, AT&T has failed to sufficiently explain and justify on the record why the MTS composite price elasticities should be multiplied by ½ in the case of Outward WATS and by ¼ in the case of Inward WATS to arrive at WATS demand elasticities. Absent documentation for these multipliers we have no way of knowing whether the resulting Outward and Inward WATS demand elasticities can be relied upon to produce valid results.[6] The WATS elasticities of demand used by AT&T in developing Outward and Inward WATS demand estimates are also questionable for other reasons. The greatest estimated elasticity occurs in mileage band 5, the lowest estimated elasticity in mileage band 6. There is no explanation on the record of the great differences between the elasticities for the two adjacent mileage bands. An explanation of the relation of price elasticity to distance would appear to be necessary before the set of numbers could be relied upon by the Commission. Furthermore, there is no showing that these numbers or comparable numbers have ever been tested against actual WATS data as evidence of reliability. In this connection, the record does not indicate that Bell has an ongoing effort to study (independently of MTS) Outward and Inward WATS demand, Outward and Inward WATS growth trends, Outward and Inward WATS price elasticities or Outward and Inward WATS cross-elasticities. Thus, we find that the elasticities of demand which AT&T used in developing Outward and Inward WATS demand estimates as inputs into the INC model are conjectural and insufficiently supported. Accordingly, the WATS incremental cost estimates, which are outputs of the INC model, are of questionable validity, as are three-year cost projections and the tariff changes which such INC model outputs allegedly support.

10. The outputs from the INC model relied upon by Bell in this proceeding are of questionable validity for still other reasons. As was the case in Hi-Lo the documentation presented with the INC computer model results does not satisfy the requirements of Section 1.363(a) of our Rules. A computer model is a collection of statistical relationships. Bell's presentation is based upon a great number of coefficients, factors, and formulas. Bell notes many of these to be the result of regression analyses and other statistical techniques. Nonetheless, neither the assumptions behind most of these numbers and calculations, nor the statistical confidences which can normally be derived with them, are provided for the record as required by Section 1.363 of our Rules. Further, recognizing that the relationship of cost and distance is an important consideration in setting Outward and Inward WATS rates, it appears appropriate that other schemes in addition to the current 15 mileage band approach be evaluated and tested in an INC-type model. In this regard, it appears desirable that, consistent with our other findings herein, that Outward and Inward WATS services and their respective subclasses of service be independently evaluated. In addition, it is not clear from the record the extent to which actual Inward and Outward WATS usage data or reasonable forecasts of Inward and Outward WATS usage including attempts during peak hours results in capital and depreciation charges being added to the incremental costs of WATS. Moreover, inasmuch as AT&T has used the INC model to provide three years of forecasts to show that WATS rates overall are allegedly compensatory, it is necessary to understand how estimates of inflation are used in developing price and wage factors. Bell does not explain this in record. Due to the lack of information provided for the record, these concerns cannot be evaluated and the validity of the outputs from the INC model are subject to further question.

11. Accordingly, we find serious questions of validity exist regarding the embedded and incremental cost justification submitted by Bell in this proceeding in purported compliance with Sections 61.38 and 1.363 of our Rules, as well as provided to support three-year costs projections and certain other WATS tariff changes.

3. TRAFFIC AND REVENUE PROJECTIONS

12. As noted above, AT&T also filed three-year prospective estimates of the effects of the proposed WATS tariff changes on, among other things, overall WATS traffic and revenues. These estimates, for the years 1974, 1975 and 1976, were also filed in purported compliance with Section 61.38 of the Commission's Rules. Bell derived these estimates by first estimating the WATS traffic and revenues for the three years under consideration, under the assumption that no rate changes would be made. Then it attempted to estimate how much these traffic and revenue figures would change during the three-year period under the proposed WATS rate changes. AT&T employed the following methodology in developing its projections. It collected detailed data on the number of interstate WATS access lines as of June 1973 and call distribution information for WATS by length of haul and time of day from March 1973 data. AT&T also gathered data on the number of WATS access lines from the June, 1970 through September, 1973 monthly accounting summaries. Using this data, and making some assumptions about the state of the economy in 1974, 1975 and 1976, AT&T estimated the growth in WATS access lines for those years. AT&T assumed that the average hours of usage of WATS access lines would grow at the same growth rate as the number of WATS access lines. From these estimates of WATS access lines and hours of usage, and using the rates then in effect, it appears Bell derived estimates of WATS revenues for the three-year period.

13. AT&T did not file these traffic and revenue projections, but rather filed the changes in these figures which it expected to occur under the proposed rate changes. These expected changes are referred to by Bell as "the effects of WATS rate revisions on Traffic and Revenue." AT&T derived these "traffic and revenue effects" by using the following methodology. Bell used Outward and Inward WATS elasticities of demand factors to estimate the amount of traffic that would be stimulated or depressed by the proposed rate changes. AT&T also submitted cross-elasticity shift factors which it used to estimate the amount of traffic which would shift between WATS services and MTS service, and between WATS services and Bell private line service, under the proposed WATS rates. Using the estimates of WATS traffic, referred to at paragraph 12 above, adjusted for the expected changes in traffic due to the imposition of the new rates, AT&T estimated the revenues that would result for each of the years, 1974, 1975 and 1976. Comparing these revenue estimates to the revenue estimates made assuming no rate changes were made, AT&T derived the "revenue effect" of the proposed rate changes. Using a similar methodology AT&T also estimated the effects that the proposed tariff changes

[2] This formula is known as the constant elasticity of demand formula. It is one of many that are frequently used when using statistical techniques to estimate the effects of price changes. The assumption that the user of this formula makes is that the elasticity of demand is constant over time, and regardless of the magnitude of the rate change. Having a constant elasticity of demand does not mean that the effect of all rate changes would be the same. For example, if prices were reduced by 10% and demand increased by 5%, a second price reduction of 10% would be expected to elicit a second 5% demand increase.

[4] The MTS price elasticities were presumably taken from the Long Distance Interstate (LDI) demand model, which has been used by AT&T in other proceedings. While we don't challenge the validity of the LDI model herein, since it is before the Commission in Docket No. 19129, Phase II, we believe it is nevertheless incumbent on Bell to justify and explain fully its judgment for using the LDI model and its components in conjunction with Outward and Inward WATS services respectively.

[5] Supra, n. 4.

[6] Bell's decision to apply these different multipliers to Inward WATS and Outward WATS adds further support to our finding that the two services are entirely different services which must be separately justified and priced accordingly.

would have on the traffic and revenues of the 12-month historical period ending June 30, 1973.

14. We find that on the face of Bell's presentation, questions exist regarding the validity of its three-year projections which were offered to show the changes in traffic and revenues which would occur in 1974, 1975 and 1976 under the proposed rate changes. We find first that AT&T has provided no explanation or justification for the process used to make the estimate of growth in access lines. In this connection, Bell does not clearly explain how it takes into account expected changes in business conditions in developing WATS access line growth estimates. We note that 1974 was the worst recession year since World War II. Bell, in making its projections, however, assumed that economic conditions would only be "slightly less favorable" in 1974 than in 1973. Under such circumstances, Bell should have documented the sensitivity of its estimates of growth in WATS traffic and revenue to erroneous assumptions regarding the state of the economy. This it did not do. Further, no explanation, or justification is provided for Bell's assumption that average hourly WATS usage will grow at the same growth rate as the number of interstate WATS access lines. Bell merely states this assumption but fails to provide the basis for its judgment. In addition, we have questioned above the validity of the Outward and Inward WATS demand elasticity factors utilized by Bell to develop demand estimates as inputs into the INC model. As noted above, these same Outward and Inward WATS demand elasticity factors were used, in part, to estimate the changes in traffic and revenue which will occur in the 1974–1976 period due to the proposed WATS rate changes. It therefore follows that the validity of Bell's estimates of "traffic and revenue effects" of the proposed rate changes based, in part, on questionable Outward and Inward WATS demand elasticity factors, is also subject to question. Finally, AT&T provided insufficient explanation and justification for the process used to calculate the cross-elasticity shift factors upon which it relies, *i.e.*, factors utilized in developing estimates of traffic shifts between WATS services and other Bell services including MTS. These cross-elasticity shift factors are based primarily on unproven assertions regarding what Bell calls "economic cross-over points", i.e., points (price relationships) at which Bell claims customers will rationally shift from one Bell service to another Bell service. Bell did not show how the factors presented were calculated, nor was documentation provided demonstrating the validity or reliability of the factors shown. Therefore, we find that the estimates of traffic and revenues, which are based, in part, upon those cross-elasticity shift factors, are of questionable validity. Inasmuch as the estimates of the traffic and revenue effects of the proposed rate changes on the 12-month historical period ending June 30, 1973 were also based, in part, on the same Outward and Inward WATS elasticity of demand factors and the same cross-elasticity shift factors discussed herein, the validity of these estimates is also questionable.

15. Accordingly, we find that the validity of Bell's traffic and revenue projections, the validity of its embedded and incremental cost justification filed in purported compliance with Section 61.38 of our Rules and more generally the validity of INC model outputs are subject to serious question for the reasons stated above. This failure of Bell to meet its burden of proof constitutes still another ground for finding Bell's WATS tariff filing is unjustified and unlawful. Specific guidelines for filing tariff revisions in accordance with this decision are set forth at paras. 82–86 in the body of our Decision.

[FR Doc.76–17017 Filed 6–10–76;8:45 am]

FM RULES RELATING TO POWER VS. HEIGHT

Interim Policy

In concluding our rulemaking which culminated in the adoption of revised FM field strength curves, Report and Order in Dockets 16004 and 18052, 53 FCC 2d 855, 34 RR 2d 361 (1975), we did not amend figure 3 of § 73.333 of our rules. Figure 3 contains power versus height curves for class A, B, and C FM stations and governs the reductions in power arising from the use of tall towers. We are presently preparing a replacement for figure 3 which takes into account the effect of the new field strength curves. Until such time as figure 3 is replaced, we will follow a policy of processing and granting applications with the average of the heights above average terrain for the eight radials greater than the maximum for the class of station provided that the distance to the 1 mV/m (60 dBu) contour is no greater than would occur if the station operated with the maximum power and height for the class of station. These determinations are, of course, made with the newly-adopted F(50,50) field strength curves. Thus, proposals with average heights above average terrain greater than the following values may propose powers such that the distance to the proposed 60 dBu contour does not exceed the specified distances:

Class	Height	Distance
	Feet	*Miles*
A	300	14.5
B	500	32.5
C	2,000	57.5

While this reflects a new Commission policy, this does not eliminate the necessity of complying with our agreements with Canada and Mexico. Thus, stations within 250 miles of the Canadian-United States border must comply with the Working Arrangement for Allocation of FM Broadcasting Stations on Channels 221–300 under the Canada-United States FM Agreement of 1947. And stations within 199 miles of the Mexican-United States border must comply with the Agreement Between the United States of America and the United Mexican States Concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band.

Stations within the border areas which must operate with less than maximum power and height for the class of station in accordance with § 73.213 because they are short-spaced with domestic stations may utilize the policy we adopt here to increase power provided that the limits in our agreements with Canada and Mexico are not exceeded.

Stations whose 60 dBu contours presently exceed the specified distances do not fall under this interim policy.

When the new figure 3 is finally adopted, stations which were authorized increased facilities under this interim policy may be required to slightly reduce power to bring them into accordance with the new figure 3.

This policy does not apply to television applications. The Commission is presently considering an interim policy concerning television applications; it will be released at a later date.

Action by the Commission May 11, 1976, Commissioners Wiley (Chairman), Lee, Hooks, Quello, Washburn and Robinson.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–17019 Filed 6–10–76;8:45 am]

NATIONAL INDUSTRY ADVISORY COMMITTEE, EXECUTIVE COMMITTEE

Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Executive Committee of the National Industry Advisory Committee to be held Monday, June 28, 1976. The Executive Committee will meet at the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. in Room 847 at 10:00 A.M.

Purpose: To review past acomplishments of the National Industry Advisory Committee and to establish goals for the future.

Agenda:

Item:

1. Chairman' Opening Remarks.
2. Comments by the Defense Commissioner.
3. Reports of past accomplishments presented by the Chairman of the various subcommittees of the National Industry Advisory Committee (NIAC).
4. Discussion of tasks to be accomplished in the future by the NIAC subcommittees.
5. Closing comments and adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the date of the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202 632–7232.

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–17016 Filed 6–10–76;8:45 am]

PERSONAL USE RADIO ADVISORY COMMITTEE (PURAC)

Meeting

Date: July 29, 1976 (Thursday).

Location: FCC Laurel Laboratory, 7435 Oakland Mills Road, Guilford, Maryland.

Morning agenda (10 a.m.): Tours of FCC laboratory.

Afternoon agenda (1:30 p.m.): Chairman's remarks and introductions, reports on action items, reports by task coordinators, other business to be determined, review of action item list, adjournment.

Public participation: Meetings of PURAC are open to the public, subject to available meeting space. Observers desiring to make an oral presentation at this meeting should coordinate their presentation with the Chairman. Required information includes: Name, mailing address and telephone number of person making the presentation; outline of material to be presented; duration of presentation; audio/visual aids required. Written statements may also be submitted to the Committee, and should be addressed to the Chairman, John B. Johnston, Personal Use Radio Advisory Committee, Room 5114, Federal Communications Commission, Washington, D.C. 20554.

Directions: North on Interstate 95 from the Washington Beltway (I–495) approximately 12 miles to Route 32. West on new Route 32 to stop sign at Guilford Road. East ¼ mile to Oakland Mills Road. North ¼ mile to entrance to FCC Laboratory on right.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary,

[FR Doc.76–17015 Filed 6–10–76;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY FOR OIL POLLUTION

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/Operator and Vessels*
01017---	Westfal-Larsen & Co. A/S: *Porsanger.*
01105---	Tschudi & Eitzen: *Sistella.*
01145---	Det Bergenske Dampskibsselskab: *Cometa.*
01185---	Aksjeselskapet Kosmos: *Javara.*
01255---	Skjelbreds Rederi A/S: *Nortrans Elma.*
01360---	Midland Enterprises Inc.: *Ralph E. Plagge.*
01529---	Oy Pulpships AB: *Taifun.*
01533---	Henry Nielsen OY/AB: *Levante.*
01830---	Cardon Tankers Corp.: *World Heritage.*
01854---	Southern Towing Co.: *STC–2003.*
01857---	OHG. I. FA. Berhard Schulte: *Cap Maleas.*
01989---	Erik Thun Aktiebolag: *Thuntank 6.*
02032---	D.B. Deniz Nakiyati T.A.S.: *Mentese.*
02038---	Polskie Linie Oceaniczne: *Tadeusz Ocioszynski.*
02040---	Odra-Swinoujscie: *Orcyn.*
02198---	Peninsular & Oriental Steam Navigation Co.: *Strathdirk, Strathdoon.*
02266---	Marine Mercante Nicaraguense S.A.: *Ciudad De Leon.*
02416---	Boland & Cornelius, Inc.: *St. Clair.*
02429---	G & C Towing Inc.: *Walter G. Hougland.*
02453---	The Turnbull Scott Shipping Co. Ltd.: *Southgate.*
02715---	Allied Towing Corp.: *ATC–6000, ATC–141, Bruce.*
02975---	Venture Shipping (Managers) Ltd.: *Pacific Venture, Successful Venture.*
02982---	The Shipping Corp. of India Ltd.: *Vishva Chetana.*
03069---	Alfred C. Toepfer Schiffahrtsges MBH: *Wien, Basel, Warschau.*
03216---	Salenrederierna AB: *Baltic Wasa.*
03252---	Cleveland Tankers, Inc.: *Jupiter.*
03273---	Dunlap Towing Co.: *ZB 180.*
03398---	Interessentskapet Norse Mountain: *Norseman.*
03474---	Nippon Suisan K.K.: *Itsukushima Maru.*
03614---	A/S Kristian Jebsens Rederi: *Riknes, Rognes.*
03751---	Castle & Cooke Inc.: *Pan Alaska, Royal Sea, Royal Alaskan, Vic Hansen, Magellan.*
04259---	Continental Oceanic Navigation Corp. Ltd.: *Camerona.*
04276---	Rivtow Straits Ltd.: *Straits Water Skidder.*
04356---	Pacific Far East Line, Inc.: *Westward Venture, Saudi Bear.*
04404---	Lars Rej Johansen: *Jobebe.*
04565---	Consolidated Navigation Corp.: *Empress of Eden.*
04625---	American Commercial Lines, Inc.: *Sonny Ivey.*
04640---	McAllister Lighterage Line, Inc.: *Steel Deck Barge SSC 1, Steel Deep Boat No. 285, McAllister 20.*
04642---	South African Marine Corp. Ltd: *S A Wolraad Woltemade.*
04933---	The Revilo Corp.: *Mary 120, NBC 922.*
05053---	Wakefield Seafoods, Inc.: *Akutan.*
05098---	Esso Tankers Inc.: *Esso Japan.*
05235---	Gulfcoast Transit Co. *Barbara Vaught, Louise Kirkpatrick, Pearle Jahn, Thelma Collins, Wanda Wheelock.*
05239---	Zapata Off-Shore Co.: *Louisiana.*
05579---	Black Sea Shipping: *Yakov Bondarenko.*
05624---	Perusahaan Pertambangan Minyak Dan Gas Bumi Negara: *Permina 3001.*
05760---	Reoch Transports Ltd.: *Brookdale.*
05845---	Shinto Kaiun K.K.: *Toshu Maru.*
06234---	Kokusai Gyogyo Kabushiki Kaisha: *Anyo Maru No. 22.*
06282---	Avondale Shipyards Inc.: *Asi Drydock.*
06359---	Malaysian International Shipping Corporation Berhad: *Bunga Sripagi.*
06413---	Nanayo Kisen Kabushiki Kaisha: *Housei Maru.*
06721---	Kooil Industrial Co., Ltd.: *O Dae Yang No. 212.*
06995---	Novorossiisk Shipping Co.: *Grigoriy Vakulenchuk, Mosovskiy Festival, Grigoriy Achkanvo, Nikolay Podvoyskiy, Riyeka, Marshal Biryuzov, Pyotr Alekseyev, Dmitriy Zhloba, Yepifan Kovtyukh, Dzhuzeppe Garibaldi, Budapesht, Praga, Pkhenyan, Gavana, Gdynya, Palmiro Tolyatti, Sofiya, George Georgiu Dezh, Pyatidesyatiletiye Oktyabrya, Mekhanik Afanasyev, Leonardo Da Vinchi, Galileo Galiley, Dzhuzeppe Verdi, Fyodor Poletayev, Lenkoran, Lyubotin, Lyudinovo, Lyublino, Varshava, Gelendzhik.*
07118---	Mingtai Navigation Co., Ltd.: *Bright Star.*
07188---	Maritime Reefer Service, Inc.: *Sol Eclipse.*
07308---	Del Bene Ultramar S.A.C.I.YF: *Pampero I, St. Margaret, Acandi.*
07662---	Tankreederei De Vries & Co. KG: *Thoralbe, Thorheide, Thordrache, Thorhamer, Thorhaven, Thorodland.*
08151---	Carasco Navigation Co. Ltd.: *Athens Sun.*
08317---	South East Asia Shipping Co. Ltd.: *Mahajagvijay.*
08473---	Tokyo Marine Co., Ltd.: *Fujihoshi Maru.*
08576---	Cretanor Maritime Co. Ltd.: *Kimberley.*
08889---	Companhia Portuguesa De Transportes Maritimos Sarl: *Carvalho Araujo, Congo, Muxima, Rocadas, Serpa Pinto, Cedros, Gorgulho, Horta, Lagoa, Lima, Monte Brasil, Ponta Garca, Ribeira Grande, Sete Cidades.*
09074---	Zuito Shipping Co. Ltd.: *Woko Maru.*
09389---	Triangle Shifting and Fleeting Service Inc.: *WGH No. 9, WGH No. 11.*
09870---	Corco Transportation Co., Inc.: *Commonwealth.*
10322---	Duk Soo Moolsan Co. Ltd.: *Duk Soo No. 15.*
10434---	Chelsea Navigation Co., Inc.: *Paola.*
10487---	Swire Northern Offshore Corp.: *Pacific Explorer.*
10588---	Shrine Navigation Co., Ltd. S.A.: *Kamo.*
10718---	Smit Lloyd B.V.: *Smit Lloyd 114.*
10772---	Daiwa Line S.A.: *Tokelau.*
10869---	Transocean Prezdsiebiorstwo Przemyslowo Uslugowe Rybolowstwa Morskiego: *Kaszuby II.*
10931---	Hansung Shipping Co. Ltd.: *Blue Neptune.*
11040---	Skanfil Shipping Inc.: *Atitlan.*
11055---	Cosmos Navigation Inc.: *Holy Queen.*
11092---	Wan Tun Maritime Co., S.A.: *World Medal.*
11115---	Andromeda Bulkshipping S.A.: *Andromed.*
11142---	New Triumph Line S.A.: *New Triumph.*
11150---	Ab Korsholm Shipping OY: *Frances.*
11153---	Sea Containers International Corp.: *Maersk Tempo.*
11160---	Blenheim Navigation, Inc.: *Chios.*
11178---	Larnax Compania Naviera S.A.: *Stavronikita.*
11190---	Compania Canaria Naviera S.A.: *Hamburger Flagge.*
11192---	MS Wieland Dietrich Tamke KG.: Wieland. *Wieland.*
11194---	Cronos Maritime Ltd. Inc.: *Moon River.*
11197---	West and East Maritime Corp.: *Salvia.*
11201---	Paul Y Navigation Co., Inc.: *Pacemaker.*
11202---	Partenreederei MS Kirsten Wesch: *Kirsten Wesch.*
11207---	Torco Oil Co.: *TT 7002, TT 7005, TT 7003, TT 7000, TT 7004, TT 7006, TT 7001, TT 7007.*

Certificate No.	Owner/Operator and Vessels
11218---	Cindy Ann Joint Venture: *Cindy Ann.*
11223---	Adalbert Friesecke: *Frank Friesecke.*
11228---	Trinagia S.A.: *Anna C.*
11230---	Riqueza Maritima, S.A.: *Asian Trader.*
11231---	Sunrise Shipping Inc.: *Sydfors.*
11232---	Gerd Ritscher KG M/S Jan: *Jan.*
11233---	Golden Frog Investments Corp.: *General Paez.*
11235---	TTT Shipping Services, Inc.: *El Taino.*
11239---	Partenreederei Nordic: *Nordic.*
11241---	Ever Shine Line, S.A.: *Ever Shine.*
11244---	Partenreederei M/S Triton: *Triton.*
11246---	Timor Shipping Limited: *Ocean Valour.*
11248---	Santa Sofia Naviera S.A.: *Elpis.*
11249---	Maya Enterprise Co. Ltd.: *Maya Pioneer.*
11250---	Asia Africa Agencies Ltd: *Uniamerica, Unieurope.*
11251---	Rederikommanditselskabet Merc Scandia 10: *Mercandian Sky.*
11252---	Rederikommanditselskabet Merc Scandia 11: *Mercandian Sun.*
11253---	I/S Rederiet Ty Line: *Jette Ty.*
11260---	Intercontinental Transportation Services, Ltd: *Golar Frost, Golar Freeze.*
11262---	Panamerica Inc.: *Panamerica.*
11266---	Pacific Union Container Services, Inc.: *Oriental Financier.*
11267---	Hae Woi Industrial Co., Ltd.: *King Star No. 315, King Star No. 316, King Star No. 317, King Star No. 318.*
11270---	Paulrich Corporation of Panama: *Paulrich Trader.*
11271---	China Merchants Steam Navigation Co., Ltd.: *Hai Kwang, Hai Hui.*
11272---	Corriente Navegacion Panama, S.A.: *Pacific Master.*
11274---	Ocean Maid Foods Ltd: *Atlantic Ocean Maid, Atlantic Gairdner, Atlantic Hawke, Atlantic Paton, Atlantic J.A.G.*
11280---	Ricky James Inc.: *Ricky James.*
11282---	Wright Chemical Corp.: *Rockland II.*
11283---	Odeco (U.K.) Inc.: *Ocean Prospector.*
11284---	Massman Construction Co.: *ZB 205.*
11285---	Sestos Shipping Company, Inc.: *Cape Ann.*
11286---	Binion Marine Service Inc.: *SC-35, ETT-105, T-5000, T-6000.*
11289---	Sajo Industrial Co. Ltd.: *Oryong No. 53.*
11290---	Hae Chang Fisheries Co. Ltd.: *Hae Hae Chang No. 77.*
11291---	Hull Investments Ltd.: *Kanimbla, Manoora.*
11292---	Toei Development SDN. BHD.: *Yuuta Maru.*
11293---	St. Paul Maritime Corp.: *Sunward.*
11295---	Maroco Tankers, S.A.: *Barbara Massey.*
11296---	Delfimar Inc.: *Pelagos.*
11297---	Marittima Melloni S.P.A.: *Piviere, Gazza.*
11303---	Sea Transport Company, Inc.: *Micronesia Transport.*
11304---	Issei Kaiun Yugen Kaisha: *Akitu Maru No. 5.*
11305---	Toxotis Shipping Co. S.A.: *Eva.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-17065 Filed 6-10-76;8:45 am]

CONTINENTAL/U.S. GULF FREIGHT ASSOCIATION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 1, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 9988-6, amends the scope of the Agreement to include cargo originating at inland points in Europe and moving through Bordeaux/Hamburg range ports to and including June 4, 1978.

By Order of the Federal Maritime Commission.

Dated: June 8, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-17064 Filed 6-10-76;8:45 am]

NORTH ATLANTIC/WEST EUROPE RATE AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 1, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 9552-3 extends application of the basic agreement to intermodal shipments, whether moving under through bills of lading or otherwise and to matters and activities relating thereto. It also provides that the parties may, subject to independent action, consult, cooperate and agree with Conferences serving the same European ports in establishing, enforcing and policing rules and charges related to movements of containers outside the member lines' terminals.

By order of the Federal Maritime Commission.

Dated: June 8, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-17063 Filed 6-10-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. R-424]

ACCOUNTING FOR PREMIUM, DISCOUNT AND EXPENSE OF ISSUE, GAINS AND LOSSES ON REFUNDING AND REACQUISITION OF LONG TERM DEBT, AND INTERPERIOD ALLOCATION OF INCOME TAXES

Conference

JUNE 3, 1976.

Take notice that on June 29, 1976, a conference of all interested parties in this proceeding and the Commission staff will be held in a Conference Room at the Federal Power Commission, 825 North Capitol Street, NW., Washington, D.C. at 10 a.m. (d.s.t.), to consider the "Settlement Offer of Interstate Natural Gas Association of America and Texas Eastern Transmission Corporation", filed March 3, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16925 Filed 6-10-76;8:45 am]

[Project No. 349]

ALABAMA POWER CO.

Issuance of Annual License

JUNE 4, 1976.

On June 1, 1970, Alabama Power Company, Licensee for Martin Dam Project No. 349, located on the Tallapoosa River in Elmore, Tallapoosa, and Coosa Counties, within 30 miles of the cities of Alexander City, Auburn and Montgomery, Alabama, filed an application for a new license under the Federal Power Act and Commission Regulations thereunder.

The License for Project No. 349 was issued effective June 9, 1923, for a period ending June 8, 1973. Since the original date of expiration, the Project has been under annual license. In order to authorize the continued operation and maintenance of the Project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Alabama Power Company for continued operation and maintenance of Project No. 349.

Take notice that an annual license is issued to Alabama Power Company (Licensee) for the period of June 9, 1976 to June 8, 1977, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Martin Dam Project No. 349, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16935 Filed 6-10-76;8:45 am]

[Docket Nos. E-7775, E-9091, E-9448, E-9518, ER76-126, ER76-137, ER76-321, ER76-420, and ER76-425]

APPALACHIAN POWER CO.

Filing of Joint Motion for an Order Approving Settlement

JUNE 4, 1976.

Take notice that on May 21, 1976, a joint motion was filed in Docket No. E-7775 by Appalachian Power Company (Apco) and its wholesale for resale customers (customers) for an order approving a settlement in that docket.

The proposed settlement, if approved, would terminate all proceedings in Docket No. E-7775. Additionally, since certain aspects of other proceedings have been consolidated with Docket No. E-7775, the petitioners request termination of the consolidated portions of Docket Nos. E-9091, E-9448, E-9518, ER76-126, ER76-137, ER76-321, ER76-420, and ER76-425.

The joint motion filed by Apco and its customers included the following:

1. Exhibit A—An Agreement of Settlement and compromise, which provides the dates which the increased rates went into effect with the respective customers and for refunds of incremental amounts collected from its customers by Apco between March 22, 1973 to and including April 30, 1974. The parties have further agreed that interest will accrue on the refund liability from the date the settlement is filed with the Commission (May 21, 1976) until Commission action on the settlement at the rate of 7% per annum.

2. A simultaneous submittal of 18 supplements to Apco's FPC rate schedules incorporating service agreements to its customers.

Apco requests that the Commission incorporate by reference as part of its Motion its 1974 costs of service study filed on October 6, 1975 in Docket No. E-7775.

Copies of the joint Motion filed by Apco and its customers incorporating the proposed settlement as well as copies of the tendered rate schedule supplements are on file with the Commission and available for public inspection. Any person desiring to comment upon such matters contained in the filing should file such comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 11, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16939 Filed 6-10-76;8:45 am]

[Docket No. CP75-93]

BLACK MARLIN PIPELINE CO.

Order Naming Party Respondents, Requiring Respondents and Applicant To Show Cause, Granting Interventions, Setting Formal Hearing, and Prescribing Procedures

JUNE 7, 1976.

On September 20, 1974, Black Marlin Pipeline Company (Black Marlin) filed in Docket No. CP75-93 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to continue to operate previously constructed facilities for the purpose of receiving deliveries of natural gas into its pipeline system in order to enable it to transport natural gas at levels previously certificated by the Commission in its order issued June 13, 1966, in Docket No. CP66-333, 35 FPC 976. Notice of the application was published in the FEDERAL REGISTER on October 9, 1974 (39 FR 36376).

Black Marlin was previously authorized by the June 13, 1966, order to construct and operate approximately 54 miles of 16-inch pipeline and to transport gas from offshore Federal Blocks 135, 136, 160 and 161, collectively known as the Den Field, to Texas City, Texas. The leases in the Den Field are owned jointly and equally by Shell Oil Company (Shell), the operator of the properties, and Phillips Petroleum Company (Phillips). Shell's gas is sold to Union Carbide Corporation (Union Carbide), the parent corporation of Black Marlin, and delivered to Black Marlin in Block 136 for the account of Union Carbide. Union Carbide receives that gas from Black Marlin in Texas City and utilizes the gas in a chemical plant complex which is located there. Phillips' gas is delivered to Black Marlin with Shell's gas in Block 136, and is redelivered by Black Marlin for Phillips' account to Amoco Gas Company (Amoco) at a point slightly downstream from Union Carbide's redelivery point. Pursuant to a March 30, 1966, letter agreement between Phillips and Pan American Gas Company (the predecessor of Amoco), Phillips' gas is being redelivered to it by Amoco [1] at points in Texas for use and consumption as fuel or feedstocks within Phillips' plants, refineries, petrochemical centers and other operations.

The transportation agreement between Union Carbide and Black Marlin, dated March 1, 1966, sets forth the service authorized by the June 13, 1966, order in Docket No. CP66-333. The agreement is for a term of twelve years. The agreement reserves a daily transmission capacity of 154,375 Mcf (14.65 psia) to Union Carbide. It provides for a Contract Quantity (minimum billing quantity) of 123,500 Mcf per day, but permits Union Carbide to release transportation space for use by others and receive credits against its minimum bill obigations to the extent such space is utilized by others. By virtue of this provision, Union Carbide executed a Limited Release which allowed Black Marlin and Phillips to execute a Limited Gas Transportation Agreement dated April 1, 1966, providing for the transportation of Phillips' gas from the Den Field, in quantities equal to those to be delivered by Shell, for a term ending: (a) when Phillips has delivered 250,000,000 Mcf, (b) when Phillips' wells cease to produce in commercial quantities, or (c) after 12 years, whichever first occurs.

The volumes authorized to be transported pursuant to the above agreements are as follows (indicating volumes provided from each source on an annual basis):

	1,000 ft³ at 14.65 lb/in²a		
	Phillip	Union carbide	Total
Contract quantity	55,600	67,900	123,500
Transportation quantity	69,500	84,875	154,375

The Transportation Quantities are 125% of the Contract Quantities. It may be noted that Black Marlin was authorized to transport greater volumes for Union Carbide than for Phillips. While this apparently was in recognition of Union Carbide's contract right to have gas other than Shell's transported, no specific authorization was requested for any such other transportation service or for any facilities necessary therefor.

Four taps and related facilities were installed by Black Marlin as part of its original construction project, allegedly under the authorization granted in

[1] By Commission order issued June 13, 1966, in Docket No. CP66-369, Pan American was declared exempt from jurisdiction pursuant to Section 1(c) of the Natural Gas Act.

Docket No. CP66–333. The tap located in Block 136 has always been the point of receipt of gas from the Den Field. A tap located in Block 108 is currently receiving gas for Union Carbide's account from The California Company, a Division of Chevron Oil Company (Chevron),[2] via a line installed by Sotex which connects production in Block 140. A tap was installed on the Bolivar Peninsula to take, also for Union Carbide's account, gas production from a well located approximately 9,000 feet distant which was owned by Gulf Oil Corporation (Gulf).[3] Black Marlin states that although such well is depleted, Gulf is currently drilling in the area for gas which would be delivered to Black Marlin for Union Carbide's account. The fourth tap, located in Block 99 (nearly midway between the Chevron and Gulf taps), was never used.

Black Marlin's transportation agreements with Union Carbide and Phillips both provide for a transportation charge of 2.1 cents per Mcf of gas, to be effective over the terms of the agreements.[4] In addition, Black Marlin is entitled to retain any condensate removed from the gas stream by conventional lease separation after the gas enters its pipeline.[5]

Black Marlin now requests specific authorization for certain facilities (Chevron, Gulf and Block 99) previously constructed without authorization in order that it may transport volumes up to the previously certificated level.[6] It is stated that production has declined in the Den Field to the extent that only approximately 97,000 Mcf per day is currently available to be transported through Black Marlin's pipeline. This volume includes 28,000 Mcf per day from production other than the Shell-Phillips volumes. While it is not so stated, such other volume is apparently attributable to Chevron's production, since Black Marlin's FPC Form No. 2 for 1974 shows that it received 10,053,684 Mcf (at 14.73 psia) from that producer for Union Carbide's account.[7]

The Public Service Commission of the State of New York (New York) filed a notice of intervention on October 21, 1974, requesting a hearing. On October 22, 1974, the Associated Gas Distributors (AGD) filed a petition for leave to intervene requesting that the subject application be set for hearing in order that the Commission be able to determine whether the proposal is consistent with the public interest. AGD states that the proposal appears to raise policy questions similar to those involved in Opinion No. 727, issued April 17, 1975, Tennessee Gas Pipeline Company, et al., Docket Nos. CP72–6, et al.[8] Black Marlin filed out of time, on November 27, 1974, its Response to Petition to Intervene stating that its application was not for the attachment of additional offshore gas reserves as alleged by AGD, and that, therefore, the issue of attachment of additional new offshore gas reserves for transportation and consumption in industrial plants, as considered in Opinion No. 727, is not in question here.

The available information relative to the connection by Black Marlin of new offshore reserves not previously certificated for transportation is unclear. We will, therefore, set this matter for hearing in order to obtain a complete record and determine whether any unauthorized transportation service has been rendered and whether the authorization now requested is in the public convenience and necessity.

In order to make these determinations, we will herein order Black Marlin to clarify the specific sources from which it transports gas. Black Marlin should provide evidence showing the following:

(1) The identities of the various producers and locations of reserves from which gas has been and is expected to be received;

(2) The prices to be paid by the purchaser(s) for all gas to be transported;

(3) The volumes to be transported from each source, and the term;

(4) The specific end uses of the gas now transported and proposed to be transported; and

(5) Whether such volumes would otherwise become available for sale for resale in interstate commerce.

To facilitate the introduction of the above material into evidence, and to make any other relevant information easily accessible we shall make all producers delivering into the Black Marlin system party respondents. Those respondents, as ascertained by available information, are Shell, Phillips, Chevron and Gulf. Any other producer delivering or proposing to deliver gas to the Black Marlin system shall be notified by Black Marlin, and shall be added as a party respondent. Such producers shall provide all contracts and other information as is necessary.

Because it appears that the only transportation service authorized in the June 13, 1966, order in Docket No. CP66–333 is transportation of volumes from the Den Field, as described therein, transportation of all other volumes by Black Marlin does not appear to be authorized. It is pointed out that in one year (1969), according to Black Marlin's annual report, it transported a total volume of 56,809,140 Mcf at 14.73 psia (57,119,317 Mcf at 14.65 psia), or an average of 156,491 Mcf per day at 14.65 psia, which exceeded the authorized maximum daily volume of 154,375 Mcf. Black Marlin should show cause as to why transportation of volumes in excess of the authorized maximum daily volumes and of volumes from the reserves of Chevron and Gulf was not in violation of the Natural Gas Act.

Inasmuch as Gulf is not meetings its commitments to Texas Eastern Transmission Corporation (Texas Eastern) under a warranty sale certificated in Docket No. CI64–26, pursuant to a contract executed on January 6, 1964, on file with the Commission as Gulf's FPC Gas Rate Schedule No. 278, Gulf should show cause why any new gas which it finds contiguous with Black Marlin's pipeline should not be made available to Texas Eastern under the warranty sale. Gulf should file testimony along with Black Marlin in accordance with this order.

The Commission finds: (1) That it may be in the public interest to allow the aforementioned party who has formally petitioned to intervene in the above-captioned proceeding, to intervene in order that it may establish the facts and the law from which the nature and validity of its alleged rights and interests may be determined.

(2) That good cause exists to set for formal hearing the application filed in the above-captioned docket.

(3) That in order to obtain full information and insure the participation of parties who may have an interest in this proceeding it is in the public interest to join herein as party respondents the Phillips Petroleum Company, Shell Oil Company, Gulf Oil Corporation, The California Company, a Division of Chevron Oil Company, and any other producer who has delivered, is delivering, or plans to deliver gas to Black Marlin Pipeline Company.

(4) That good cause exists for requiring, and the public interest in administering Sections 7, 14, 15 and 16 of the Natural Gas Act demands, that Black Marlin Pipeline Company show why the transportation of volumes from reserves not described in the June 13, 1966, Commission order in Docket No. CP66–333 is not in violation of the Natural Gas Act.

(5) That good cause exists for requiring, and the public interest in administering Sections 7, 14, 15 and 16 of the Natural Gas Act demands, that Gulf Oil

[2] Formerly the Standard Oil Company of Texas Division of Chevron (Sotex). The tap in Block 108 is approximately 13 miles downstream from the Den Field delivery point.

[3] The original tap was inoperable and could not be used. It remains in place adjacent to a second tap which is operable. These taps are nearly 26 miles downstream from Block 108 tap.

[4] The agreements with Union Carbide and Phillips are on file as Black Marlin's Rate Schedule Nos. 1 and 2, respectively.

[5] Black Marlin's annual reports (Form No. 2) show sales of such condensate to Shell and Chevron, with revenues of $10,504 therefrom in 1974.

[6] Black Marlin previously filed, in Docket No. CP75–11, an application for budget-type authorization for the subject gas connection facilities previously constructed without authorization and to construct during the year ending July 1, 1975, and operate such facilities as necessary to enable it to receive deliveries so that it could transport gas volumes at the certificated level. Said application was rejected by letter dated August 2, 1974, on the basis that Black Marlin was not eligible to file such a budget-type application for gas-purchase facilities. The same letter advised Black Marlin that it should file an application for jurisdictional facilities constructed without authorization, which it has now done by the instant application.

[7] From the beginning (1967), Black Marlin's annual reports have indicated that gas was received for transport in Block 108 (Chevron tap) and on the Bolivar Peninsula (Gulf tap), but not until its 1970 annual report did Black Marlin identify Gulf and Chevron as suppliers of gas (for Union Carbide's account).

[8] Rehearing was denied by order of June 13, 1975.

Corporation show cause why volumes of gas which may be located adjacent to Black Marlin Pipeline Company should not be used to meet commitments to Texas Eastern Transmission Corporation under the warranty sale certificated in Docket No. CI64–26.

The Commission orders: (A) The above named petitioner, who has petitioned to intervene, in this proceeding, is permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission in this proceeding.

(B) Phillips Petroleum Company, Shell Oil Company, Gulf Oil Corporation, The California Company, a Division of Chevron Oil Company, and any other producer whose volumes have been, are now, or are proposed to be transported in the Black Marlin Pipeline Company system, are hereby made party respondents in this proceeding.

(C) Black Marlin Pipeline Company shall show cause why the transportation of volumes from sources other than the Den Field is not in violation of the Natural Gas Act.

(D) Gulf Oil Corporation shall show cause why volumes it proposes to develop adjacent to and which may be transported in the Black Marlin Pipeline Company system should not be used to meet existing obligations to Texas Eastern Transmission Corporation under the warranty sale certificated in Docket No. CI64–26.

(E) Shell Oil Company, Gulf Oil Corporation, Phillips Petroleum Company, The California Oil Company, a Division of Chevron Oil Company, and any other producer who has delivered, is delivering, or plans to deliver volumes into the Black Marlin Pipeline system, are hereby ordered to file testimony and documentary evidence on or before August 9, 1976. Such evidence should be responsive to the above enumerated questions and the order to show cause.

(F) A formal hearing shall be convened in this proceeding in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on September 14, 1976, at 10 a.m. (e.d.t.), in order to determine whether or not the Commission should issue Black Marlin Pipeline Company a certificate of public convenience and necessity as set forth in its application filed in Docket No. CP75–93 and to enable the Commission to resolve the other matters that we have noted in the body of this order.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedures).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–16917 Filed 6–10–76;8:45 am]

[Project No. 588]

CROWN ZELLERBACH CORP.

Issuance of Annual License

JUNE 3, 1976.

On June 1, 1973, Crown Zellerbach Corporation, Licensee for Glines Canyon Project No. 588, located on the Elwha River in the State of Washington, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 588, was issued effective June 4, 1926, for a period ending June 3, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Act, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Crown Zellerbach Corporation for continued operation and maintenance of Project No. 588.

Take notice that an annual license is issued to Crown Zellerbach Corporation (Licensee) under the Federal Power Act for the period June 4, 1976, to June 3, 1977, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Glines Canyon Project No. 588, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76–16943 Filed 6–10–76; 8:45 am]

[Docket No. RP76–102]

DISTRIGAS CORP.

Order Rejecting Proposed Purchased LNG Cost Adjustment

JUNE 4, 1976.

On May 7, 1976, Distrigas Corporation (Distrigas) tendered for filing tariff sheets [1] which provide for a Purchased LNG Cost Adjustment, and a tariff sheet [2] in purported compliance with a Commission letter dated April 22, 1976, in which the Commission accepted Distrigas' Special Rate Schedule No. 1 for filing subject to Distrigas deleting certain language.[3] For the reasons stated, the Commission will reject the proposed sheets providing for a Purchased LNG Cost Adjustment, and will reject without prejudice Substitute Original Sheet No. 2.

The sheets filed by Distrigas apply to its Special Rate Schedule No. 1 which is an agreement between Distrigas and Distrigas of Massachusetts Corporation (DOMAC), a subsidiary of Distrigas. Under its proposed Purchased LNG Cost Adjustment Distrigas may increase or decrease the rates for gas sales under its Special Rate Schedule to reflect corresponding fluctuations in the cost of its purchases of imported LNG. Any change from the base rate which Distrigas is unable to recover concurrently will be accumulated in an unrecovered purchased LNG cost account. The amount accumulated in this account will be reflected as a surcharge or surcharge credit over the following six month period. If the rate for imported LNG changes after the proposed effective date, then a corresponding change will be made to the base rate in the applicable rate schedule.

While this proposal is styled in the fashion of a PGA clause, the Commission is bound to look beyond the form of the clause to its substance. Because the entire rate under Special Rate Schedule No. 1 is based upon and determined by the purchased LNG cost adjustment, the practical effect of Distrigas' proposal is to provide a cost of service tariff for its service to DOMAC.[4] The base rate may be changed at any time through use of the current and cumulative adjustments and thus it is not a specified rate, but a fluctuating one. In the normal PGA situation, the Commission retains a large element of control over the rates to be charged by the pipeline under its PGA. In general, the suppliers of pipelines which have PGA clauses fall within the Commission's jurisdiction. Because the Commission has control over the rates charged by the supplier as well as those charged by the pipeline, we can assure that the costs flowed through under a PGA clause are just and reasonable. In the instant case, Distrigas is supplied with Algerian LNG by companies over which the Commission has no control. Section 154.38(d)(1) and (d)(3) of the Commission's Regulations prohibit the use of automatic adjustment provisions, such as that proposed by Distrigas here. These Regulations may be waived when good cause has been shown. In view of the fact that the Commission has no control over the prices charged by DOMAC's LNG suppliers, good cause has not been shown to waive these Regulations in order to accept the proposed purchased LNG adjustment clause. Accordingly, it is appropriate to reject Distrigas' filing.

With respect to Substitute Original Sheet No. 2, which Distrigas intended to

[1] Original Sheet Nos. PGA–1, 2, 2–A and 2–B to its FPC Gas Tariff, Original Volume No. 1.

[2] Substitute Original Sheet No. 2.

[3] The Commission required the deletion of the following language: "Such price to Buyer is subject to the same adjustment as the import price to Seller."

[4] See Substitute Original Sheet No. 2 which states that "DOMAC shall pay for LNG purchased by it * * * at the price specified in the applicable supply contract." The current price under the applicable supply contract "is indicated on Original Sheet No. PGA–1."

be in compliance with the Secretary's letter of April 22, 1976, it is necessary to reject the tariff sheet since the rate therein specified is referenced to Original Sheet No. PGA–1, which the Commission is rejecting. The rejection of Substitute Original Sheet No. 2 is without prejudice to Distrigas' filing of a revised tariff sheet in compliance with the Secretary's letter directive of April 22, 1976.

The Commission finds: (1) Good cause does not exist to permit waiver of § 154.-38 (d) (1) and (d) (3) of the Commission's regulations.

(2) Good cause exists to reject the proposed Purchased LNG Cost Adjustment Clause filed by Distrigas in Original Sheet Nos. PGA–1, 2–A and 2–B to its FPC Gas Tariff, Original Volume No. 1.

(3) Good cause exists to reject the proposed Substitute Original Sheet No. 2 filed by Distrigas without prejudice to its filing of a revised tariff sheet in compliance with the Secretary's letter directive of April 22, 1976.

The Commission orders: (A) Distrigas' proposed Purchased LNG Cost Adjustment Clause included in Original Sheet Nos. PGA–1, 2–A and 2–B to its FPC Gas Tariff, Original Volume No. 1 is hereby rejected.

(B) Distrigas' proposed Substitute Original Sheet No. 2 is hereby rejected without prejudice to its filing of a revised tariff sheet in compliance with the Secretary's letter directive of April 22, 1976.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76–16934 Filed 6–10–76;8:45 am]

[Docket No. E–7160]

DEPARTMENT OF THE INTERIOR, SOUTHWESTERN POWER ADMINISTRATION

Request for Confirmation and Approval of Rates

JUNE 7, 1976.

Take notice that on May 17, 1976, the Department of the Interior, on behalf of the Southeastern Power Administration (SEPA), filed pursuant to section 5 of the Flood Control Act of 1944, a request for Commission confirmation and approval of the following Wholesale Power Rate Schedules: GAMF–1–A, GAMF–2–A, ALA–1–A, MISS–1–A, SC–1 (Revised), SC–2, CAR–1 (Revised), and CAR–2 (Revised). These rates will be applicable to power marketed from the Allatoona, Buford, Clark Hill, Hartwell, Walter F. George, Millers Ferry, West Point, Jones Bluff, and Carters Projects. Approval of these rate schedules is requested for a period beginning June 20, 1976, and ending June 30, 1979. Presently effective rate schedules applicable to power generated in the Georgia-Alabama system of projects were approved on June 29, 1970, in Docket No. E–7160 for a 4-year period ending June 20, 1974. The approval for these rates was extended by subsequent orders to June 20, 1976.

The above rate schedules applicable to customers located in the service areas of Duke Power Company and South Carolina Public Service Authority are the ones currently approved by the Commission.

The rate schedules applicable to customers located in the service area of the Georgia Power Company, Alabama Power Company, Mississippi Power Company and Gulf Power Company contain the same unit power rates as similar rate schedules presently approved by the Commission; however, these schedules are applicable to power generated at the three new projects as well as the old six projects in the system and are available to a wider range of customers. Additionally, these schedules reflect anticipated revisions in SEPA's existing arrangements in Georgia and Alabama which include (1) a reallocation of power between preferred customers and the Georgia and Alabama Companies, (2) a reduction in losses on energy wheeled to preferred customers for the account of the Government, and (3) the establishment of an energy bank concept under which all project energy will be sold to preference customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed by June 18, 1976. 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. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–16924 Filed 6–10–76;8:45 am]

[Docket Nos. RP72–155 and RP75–39 (PGA 76–1)]

EL PASO NATURAL GAS CO.

Extension of Time

JUNE 4, 1976.

On May 28, 1976, Staff Counsel filed a motion to extend the procedural dates fixed by notice issued May 21, 1976, in the above-designated proceeding. The motion states that El Paso has no objection to the requested extension.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff and Intervenor Testimony, June 11, 1976.

Service of Company Rebuttal, June 25, 1976.

Hearing, July 13, 1976 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–16937 Filed 6–10–76;8:45 am]

[Docket Nos. RP72–150 (Rate Design), RP73–104, RP74–22, RP74–23, RP74–57, and RP75–39]

EL PASO NATURAL GAS CO.

Informal Conference

JUNE 4, 1976.

Take notice that on June 11, 1976, an additional informal conference will be held commencing at 10:00 a.m., in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. This conference will be between El Paso Natural Gas Company, the Commission Staff and all interested persons and will be for the purpose of discussing the possibility of settlement of issues presented in this proceeding. The room number of such conference will be posted with the schedule of hearings on the Second Floor of the Commission's offices.

El Paso has indicated that it will contact all of its jurisdictional customers and all interested state commissions of the convening of this conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–16938 Filed 6–10–76;8:45 am]

[Docket Nos. RP75–53 and RP75–1]

FLORIDA GAS TRANSMISSION CO.

Pipeline Rates; Order Accepting Stipulation Agreement and Consolidating Dockets

JUNE 4, 1976.

On February 25, 1976 the Presiding Administrative Law Judge certified to the Commission a proposed stipulation agreement in Docket No. RP75–53. This agreement proposes to settle all issues in this case, with the exception of the return on common equity. Florida Gas Transmission Company (FGT) filed on February 24, 1975 a Motion to Consolidate Proceedings for Trial and Decision on Reserved Rate of Return Issue which requests that the hearing in the instant case on the return issue be consolidated with the hearing in Docket No. RP75–1 on the same issue.[1] The stipulation agreement will be accepted and the dockets consolidated.

The rate increase in Docket No. RP75–53 was tendered for filing by FGT on January 10, 1975. This tender was accepted for filing and its use suspended until July 10, 1975 by Commission order issued February 7, 1976. FGT has subsequently tendered for filing another rate

[1] The Commission approved a settlement of all issues, except rate of return, in Docket No. RP75–1 by order issued February 9, 1976. At the prehearing conference on February 26, 1976 in that proceeding, the procedural dates were suspended pending ruling on the motion to consolidate that hearing with the one in RP75–53.

increase in Docket No. RP76-24. By order issued November 15, 1976, the Commission accepted this proposal for filing and suspended its use until April 15, 1976. Thus, the rate in Docket No. RP75-53 was applicable during the locked in period, July 10, 1975 to April 15, 1976.

The stipulation agreement was certified to the Commission on February 25, 1976. Notice of the certification was issued on March 16, 1976 with comments due on or before April 6, 1976. Comments were filed by the Commission Staff and Southern Gas Company (SGC) supporting the proposed agreement. A reply to SGC's comments was filed by FGT.

Article II of the proposed agreement, which is attached hereto, provides that the cost of service will be determined by use of actual sales volumes and operating expenses for the period from July, 1975 to March, 1976. The report of this data will be filed by FGT on or before May 31, 1976. The other parties are afforded the opportunity to review and to challenge any of the data within a time limit prescribed by Article II. The agreement provides in Article III that the United [2] method of cost classification will be used to determine the jurisdictional costs and costs of service for jurisdictional classes. The agreement further provides for the elimination of the air conditioning discount contained in FGT's Rate Schedule G by the filing of alternate tariff sheets in Docket No. RP76-24.[3]

The parties agreed in Article V to the capitalization and long term debt cost applicable in this case:

[In percent]

	Ratio	Cost	Cost rate
Debt	59.08	7.34	4.34
Equity	40.92		
Total	100.00		

The cost for return on common equity has been reserved for hearing by the parties. FGT filed on February 24, 1976 a Motion to consolidate the reserved issue in the instant case with the hearing in Docket No. RP75-1 which also concerns a reserved issue of the proper return on common equity to be allowed FGT. Since these two cases raise similar questions of law and fact, consolidation is proper.

In its comments SGC, without objecting to the stipulation, raised a question of the proper depreciation rates to be applied to FGT's transportation customers. As stated by SGT:

Because of the failure of the settlement agreement to assign a greater depreciation expense to the transportation services, Intervenors are unable to support the agreement. However, Intervenors do not oppose the settlement agreement since they are encouraged by FGT's filing in Docket No. RP76-24 which provides for an increase to 5.5% in the depreciation rate for the transmission facilities.

As raised by SGC, the question does not lead SGC to oppose the stipulation agreement. It is the Commission's opinion that SGC's problems with the depreciation rates are more properly an issue to be raised in Docket No. RP76-24 than a matter which should be decided here.

Upon its review, the Commission has concluded that the proposed stipulation agreement reflects a just and reasonable resolution of the issues in this proceeding and should be approved without modification.

The Commission finds. (1) Good cause exists to accept and approve the stipulation agreement certified by the Presiding Administrative Law Judge on February 25, 1976 in Docket No. RP75-53.

(2) Good cause exists to consolidate the hearings on the rate of return issue in Docket Nos. RP75-1 and RP75-53.

The Commission orders. (A) The stipulation agreement certified by the Presiding Administrative Law Judge, and incorporated herein by reference, is hereby accepted and approved.

(B) Docket Nos. RP75-1 and RP75-53 are hereby consolidated for purposes of hearing and decision.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrtive Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside over the hearing in the consolidated hearing ordered herein. The Presiding Judge shall establish the procedural dates for this consolidated hearing.

(D) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, the Staff, FGT, SGC, or by any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against FGT or any other person or party.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

KENNETH F. PLUMB,
Secretary.

ARTICLE II

STIPULATED PROCEDURES TO DETERMINE COST OF SERVICE; COST OF SERVICE REPORT

In order to resolve factual differences as to sales volumes and operating expenses, it is stipulated and agreed that the cost of service shall be determined, in accordance with the procedures set forth below, based upon actual facts obtained from the books and records of the Company for the nine months of July, 1975 through March, 1976.

On or before May 31, 1976 Florida Gas shall prepare and serve upon the Staff, all intervenors and all jurisdictional customers, a Cost of Service Report based upon such actual facts, and reflecting the methods set forth in Appendix A to this Stipulation and Agreement.

Within forty-five (45) days from the date of receipt of the Company's Cost of Service Report, Staff of the Commission shall audit the Report, and submit the results of such audit, either by evidencing agreement with the Company Report or alternatively, by submittal of its own Cost of Service Report identifying any differences and proposed adjustment to the Company Report. The Staff Report shall be served upon Florida Gas, all intervenors and jurisdictional customers.

Within fifteen days after service of the Staff Report, any intervenor shall advise the Staff and the Company of any differences or objections to either the Staff or Company Reports.

If any differences are developed either because of the Staff audit or because of an intervenor notification, Staff shall convene a conference to resolve differences or to establish procedures for decision upon any differences which cannot be resolved.

The rate of return to be employed for illustrative purposes in such Report shall be that advocated by Florida Gas without prejudice to any ultimate decision upon the reserved issue (Article V, infra).

[FR Doc.76-16940 Filed 6-10-76;8:45 am]

[2] United Gas Pipe Line Company, 50 FPC 1348 (1973).

[3] The Commission accepted by letter order dated April 14, 1976 alternate tariff sheets filed by FGT in conformity to this provision of the agreement.

[Project No. 362]

FORD MOTOR CO.

Issuance of Annual License

JUNE 4, 1976.

On May 31, 1974, the Ford Motor Company, Licensee for Twin City Lock and Dam No. 1 on the Mississippi River in Hennepin and Ramsey Counties between the Cities of St. Paul and Minneapolis, Minnesota, filed an application for a new license under the Federal Power Act and Commission Regulations thereunder.

The License for Project No. 362 was issued effective June 7, 1923 for a period ending June 6, 1973. Since the original date of expiration, the Project has been under annual license. In order to authorize the continued operation and maintenance of the Project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Ford Motor Company for continued operation and maintenance of Project No. 362.

Take notice that an annual license is issued to the Ford Motor Company (Licensee) for the period June 7, 1976 to June 6, 1977, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Twin City Lock and Dam Project No. 362, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[Fr. Doc.76-16933 Filed 6-10-76;8:45 am]

[Project No. 2413]

GEORGIA POWER CO.

Application for Approval of Reservoir Clearing Plan

JUNE 7, 1976.

Public notice is hereby given that application has been filed on March 26, 1976 under the Federal Power Act (16 U.S.C. 791a-825r) by Georgia Power Company (Correspondence to: Mr. I. S.

Mitchell, III, Vice President and Secretary, P.O. Box 4545, 270 Peachtree Street, Atlanta, Georgia 30302) for Commission approval of a reservoir clearing plan filed pursuant to Article 54 of the license for its partially constructed Wallace Dam Project No. 2413. The project is located on the Oconee River in Putnam, Morgan, Oconee, Oglethorpe, Greene and Hancock Counties, Georgia near the Cities and Towns of Athens, Eatonton, Madison and Greensboro.

The reservoir clearing plan includes a set of maps showing: (1) Locations and sizes of hardwood forested areas in the reservoir zone to be left uncleared for fish and wildlife habitat enhancement (1250 acres); (2) locations and sizes of areas in the reservoir zone where hardwood trees are to be topped at elevation 425 feet for fish habitat enhancement (50 five-acre tracts); (3) the locations and widths of cleared strips between the uncleared areas in the reservoir and the shoreline; and (4) a provision that a three-foot horizontal strip will be cleared above the full pool level at elevation 435 feet.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 19, 1976, file with the Federal Power 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 in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 CFR 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32 (b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16913 Filed 6-10-76;8:45 am]

[Docket No. ID-1780]

C. A. HELLER

Application

JUNE 3, 1976.

Take notice that on April 21, 1976 and May 13, 1976, C.A. Heller (Applicant), filed applications with the Federal Power Commission. Pursuant to Section 305(b) of the Federal Power Act. Applicant seeks authority to hold the following positions:

Vice President, Beech Bottom Power Company, Inc., Electric Utility.
Executive Vice President and Director, Ohio Electric Company, Electric Utility.
Vice President, Cardinal Operating Company, Electric Utility.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1976, file with the Federal Power 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. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16921 Filed 6-10-76;8:45 am]

[Docket No. ER76-469]

IDAHO POWER CO.

Order Granting Motion for Change of Suspension Period

JUNE 7, 1976.

By Commission order issued March 8, 1976, the Commission accepted for filing and suspended until May 19, 1976 Supplement 1 to Idaho Power Company's (Idaho) Rate Schedule FPC #57. This Supplement proposes to increase rates from sales of electric power and energy by Idaho to California-Pacific Utilities Company (Cal-Pac). On May 3, 1976, Idaho and Cal-Pac filed a Joint Motion To Postpone Effective Date Of Filed Rate Increase. The Commission will grant this motion.

The motion states that Idaho and Cal-Pac are actively engaged in settlement discussion and have reasonable expectations of reaching an agreement. In view of this, Idaho is willing to defer the effective date of the proposed rate increase until June 18, 1976 in order to provide further time for setllement discussions with Cal-Pac. In view of the Commission's policy of encouraging settlement discussions, see Adminisrtative Order No. 157, and the fact that this is a joint motion by Idaho and Cal-Pac, the motion will be granted.

Accordingly, the proposed effective date for the rate increase filed by Idaho in this docket will be extended until June 18, 1976, as requested by the parties.

The Commission finds. (1) Good cause exists to grant the Joint Motion.

(2) Good cause exists to extend the suspension period in this docket to June 18, 1976.

The Commission orders. (A) The joint motion of Idaho and Cal-Pac is hereby granted.

(B) The suspension period for the proposed rate increase of Idaho in this docket is hereby extended to June 18, 1976 at which time the rates will be permitted to become effective, subject to refund.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16918 Filed 6-10-76;8:45 am]

[Docket No. ER76-131]

KANSAS CITY POWER & LIGHT CO.

Order Accepting Initial Rate for Filing, Establishing Section 206 Procedures, and Granting Intervention

JUNE 7, 1976.

On September 17, 1975, as amended on January 12, 1976 and March 1, 1976, Kansas City Power & Light Company (KCPL) tendered for filing a Municipal Participation Agreement dated August 11, 1975 between KCPL and the City of Osawatomie, Kansas (Osawatomie).[1] KCPL states that the agreement provides for the interconnection of their systems and initial rates and charges for certain wholesale service by KCPL to Osawatomie. On October 15, 1975, Osawatomie filed a protest, petition to intervene out of time, and request for Commission determination, in which it is claimed that the pending interconnection contract is either lacking or unreasonable in many areas, and that it falls far short of permitting Osawatomie to attain the full benefits of an interconnected system. Review and consideration of the filing and objections raised thereto indicate that the contract should be accepted for filing to become effective thirty days after completion of the filing, and set for investigation under Section 206 of the Federal Power Act to determine the justness and reasonableness of the proposed rates.

Notices of KCPL's filings were issued on September 26, 1975 and March 5, 1976, with all protests or petitions to intervene due on or before October 7, 1975 and March 23, 1976, respectively. Only Osawatomie has petitioned to intervene in this proceeding.

Osawatomie's protest states that although it signed the August 11, 1975 Agreement, it did so with the full understanding by KCPL that it was without

[1] See Attachment A for designations.

prejudice to Osawatomie's right to protest the terms and conditions contained therein. Osawatomie further states that KCPL agreed to make refunds if, after appropriate regulatory proceedings, the rates contained in this initial contract are found to be excessive. KCPL's response of November 10, 1975 to Osawatomie's protest affirms, inter alia, that the company is willing to refund any and all moneys collected under rates found to be excessive since the inception of the subject agreement.

Specifically, Osawatomie's significant contentions are as follows: (1) the proposed firm transmission service charge improperly requires Osawatomie to absorb a disproportionate share of the cost of the transmission line, (2) the transmission charge prohibits Osawatomie from receiving the benefits of its economical power purchases, and (3) the Agreement fails to provide a general tariff for transmission service throughout KCPL's system, thereby preventing Osawatomie from efficiently coordinating its energy sources. Moreover, Osawatomie has enumerated several other items relative to the Agreement which it claims are in need of further investigation (a $60,000 additional facilities charge for connection at the Paola Substation, the liability clause, the metering compensation clause, the obligation of KCPL to deliver economy energy, the ability of Osawatomie to purchase off-peak power and energy from KCPL). Osawatomie therefore requests that the Commission suspend the operation of the Agreement for one day, allowing the rates contained therein to become effective subject to refund, and that hearing procedures be established to investigate the terms and conditions of said Agreement.

KCPL's response alleges that the Agreement is just, reasonable and lawful in all respects. KCPL responded to each of Osawatomie's arguments and concluded that it would not be appropriate to suspend the Agreement or set the matter for hearing. However, KCPL states:

> Should the Commission determine that it needs further time to examine the reasonableness of the rates for Long Term Transmission and Transfer Services under Schedules E and F of the Agreement, pending receipt by the FPC of KCPL's pending costs of service study therefor based on data for the test year ended June 30, 1975, then KCPL joins with the City and urges the Commission to accept the filing of the Agreement with an effective date as requested, subject to KCPL's refund obligation under Article X, Section 2 of the Agreement, and to reserve for a future FPC determination the question as to whether a hearing will be required concerning such rates for Long Term Transmission and Transfer Services.[3]

On January 12, 1976, KCPL filed a revised cost of service study based on data for the test year ended June 30, 1975 for transmission and transfer service to Osawatomie, as well as a cost of service study for 161/69/34.5 KV transformation and transfer of power and energy in KCPL's east and south districts. As a result of these studies, KCPL filed revised tariffs to reduce the rate for long term transmission service to Osawatomie and to reflect a reduction in power and energy loss factors. On January 16, 1976. Osawatomie filed its concurrence with KCPL's revised filing of January 12, 1976, but nevertheless reserved all objections to KCPL's original filing and renewed its request for a hearing in this proceeding. Osawatomie subsequently renewed its request for a hearing in a March 23, 1976 response to KCPL's filing of March 1, 1976, at which time it also requested an expedited hearing schedule. We find that the issues raised by Osawatomie are matters that may be properly raised during the evidentiary proceeding to be prescribed, infra.

Our review of the filing indicates that it has not been shown to be just and reasonable and may be unjust, unreasonable, discriminatory, or otherwise unlawful. We shall therefore accept the proposed initial rates for filing to become effective April 1, 1976, thirty days after completion of the filing, and shall institute a Section 206 investigation into the lawfulness of the rates charged and collected by KCPL. Pursuant to its agreement, KCPL shall refund all amounts collected that are found to be excessive, thereby assuring that Osawatomie will be protected from excessive charges during the entire effective period of these rates. We shall permit Osowatomie to intervene in this proceeding and shall order KCPL to file its full case-in-chief with respect to these rates within 30 days.

The Commission finds. (1) It is necessary and appropriate in the public interest and to aid in the enforcement of the Federal Power Act that the commission accept for filing KCPL's filing of September 17, 1976, as amended on January 12, 1976 and March 1, 1976, and permit the proposed rates to become effective April 1, 1976, subject to refund in accordance with the agreement of the parties.

(2) A Section 206 investigation into the lawfulness of the rates charged and collected by KCPL should be instituted.

(3) Intervention by the City of Osawatomie in this proceeding may be in the public interest.

The Commission orders. (A) KCPL's Initial Rate Filing of September 17, 1975, as amended on January 12, 1976 and March 1, 1976 is hereby accepted for filing to become effective April 1, 1976, subject to refund, in accordance with the Agreement of the parties.

(B) Pursuant to the authority contained in the Federal Power Act, particularly Section 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of KCPL's proposed initial rates filed in Docket No. ER76-131 for the City of Osawatomie, Kansas.

(C) KCPL shall submit, within 30 days of the issuance of this order, testimony and exhibits which shall constitute KCPL's case in chief in this proceeding.

(D) KCPL shall file monthly with the Commission the report on billing determinants and revenues collected under the proposed rates filed in Docket No. ER76-131, as required by Section 35.19a of the Commission's Regulations, 18 CFR 35.19a.

(E) The City of Osawatomie is hereby permitted to intervene in Docket No. ER76-131, subject to the Rules and Regulations of the Commission; *Provided, however*, That the participation of this intervenor shall be limited to matters effecting the rights and interests specifically set forth in its petition to intervene; and *Provided, further*, That the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of authority, 13 CFR 3.5(d)), shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(G) The Presiding Administrative Law Judge shall preside at the initial conference in this proceeding to be held on June 17, 1976, at 9:30 a.m., at the offices of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

RATE SCHEDULE DESIGNATIONS

KANSAS CITY POWER AND LIGHT COMPANY

Docket No. ER76-131

Designations	*Descriptions*
Rate schedule FPC No. 77	Municipal participation agreement.
Supplement No. 1 to rate schedule FPC No. 77	Reserve capacity deficiency energy.
Supplement No. 2 to rate schedule FPC No. 77	Standby service.
Supplement No. 3 to rate schedule FPC No. 77	Firm power service.
Supplement No. 4 to rate schedule FPC No. 77	Economy energy service.
Supplement No. 5 to rate schedule FPC No. 77	Transfer service.
Supplement No. 6 to rate schedule FPC No. 77	Transmission service.
Supplement No. 1 to Supplement No. 6 to rate schedule FPC No. 77 (supersedes supplement No. 6).	Revised transmission rates.

[FR Doc.76-16915 Filed 6-10-76;8:45 am]

[3] Response of KCPL, filed November 10, 1975, pages 4-5.

[Docket No. CI76-279]

MARATHON OIL CO.

Order Granting Reconsideration for Purposes of Further Consideration

JUNE 4, 1976.

On May 14, 1976, Marathon Oil Company (Marathon) filed an application for rehearing of a letter order dated April 5, 1976, issuing a permanent certificate.[1]

The letter order contained a condition in accordance with § 2.83(d) of the Commission's General Policy and Interpretations, as prescribed in Order No. 539.[2]

Order No. 539, issued and effective on October 14, 1975, was a statement of policy that reiterated the Commission's policies with respect to the enforcement of certificated minimum delivery obligations. In that order the Commission promulgated new Section 2.83, subsection (d) of which was directed to be included as a condition in all temporary and permanent certificates issued on or after the effective date of Order No. 539. On November 28, 1975, the Commission issued an order in Docket No. RM76-8 granting reconsideration of Order No. 539 for the purpose of further consideration.

On March 26, 1976, the Commission issued Order No. 539-A, which amended Section 2.83(d) of the Regulations to permit a party to object to the inclusion of the amended § 2.83(d) language in the certificate by requesting a hearing on that question. In addition, under that order a producer may commence deliveries as applied for, without prejudice to its right to seek rehearing of any Order No. 539 conditions included in the certificate and its right to seek review thereof under Section 19 of the Natural Gas Act.

Applicant for reconsideration[3] contends that the condition added to all newly issued temporary and permanent certificates pursuant to Order No. 539 is unlawful in that it exceeds the Commission's jurisdiction, which immediately aggrieves the petitioner.

A reasoned analysis of the questions posed in the petition for reconsideration requires that we first consider the relevance of this petition to the issues raised upon reconsideration of Order No. 539; however, this determination must await the Commission's final order in the proposed rulemaking in Docket No. RM76-8. Therefore, we will grant the petition for reconsideration solely for the purpose of further consideration. This action does not constitute a grant or denial of the petition for reconsideration on its merits in whole or in part.[4]

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-16927 Filed 6-10-76;8:45 am]

[1] Marathon filed a certificate application in this docket on November 19, 1975, and received a temporary certificate by letter order of December 19, 1975. Marathon filed for rehearing on January 16, 1976, and rehearing purposes of further consideration was granted on February 13, 1976. The April 5, 1976, letter order issued a permanent certificate.

[2] Policy With Respect To Enforcement Of Deliverability And Rendition Of Natural Gas Services Under Certificated Arrangements, Order No. 539, Docket No. RM76-8, ____ FPC ____ (October 14, 1975).

[3] Since Marathon's application for rehearing was filed untimely, it is being treated here as an application for reconsideration.

[4] Area Rate Proceeding, et al. (Southern Louisiana Area), 40 FPC 1091 (1968).

The Commission orders. The application for reconsideration filed by Marathon in Docket No. CI76-279 is granted for purposes of further consideration.

[Docket No. E-9135]

MISSISSIPPI POWER CO.

Order Accepting Settlement Agreement

JUNE 7, 1976.

On December 15, 1975, Presiding Administrative Law Judge Thomas L. Howe certified to the Commission a proposed settlement agreement (Agreement) in the captioned docket, together with the record of this proceeding. The Agreement would resolve all issues among the parties hereto and terminate proceedings herein. The Commission finds that acceptance of the Agreement is in the public interest and, accordingly, accepts and approves it subject to certain conditions hereinafter specified.

Public notice of the Presiding Judge's certification was issued on January 2, 1976, with comments due on or before January 23, 1976. Comments in support of the Agreement were timely filed by the Commission Staff.

Proceedings in this docket were initiated on November 29, 1974, when Mississippi Power Company (MPCO) tendered for filing revisions to its FPC Electric Tariff, Original Volume No. 1, incorporating a proposed rate increase to Coast Electric Power Association, East Mississippi Electric Power Association, and Singing River Electric Power Association (the EPA's). The proposed increase was designed to produce additional revenues of $3,380,000 annually, based upon data for calendar year 1975 (Period II). MPCO's filing also included an environmental protection cost adjustment clause, an income tax adjustment clause, and a fuel cost adjustment clause.

By order issued December 31, 1974, the Commission accepted for filing MPCO's revised tariff sheets, suspended their use for one day until January 2, 1975, and established hearing procedures to determine the lawfulness of the proposed rates and charges. The proposed fuel clause was rejected by the Commission because of the clause's failure to substantially comply with the applicable Commission Regulations.

By letter dated January 14, 1975, MPCO submitted for filing a revised fuel clause which the Commission found to be in compliance with its Regulations. The revised clause was accepted by letter order issued February 12, 1975, and made effective as of January 2, 1975.

The EPA's timely petition to intervene was granted by Commission order issued January 20, 1975.

The principal elements of the Agreement provide that:

(1) Under the settlement rates to be effective as of January 2, 1975, MPCO will earn additional revenues of approximately $2,012,000 annually, an increase of approximately 13.8 percent over the rates previously in effect;

(2) The discount for delivery at 115 kV shall be increased from 20¢/kW to 25¢/kW;

(3) The provisions for automatic adjustment of rates to reflect (a) changes in MPCO's costs resulting from governmentally-imposed environmental regulations and (b) changes in MPCO's income tax liability, shall be deleted from MPCO's tariff;

(4) MPCO shall not tender for filing any proposed increases in rates or charges to the EPA's to become effective prior to November 1, 1976;

(5) The Agreement shall be withdrawn unless accepted by the Commission in its entirety; and

(6) The Agreement represents a compromise with respect to MPCO's rates and, except as expressly stated in said Agreement, no party shall be deemed to have approved, accepted, agreed or consented to any rate of return, ratemaking or tariff principle or any method of cost of service determination, cost allocation or rate design underlying or supposed to underlie any of the rates provided for in said Agreement.

The Commission's review of the proposed settlement rates indicates that such rates are supported by cost evidence[1] and are otherwise just and reasonable. Accordingly, the Agreement should be incorporated herewith by reference and approved.

In conjunction with acceptance and approval of the subject Agreement, the Commission shall require MPCO to: (1) tender for filing revised tariff sheets reflecting the settlement rate level; (2) refund to the EPA's all amounts collected since January 2, 1975, in excess of the settlement rate level, together with interest calculate at nine percent per annum; and (3) file refund compliance reports.

The Commission finds. The Agreement certified to the Commission by the Presiding Administrative Law Judge in this proceeding should be accepted, incorporated herewith by reference, and approved, as hereinafter ordered and conditioned.

The Commission orders. (A) The Agreement certified to the Commission in this docket is hereby accepted, incorporated herewith by reference, and approved, subject to the conditions set forth below.

(B) Within 30 days of issuance of this order, MPCO shall file revised tariff sheets to become effective as of January 2, 1975, reflecting the settlement rate level incorporated into the subject Agreement.

(C) Within 30 days after the revised tariff sheets required in paragraph (B), supra, are accepted for filing, MPCO shall refund to the EPA's all amounts

[1] See, e.g., Exhibit No. ____ (S-1) Revised and Tr. 361.

collected since January 2, 1975, in excess of the settlement rate level, together with interest calculated at nine percent per annum.

(D) Within 15 days after refunds described in paragraph (C), supra, have been made, MPCO shall file a report of such refunds with the Commission. Such report shall show, for the entire refund period, monthly billing determinants and revenues under prior, present, and settlement rates, and the monthly interest computation, together with a summary of such information for the entire refund period.

(E) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, the Commission Staff, MPCO, the EPA's, or any other party or person affected by this order in any proceedings now pending or hereafter instituted by or against MPCO or any other person or party.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16920 Filed 6-10-76;8:45 am]

[Docket No. ER76-539]

MISSOURI POWER & LIGHT CO.

Order Granting Petition for Rehearing and Amending Prior Order

JUNE 4, 1976.

On May 7, 1976, the City of Marceline, Missouri (Marceline), filed a petition for rehearing of the Commission's April 26, 1976 order in this proceeding. For the reasons discussed below, the Commission shall grant rehearing of and amend its April 26, 1976 order in this proceeding.

On March 2, 1976, Missouri Power & Light Company (Missouri) tendered for filing proposed changes in its FPC Electric Tariff Rate Schedule Nos. 39, 41, 42, 44, 45, and 46 to increase its jurisdictional revenues by approximately $104,000 from the Cities of Centralia, Kahoka, Linneus, Marceline, Owensville, and Perry, Missouri. By order issued April 26, 1976, the Commission rejected the proposed rate increase with respect to the Cities of Owensville and Perry, Missouri upon finding that the contracts did not provide for a unilateral rate increase. With respect to the remaining Cities the Commission's order accepted the proposed changes for filing, suspended their effectiveness for one month and permitted them to become effective May 27, 1976, subject to refund.

On May 7, 1976, Marceline filed a petition for rehearing of the Commission's order requesting that the Commission find that no rate increase may become effective for Marceline until a final order is issued approving a proposed rate change. In support of its petition Marceline pointed to the following contractual language in its agreement with Missouri:

1. Company shall supply and customers shall accept and pay for all electric energy it may require for the operation of its water works and other municipal requirements, street lighting system, and for distribution and sale to its electrical customers, at the rates and charges applicable to the two types of service hereby offered. The rates to be charged by the Company under this agreement shall be in accordance with the attached rate schedules marked Exhibit A and Exhibit B; *provided, however, that said rates may be changed during the term of the contract, but only with the approval of the appropriate regulatory agency having jurisdiction.* (Emphasis added).

Upon review of this contractual provision the Commission is persuaded that the increase proposed by Missouri cannot lawfully be effectuated until the Commission issues a final order on the justness and reasonableness of the rates. Under this procedure the Commission shall investigate the proposed rates pursuant to Section 206 of the Federal Power Act and adopts as the burden of proof the just and reasonable standard of Section 206 of the Federal Power Act rather than the Mobile-Sierra standard.[1] The rates that the Commission finds to be just and reasonable after hearing and decision will then be permitted to become effective prospectively. We shall therefore grant Marceline's petition for rehearing.

Upon further review of Missouri's contracts with its other municipal customers the Commission finds it necessary and appropriate to further amend its order issued in this docket on April 26, 1976. The contracts with the Cities of Centralia[2] and Kahoka[3] also provide that final Commission approval be received prior to effectuating a rate change. The Commission shall therefore amend its April 26, 1976 order by finding that Missouri's proposed increase to these two municipal customers may become effective only prospectively from a final Commission decision after hearing on the proposed rates. As discussed above with respect to the Marceline contract, the Company shall be required to meet the Section 206 just and reasonable burden of proof to warrant an increase to these two customers.

In the event Missouri has collected any increased revenues from the Cities of Marceline, Centralia, and Kahoka associated with its proposed rate increase it shall be required to refund such amounts.

The Commission finds. (1) Good cause exists to grant the City of Marceline's petition for rehearing of the Commission's April 26, 1976 order in this docket insofar as it requests a finding that the proposed increased rates of Missouri to the City of Marceline may become effective only prospectively from final Commission approval.

(2) Good cause exists to amend the Commission's April 26, 1976 order in this docket by finding that the proposed increased rates of Missouri to the Cities of Centralia and Kahoka may become effective only prospectively from final Commission approval.

The Commission orders. (1) The City of Marceline's May 7, 1976 petition for rehearing of the Commission's April 26, 1976 order in this docket is hereby granted insofar as it requests a finding that the proposed increased rates of Missouri to the City of Marceline may become effective only prospectively from final Commission approval.

(2) The Commission's April 26, 1976 order in this docket is further amended by the finding that the proposed increased rates of Missouri to the Cities of Centralia and Kahoka may become effective only prospectively from final Commission approval.

(3) In the event Missouri has collected any revenues associated with its proposed increased rates to the Cities of Marceline, Centralia and Kahoka, it is hereby ordered to refund such amounts within 30 days of the issuance of this order and to report to the Commission the amount of such refunds.

(4) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16936 Filed 6-10-76;8:45 am]

---

[1] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956) The Mobile-Sierra standard requires a finding that the contractual rates are so low as to adversely affect the public interest. *F.P.C.* v. *Sierra Pacific Power Company*, 350 U.S. at 355.

[2] The pertinent contractual provision is as follows:

1. Company shall supply and Customer shall accept and pay for all electric energy it may require for its municipal operations, street lighting system, and for distribution and resale to its electrical customers. The rates to be charged by the Company under this agreement shall be in accordance with the Municipal Electric Service Wholesale Rate, Rate Designation MESWR, copy of which is attached hereto and made a part of this agreement; *provided, however, that said rate may be changed during the term of the agreement with the approval of the appropriate regulatory agency having jurisdiction.* (Emphasis added.)

[3] The pertinent contractual provision is as follows:

1. Company shall supply and Customer shall accept and pay for all electric energy it may require for the operation of its water works and other municipal requirements, street lighting system, and for distribution and sale to its electrical customers, at the rates and charges applicable to the two types of service hereby offered. The rates to be charged by the Company under this agreement shall be in accordance with the attached rate schedules marked Exhibit A and Exhibit B; *provided however, that said rates may be changed during the term of the contract, but only with the approval of the appropriate regulatory agency having jurisdiction.* (Emphasis added.)

[Project No. 1553]

NEW JERSEY ZINC CO.

Issuance of Annual License

JUNE 4, 1976.

On June 12, 1970, The New Jersey Zinc Company, Licensee for Fall Creek Hydroelectric Project No. 1553, located on Fall Creek in Eagle County, Colorado, filed an application for a new license under the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 1553 was issued effective June 29, 1950, for a period ending June 28, 1970. Since the original date of expiration, the project has been under annual license. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to The New Jersey Zinc Company for continued operation and maintenance of Project No. 1553.

Take notice that an annual license is issued to The New Jersey Zinc Company (Licensee) for the period June 29, 1976, to June 28, 1977, until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Fall Creek Hydroelectric Project No. 1553, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16931 Filed 6-10-76;8:45 am]

[Project No. 2500]

NIAGARA MOHAWK POWER CORP.

Application for Change in Land Rights

JUNE 7, 1976.

Public notice is hereby given that an application was filed on November 6, 1975, under the Federal Power Act, 16 U.S.C. 791a–825r, by Niagara Mohawk Power Corporation (Correspondence to: John H. Terry, Senior Vice President and General Counsel, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202) for Commission approval of a 0.35-acre permanent easement and a 1.17-acre construction easement to Saratoga County Sewer District No. 1 (Grantee) for the purpose of constructing and maintaining a 42-inch wastewater effluent line. The effluent line would be situated in the Town of Half-Moon, in Saratoga County, New York.

The pipeline would extend approximately 510 feet along the project shoreline and would then extend approximately 180 feet along the reservoir bottom. The last 45 feet of pipe would contain diffusers to discharge the treated effluent into the Hudson River. The wastewater outfall pipeline would be part of a proposed 13 mgd wastewater treatment plant to be constructed by Grantee. The plant would eliminate the discharge of inadequately treated wastewater into local surface or ground waters. The quality of the effluent has been approved by the New York State Department of Health. In addition, permits have been received from the New York Department of Environmental Conservation, the New York Department of Transportation, the U.S. Department of the Army, Corps of Engineers (construction permit), and the U.S. Environmental Protection Agency (NPDES permit). Applicant has requested the shortened procedures under § 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR 1.32(b) (1975).

Any person desiring to be heard or to make any protest with reference to said application should on or before July 23, 1976, file with the Federal Power Commission, 825 N. Capitol Street NE., 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 (1975). 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 conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. § 825g and § 825h, and the Commission's Rules of Practice and Procedure, specifically § 1.32(b), as amended by Order No. 518, a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16914 Filed 6-10-76;8:45 am]

[Project No. 619]

PACIFIC GAS AND ELECTRIC CO.

Application for Approval of Revised Exhibits F, K, and R

JUNE 3, 1976.

Public notice is hereby given that an application was filed on February 2, 1976, under the Federal Power Act (16 U.S.C. §§ 791a–825r) by Pacific Gas and Electric Company (Correspondence to: W. M. Gallavan, Vice President-Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106) for Commission approval of revised Exhibits F, K, and R for Bucks Creek Project No. 619, located on Bucks, Grizzly, and Milk Ranch Creek, all tributaries of the North Fork Feather River, in Plumas County, California, near the towns of Quincy, Westwood, and Chico and the Plumas National Forest.

The application was filed pursuant to Article 34 of the Project No. 619 license, which requires Licensee to include all ultimate recreational developments on United States and Licensee owned lands within the project boundary and to delete the proposed Grizzly and Three Lakes Campgrounds. The application also proposes changes in types and schedules of recreational developments approved in the license which include: (1) substitution of 32 acres of public campground and beach development for 47 acres of picnic and beach development; (2) reduction by 12 acres of the land proposed for group camp development; and (3) reduction of the overall ultimate public campground capacity from 403 to 226 units.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 2, 1976, file with the Federal Power 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 C.F.R. § 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 the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32 (b) (18 CFR 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein and if the applicant requests that the shortened procedure of Section 1.32(b) be used. If an issue of substance is so raised or the applicant fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16942 Filed 6-10-76;8:45 am]

[Project No. 502]

PACIFIC GAS AND ELECTRIC CO.

Issuance of Annual License

JUNE 4, 1976.

On October 31, 1963, Pacific Gas and Electric Company, Licensee for Drum-Spaulding-Summit Transmission Line Project No. 502, located in Nevada County, State of California, filed an application for surrender of license. On the same date, Pacific Gas and Electric Company filed an application for amendment of license for Project No. 2310. The proposed amendment would make the Drum-Spaulding-Summit transmission line a part of Project No. 2310, effective as of the date of the surrender of the license for Project No. 502.

The license for Project No. 502 was issued effective June 23, 1924, for a period ending June 23, 1974. Since the original date of expiration, the project has been under annual license. In order to authorize the continued operation and maintenance of the project pending Commission action on Licensee's application to surrender or the filing of an application for a new license and Commission action thereon, it is appropriate and in the public interest to issue an annual license to Pacific Gas and Electric Company for continued operation and maintenance of Project No. 502.

Take notice that an annual license is issued to Pacific Gas and Electric Company (Licensee) for the period June 24, 1976, to June 23, 1977, or until amendment of the license for Project No. 2310, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Drum-Spaulding-Summit Transmission Line Project No. 502, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16930 Filed 6-10-76;8:45 am]

[Docket Nos. CI76-421, CI76-422,[1] CI76-405, et al.[2]]

PHILLIPS PETROLEUM COMPANY, ET AL.

Order Deferring Action on Application for Partial Abandonment

JUNE 7, 1976.

On February 6, 1976 Kerr-McGee Corporation, et al. (Kerr-McGee) filed a petion for permission to partially abandon a sale to Phillips Petroleum Company (Phillips) due to the expiration of the fifty year lease that authorized Kerr-McGee to produce the gas dedicated to the subject sale. On March 12, 1976 the Commission issued a protective order requiring that the sale to Phillips continue pending the outcome of pending litigation on the same or similar issues raised by the Kerr-McGee application for abandonment.[3] Rehearing of the issuance of the protective order was denied on May 7, 1976.[4]

Prior to the denial of rehearing, Phillips, the purchaser from Kerr-McGee, applied on March 12, 1976 for permission to partially abandon its resales of the Kerr-McGee gas to El Paso Natural Gas Company (El Paso) in Docket No. CI76-421 and to Panhandle Eastern Pipe Line Company in Docket No. CI76-422. Phillips requests the abandonment authority in the event Kerr-McGee receives authorization for its partial abandonment.

El Paso filed a petition to intervene in this proceeding on May 10, 1976 along with a request that the order of May 7, 1976 providing protection for Phillips in the event of paybacks to the reversioners be expanded to include El Paso. El Paso will be permitted to intervene and the language set forth in Ordering Paragraph (C) below, as proposed by El Paso, will be incorporated into the order issued May 7, 1976 in Docket Nos. CI76-405, et al., which is also deemed to apply herein.

Since the Commission has deferred ruling on the Kerr-McGee abandonment application pending the outcome of the court litigation, action on the Phillips application will likewise be deferred pending further Commission order with respect to Kerr-McGee. In the interim, while deliveries are continued to Phillips pursuant to the March 12, 1976 protective order, the related resales by Phillips will also continue under the applicable certificate authorization.

The Commission orders. (A) The application for partial abandonment filed by Phillips in Docket Nos. CI76-421 and CI76-422 is deferred pending further order of the Commission.

(B) El Paso is permitted to intervene in the above proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in its petitions for leave to intervene and that said intervenor takes the record as it finds it, and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(C) Ordering Paragraph (B) of the order of May 7, 1976 in Kerr-McGee Corporation, et al., Docket Nos. CI76-405, et al. is further modified to include the following language:

[i]n the event Phillips should be required to repay to the reversioner volumes of gas pursuant to the protective provisions granted by the Commission, Phillips will be entitled to reduce its redeliveries of said gas to El Paso, up to the volumes of such gas Phillips delivered to El Paso, until such time as the volumes repaid equal the reduced volumes. Such reduction in redeliveries to El Paso is to be made by Phillips subject to the condition that the reduction is to be made in an equitable manner over a reasonable period of time, subject to further Commission order as to scheduling but not as to entitlement if El Paso and Phillips cannot agree as to such scheduling.

By the Commission.

KENNETH F. PLUMB,
Secretary

[FR Doc.76-16916 Filed 6-10-76;8:45 am]

[Project No. 372]

SOUTHERN CALIFORNIA EDISON CO.

Issuance of Annual License

JUNE 4, 1976.

On June 16, 1969, Southern California Edison Company, Licensee for Lower Tule River Project No. 372, located on the Tule River in Tulare County, California, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 372, was issued effective December 31, 1941, for a period ending June 15, 1970. Since the original date of expiration, the project has been under annual license. In order to authorize the continued operation and maintenance of the project pursuant to the Act, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Southern California Edison Company for continued operation and maintenance of Project No. 372.

Take notice that an annual license is issued to Southern California Edison Company (Licensee) under the Federal Power Act for the period June 16, 1976, to June 15, 1977, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Lower Tule River Project No. 372, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16932 Filed 6-10-76;8:45 am]

[Project No. 460]

TACOMA, WASHINGTON

Issuance of Annual License

JUNE 3, 1976.

On November 5, 1974, the City of Tacoma, Licensee for Lake Cushman Project No. 410, located in Mason County, State of Washington, filed an application for a new license under the Federal Power Act and Commission Regulations thereunder.

The License for Project No. 460 was issued effective June 3, 1924, for a period ending June 3, 1974. Since the original date of expiration, the Project has been under annual license. In order to authorize the continued operation and maintenance of the Project pend-

---

[1] Originally filed as Docket Nos. G-2619 and CI63-1371, respectively, since it was in those dockets that Phillips received certificate authorization to make resales of residue gas purchased from Kerr-McGee Corporation.

[2] This order does not consolidate any of the proceedings herein.

[3] Opinion Nos. 737 and 737-A, appeal pending, *Southland Royalty Corporation* v. *Federal Power Commission*, Nos. 75-3373, et al. (5th Cir.).

[4] Order Denying Rehearing, Granting Interventions, Clarifying Orders, And Denying Motion, Kerr-McGee Corporation, et al., Docket Nos. CI76-405, et al. (May 7, 1976).

ing Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the City of Tacoma for continued operation and maintenance of Project No. 460.

Take notice that an annual license is issued to the City of Tacoma (Licensee) for the period June 4, 1976 to June 3, 1977, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Lake Cushman Project No. 460, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16941 Filed 6-10-76;8:45 am]

[Project No. 488]

THERMALITO IRRIGATION DISTRICT AND TABLE MOUNTAIN IRRIGATION DISTRICT

Issuance of Annual License

JUNE 4, 1976.

On August 27, 1974, Thermalito Irrigation District and Table Mountain Irrigation District, Licensees for Concow Dam Project No. 488, located on Concow Creek in Butte County, California, filed an application for a new license under the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 488 was issued effective June 10, 1925 for a period ending June 9, 1975. Since the original date of expiration, the project has been under annual license. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Thermalito Irrigation District and Table Mountain Irrigation District for continued operation and maintenance of Project No. 488.

Take notice that an annual license is issued to Thermalito Irrigation District and Table Mountain Irrigation District (Licensees) for the period June 10, 1976, to June 9, 1977, unless during that period a new license for the project is issued for the continued operation and maintenance of Concow Dam Project No. 488, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16928 Filed 6-10-76;8:45 am]

[Docket Nos. RP 75-75 (Advance Payments), and RP75-75 (AP76-5) RP75-75 (AP76-6) RP75-75 (AP76-7)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Consolidating Dockets

JUNE 4, 1976.

On April 14, 1976 Transcontinental Gas Pipe Line Corporation (Transco) filed a motion to consolidate the above-referenced dockets. Docket Nos. RP75-75 (AP76-5) and RP75-75 (AP76-6) have previously been consolidated. The issues of fact and law in each docket are similar and accordingly the Commission shall consolidate the dockets for purposes of hearing and decision. The proceeding shall be governed by the procedural schedule established in Docket Nos. RP75-75 (AP76-5) and RP75-75 (AP76-6).

The Commission finds. Good cause exists to grant Transco's motion to consolidate.

The Commission orders. (A) Docket Nos. RP75-75 (Advance Payments), RP75-75 (AP76-5), RP75-75 (AP76-6), and RP75-75 (AP76-7) are hereby consolidated for purposes of hearing and decision.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16929 Filed 6-10-76;8:45 am]

[Docket No. ID-1787]

JOHN J. TUOHY

Application

JUNE 3, 1976.

Take notice that on May 12, 1976, John J. Tuohy, (Applicant) filed an application with the Federal Power Commission. Pursuant to Section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following positions:

Chairman of the Board, Chief Executive Officer, and Director, Long Island Lighting Company, Public Utility.

Director, Empire State Resources, Public Utility.

Long Island Lighting Company, (LILCO) is a gas and electric corporation organized and existing under the Transportation Corporations Law of the State of New York. LILCO provides electric service to approximately 814,000 industrial, commercial, and residential customers and gas service to approximately 388,000 customers in Nassau and Suffolk Counties and the contiguous Rockaway peninsula in New York City. LILCO owns 23⅓ percent of the common stock of Honeoye Storage Corporation, a gas storage company.

Empire State Power Resources, Inc. has been formed by seven electric utility companies in New York State to acquire, construct, own and operate large-scale electric generating facilities within the State of New York. The seven companies are: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., LILCO, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Corporation (hereinafter referred to as the "Sponsors"). It is anticipated that the Sponsors will purchase substantially all of the capacity and energy available from the Company and will own substantially all of its capital stock.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1976, file with the Federal Power 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. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16922 Filed 6-10-76;8:45 am]

[Docket No. E-9496]

UNION ELECTRIC CO.

Order Accepting Settlement Agreement

JUNE 7, 1976.

On February 19, 1976, the Presiding Administrative Law Judge in this proceeding certified to the Commission a settlement agreement (Agreement) together with the record in this case. The Commission finds that the Agreement is in the public interest and accepts and approves it subject to certain conditions as hereinafter specified.

The subject docket was initiated on June 13, 1975, when Union Electric Company (Union) filed a proposed rate increase for electric service to fifteen wholesale customers [1] under its W-2 Electric Tariff, to Missouri Power and Light Company (MP&L) and to Missouri Utilities Company (Missouri). The proposed rate increase would increase revenues from sales to those customers by $15,953,000 based on the 12 month period ended May 31, 1976. By order issued July 11, 1975, the Commission accepted the proposed rates for filing and suspended their use for two months to become effective November 1, 1975, as to Missouri and September 13, 1975, as to all of the

[1] Arkansas-Missouri Power Company, Citizens Electric Corporation, City of Farmington, City of Fredericktown, City of Hannibal, Iowa Army Ammunition Plant, Iowa Electric Light & Power Company, City of Kirkwood, Missouri Power & Light Company, Missouri Utilities, City of Rolla, City of St. James, Sho-Me Power Corporation, and Town of West Point.

other affected customers.[2] Additionally, Union was ordered to file on or before August 30, 1975, substitute tariff sheets reflecting the exclusion of CWIP from rate base. Accordingly, Union filed revised tariffs reflecting a reduction in the proposed $15,953,000 rate increase by $1,196,000.

Public notice of the settlement filing was issued on February 18, 1976, with comments due on or before March 19, 1976. Commission Staff filed comments in support of the filed settlement.

The proposed settlement will reduce the adjusted rate increase of $14,757,000 (excludes CWIP) by $4,725,000. The proposed settlement would resolve all issues in this proceeding with the following exception as set out in the Agreement:

None of the parties hereto shall be deemed to have approved, accepted, agreed or consented to any ratemaking principle, any method of cost of service or other determination, or any cost allocation underlying any of the rates of Union Electric Company shown in the attachments. It is further agreed that none of the issues involved in the proceedings in this docket (E-9496) including those of discrimination, rate design, cost of service, rate of return, and allocations have been adjudicated or decided in any way by these proceedings on this settlement agreement and that the discrimination issues raised in the pleadings are not resolved by the settlement herein but will not be litigated in this proceeding.

The Agreement further provides for refunds with interest at 9% per annum and that Union will not file any rate increase as to the affected wholesale customers before November 1, 1976.

Review of the record demonstrates that the proposed settlement rates are supported by cost evidence and that they are just and reasonable. Accordingly, approval and adoption of the Agreement is in the public interest.

In conjunction with acceptance and approval of the agreement the Commission shall require Union to (1) refund amounts collected in excess of the settlement rates, together with interest calculated at the rate of 9% per annum, (2) submit revised rate schedules, and (3) file refund compliance reports.

The Commission finds. The Agreement certified to the Commission by the Presiding Administrative Law Judge in this proceeding is supported by cost evidence and should be accepted and approved as hereinafter conditioned and ordered.

The Commission orders. (A) The Agreement certified to the Commission in this docket is hereby accepted, incorporated herein by reference and approved subject to the following conditions.

(B) Union shall file within 30 days of the issuance of this order rate schedules appropriate to reflect the terms of the Agreement.

(C) Union shall refund, within 30 days after the rate schedules required in (B), supra are accepted for filing, all amounts collected in excess of the settlement rates with interest at 9% per annum.

(D) Union shall file a report within 15 days after refunds have been made, such report to show monthly billing determinants and revenues under prior, present and settlement rates. The report shall also show the monthly interest computation, together with a summary of such information for the total refund period.

(E) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, Union, or any other party or person affected by this order in any proceedings now pending or hereafter instituted by or against Union or any other person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-16919 Filed 6-10-76;8:45 am]

[2] Union proposed to make the increased rates effective as of July 13, 1975, except those implemented by a new service agreement with Missouri for which an effective date of September 1, 1975, was proposed.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12519, SR-AMEX-76-1]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JUNE 7, 1976.

On January 8, 1976, the American Stock Exchange, 86 Trinity Place, New York, New York 10006, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change would conform the Exchange's net capital rule and business restriction and reduction requirements to the standards of Commission Rule 15c3-1.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 12369 (April 23, 1976)) and by publication in the FEDERAL REGISTER (41 FR 18174 (April 30, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16970 Filed 6-10-76;8:45 am]

[70-5687]

APPALACHIAN POWER CO.

Request for Exception From Competitive Bidding for Commercial Paper

JUNE 4, 1976.

Notice is hereby given that Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24009, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a post-effective amendment to the application previously filed in this matter, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, as now amended, which is summarized below, for a complete statement of the proposed transaction.

By orders dated July 31, 1975 and September 17, 1975 (HCAR Nos. 19108 and 19176), this Commission authorized Appalachian, for the period commencing July 1, 1975 and ending June 30, 1976, to issue and sell short-term notes to banks and to dealers in commercial paper in an aggregate amount not to exceed $115,000,000 outstanding at any one time. The notes were to be issued to 99 banks from time to time prior to June 30, 1976, as funds are required, provided that none of the notes or commercial paper will mature later than December 31, 1976. Said orders granted Appalachian an exemption from the provisions of Section 6(a) of the Act afforded by the first sentence of Section 6(b) of the Act.

Appalachian will issue short-term indebtedness in an aggregate principal amount not in excess of the 5% of capitalization maximum authorized by Section 6(b) of the Act during the period July 1, 1976 through June 30, 1977. Said short-term indebtedness will mature not later than December 31, 1977. As of March 31, 1976, 5% of the capitalization of Appalachian would be $52,391,000. If Appalachian increases its capitalization by additional bonds and stock, the maximum amount allowable would increase accordingly.

Each note payable to a bank to be issued by Appalachian will mature not more than 270 days after the date of issuance or renewal thereof, will bear interest not greater than the prime rate of commercial banks in effect at the time of issuance or in effect from time to time, and will be prepayable at any time without premium or penalty. Appalachian will be required to maintain compensating balances of approximately 20% of the bank lines made available by such banks. If the full amonut were borrowed from the banks, the effective interest cost to Appalachian, based on a price commercial rate of 7%, would be 8.75%.

Appalachian proposes to issue commercial paper in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000 and will be of varying maturities, with no maturity more than 270 days after the date of issue, and none will be prepayable prior to maturity. The commercial paper notes

will be sold directly by Appalachian to Lehman Commercial Paper Incorporated (the "dealer") at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which Appalachian could borrow from banks.

The dealer will reoffer the commercial paper notes to not more than 100 of the dealer's customers, indentified and designated in a nonpublic list prepared by the dealer in advance, at a discount rate of ⅛ of 1% per annum less than the discount rate to Appalachian. It is expected that such customers of the dealer will hold the commercial paper notes to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase such commerical paper sold by it and reoffer it to other customers on its nonpublic list.

The proceeds from the issue and sale of the notes will be used by Appalachian to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditure for the years 1976 and 1977 are estimated at approximately $127,000,000 and $192,000,000, respectively.

Appalachian requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper and the current rates for commercial paper for prime borrowers such as Appalachian are publised daily in financial publications.

Applicant states that no state commission has jurisdiction over borrowings of the magnitude proposed herein and that no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 29, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail if the person being served is located more than 500 miles from the point upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as now amended by said post-effective amendment or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commisison, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16972 Filed 6-10-76;8:45 am]

[70-5861]

APPALACHIAN POWER CO., ET AL.

Proposed Issue and Sale of Short-Term Notes

JUNE 4, 1976.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), 2 Broadway, New York, N.Y. 10004, a registered holding company, and Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Va. 24009, Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Ind. 46801, and Ohio Power Company ("Ohio"), 301 Cleveland Avenue, S.W., Canton, Ohio 44701, its subsidiary electric utility companies, have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6, 6(b), 10 and 12 of the Act and Rules 50 and 50(a)(3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

AEP requests that it be authorized to issue and sell, from time to time prior to June 30, 1977, as funds may be required, short-term notes (including commercial paper) in an aggregate amount not to exceed $175,000,000 outstanding at any one time. None of such notes or commercial paper shall mature later than December 31, 1977. As of April 22, 1976, AEP has no short-term debt outstanding under this Commission's previous order in File No. 70-5690, HCAR No. 19067, June 30, 1975.

The notes to be sold to banks will be dated as of the date of the borrowing which they evidence, will mature not more than 270 days from the date of issue or reissue thereof, will bear interest not greater than the prime rate of commercial banks at the time of issuance and will be prepayable at any time without premium or penalty. AEP will be required to maintain compensating balances, generally 10% of the amount of the bank lines made available by such banks, and additional compensating balances, generally 10%, of the amount of any borrowings. If the full amount were borrowed from the banks, the effective interest cost to AEP would be approximately 1.7% above a prime commercial rate of 6¾% or about 8.45%. AEP proposes to issue and sell such short-term notes to 8 banks with lines of credit in an aggregate amount of $105,000,000.

The commercial paper will be in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000 of varying maturities, with no such maturity more than 270 days after the date of issue, and none will be prepayable prior to maturity. The commercial paper notes will be sold directly to Lehman Commercial Paper Incorporated (the "dealer"), at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days if such commercial paper notes would have an effective interest cost which exceeds the effective interest cost at which AEP could borrow from banks.

The dealer will reoffer the commercial paper notes to not more than 200 of such dealer's customers, identified and designated in a nonpublic list prepared by the dealer in advance at a discount rate of ⅛ of 1% per annum less than the discount rate to AEP. It is expected that such customers of the dealer will hold the commercial paper notes to maturity; but, if any such customer wishes to resell such commercial paper prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on the list.

AEP also proposes to make investments in the equity of two of its public-utility subsidiary companies in the form of the purchase from time to time prior to July 1, 1977 of a total of (1) 750,000 shares of common stock of Appalachian for a consideration of $40 a share, or a total consideration of $30,000,000 and (2) 3,333,334 shares of common stock of Ohio for a consideration of $15 a share, or a total consideration of $50,000,010.

AEP requests authority to make capital contributions from time to time prior to July 1, 1977, to its public-utility subsidiary company I&M in an aggregate amount not to exceed $50,000,000.

The proceeds from the sale of the short-term notes are to be applied by AEP to make additional investments in certain of its public-utility subsidiary companies to assist them in financing the costs of their respective construction programs. The construction programs of AEP's public-utility subsidiary companies for 1976 are estimated as follows: $127,000,000 for Appalachian, $220,000,000 for I&M and its generating subsidiary, and $182,000,000 for Ohio and its generating subsidiary. For 1977, the estimates for each company are: $192,000,000 for Appalachian, $193,000,000 for

I&M and its generating subsidiary, and $205,000,000 for Ohio and its generating subsidiary.

AEP requests an exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper on the grounds of that the commercial paper to be issued will have maturities of not more than nine months, the current rates for commercial paper for prime borrowers such as AEP are published daily in financial publications and it is not practical to publish invitations for bids for commercial paper.

The application-declaration states that fees and expenses of approximately $12,000 are to be incurred by AEP in connection with the proposed transactions. It is further stated that the State Corporation Commission of Virginia, the Public Service Commission of West Virginia, and the Public Service Commission of Tennessee have jurisdiction over the issue and sale by Appalachian of its common stock to AEP and the Public Utilities Commission of Ohio has jurisdiction over the issue and sale by Ohio of its common stock to AEP. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 29, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16971 Filed 6-10-76;8:45 am]

[70-5869]

CONNECTICUT YANKEE ATOMIC POWER CO.

Proposed Issue and Sale of First Mortgage Bonds and Promissory Note

JUNE 4, 1976.

Notice is hereby given that Connecticut Yankee Atomic Power Company ("Connecticut Yankee"), P.O. Box 270, Hartford, Connecticut 06101, a subsidiary of Northeast Utilities and New England Electric System, both registered holding companies, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Connecticut Yankee proposes to issue and sell up to $14,000,000 principal amount of its First Mortgage Bonds, Series B ("Bonds") to John Hancock Mutual Life Insurance Company. The Bonds will be issued as serial bonds, will bear interest at the rate of 9¾% per annum and, assuming the issue of $14,000,000 principal amount of Bonds, will have the following maturities:

July 1, 1981	$1,400,000
July 1, 1982	1,400,000
July 1, 1983	1,400,000
July 1, 1984	1,400,000
July 1, 1985	1,400,000
July 1, 1986	7,000,000

The Bonds will be issued under the First Mortgage Indenture and Deed of Trust dated as of January 1, 1965 between Connecticut Yankee and Hartford National Bank and Trust Company, Trustee, as heretofore supplemented and as to be further supplemented by a Second Supplemental Mortgage Indenture to be dated as of June 1, 1976, making various amendments to the provisions with respect to the terms on which Connecticut Yankee may issue bonds to finance nuclear fuel. It is stated that the Second Supplemental Indenture does not require the consent of the bondholders. The Mortgage Indenture will be further supplemented by a Third Supplemental Indenture dated July 1, 1976, which includes (a) a prohibition until July 1, 1981, against refunding the Bonds with or in anticipation of the proceeds from borrowings at a lower effective interest cost and (b) a provision that so long as any of the Bonds shall be outstanding, Connecticut Yankee will not issue additional bonds on the basis of retired Bonds.

Connecticut Yankee further proposes to issue and sell a promissory note ("Note") to The Connecticut Bank and Trust Company in the principal amount of $10,000,000, maturing in two years and bearing interest at 1¾% above the prime rate in effect from time to time at the bank. The Note may be prepaid at any time without premium or penalty and there will be no requirement for a commitment fee or compensating balances.

The net proceeds from the sales of the Bonds and Notes will be used to repay, in part, Connecticut Yankee's outstanding short-term debt, estimated to be $26,600,000 at the time of he proposed sales. Such short-term borrowings were used primarily to finance the purchase of nuclear fuel. It is stated that the issuance of the Note will not cause Connecticut Yankee to exceed its level of short-term debt authorized by the Commission (HCAR No. 19407). The maximum allowable short-term debt will be reduced by the amount of the net proceeds from the sale of the Bonds. Connecticut Yankee estimates its required spending for nuclear fuel will be $8,800,000 in 1976 and $66,300,000 during the period 1977 through 1980. It expects to finance such additional fuel primarily from internally generated funds. It is stated that the sales of the Bonds and Notes are exempted from the competitive bidding requirements of Rule 50 by reason of Rule 50(a)(2) since no finder's fee or other fee will be payable to any third person in connection with the negotiation of either the Bonds or the Note.

It is stated that the transactions are subject to the approval of the Connecticut Public Utilities Control Authority. It is stated that no other State commission and no Federal commission, other than this Commission has jurisdiction over the proposed transactions. A statement of the fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment.

Notice is further given that any interested person may, not later than June 30, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the applicant-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16973 Filed 6-10-76;8:45 am]

[70-5858]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Issue and Sale of Notes

JUNE 4, 1976.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

I&M requests that, from the date of the granting of this application to June 30, 1977, the exemption from the provisions of Section 6(a) of the Act afforded to it by the first sentence of Section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks, to dealers in commercial paper and demand notes to bank trust departments in an aggregate amount not to exceed $150,000,000 outstanding at any one time. I&M's Articles of Acceptance provide, inter alia, that I&M may not issue or assume any unsecured debt securities, as defined therein, if immediately after such issuance or acceptance, the total principal amount of such unsecured debt securities, other than the principal amount of all long-term unsecured debt securities, as defined therein, not in excess of 10% of the capitalization of I&M, issued or assumed by I&M and then outstanding, would exceed 10% of the capitalization of I&M, without the consent of the holders of a majority of the total number of shares of cumulative preferred stock then outstanding. I&M proposed to the holders of the cumulative preferred stock, and received the consent of such holders at a special meeting of shareholders held on March 12, 1973, that I&M be authorized to incur additional short-term indebtedness in excess of 10% (but together with long-term unsecured indebtedness outstanding at the time of any computation not in excess of 20%) of the capitalization of I&M as then to be stated on the books of account of I&M for a period of time commencing on April 1, 1973 to and ending on December 31, 1976, provided that none of such unsecured indebtedness outstanding on December 31, 1976, shall mature later than June 30, 1977. Before December 31, 1976 and subsequent to seeking and receiving authority from this Commission to do so, which will be the subject of a separate application, I&M plans to hold a special meeting of its shareholders to obtain an extention of the authorization to incur additional short-term in excess of 10% of capitalization of I&M through at least the period covered by the instant application. The notes are to be issued from time to time prior to July 1, 1977, as funds may be required, provided that none of the notes, commercial paper, and demand notes to bank trust departments will mature later than December 31, 1977. As of April 22, 1976, I&M had short-term notes, including commercial paper and demand notes, outstanding in an aggregate amount of $76,500,000.

Each note payable to a bank to be issued by I&M will mature not more than 270 days after the date of issuance or renewal thereof, will bear interest at an annual rate of interest not greater than the prime rate of commercial banks in effect at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. In the case of most of the banks from which I&M proposes to borrow, sufficient bank balances to meet operating and financial needs are kept at such banks to satisfy any compensating balance requirements of such banks in connection with the borrowings. If the average of such bank balances were maintained solely in order to fulfill the prevailing compensating balance requirements of such banks, generally up to about 20%, the effective interest cost to I&M of issuance and sale of such notes to such banks would be approximately 1.7% above a prime commercial rate of 6¾, or about 8.45%. In the case of those banks in which I&M does not maintain bank balances for operating and financial needs, I&M will be required to maintain compensating balances, generally 10% of the amount of the bank lines made available by such banks and additional compensating balances, generally 10%, of the amount of any borrowings. If the full amount were borrowed from these banks, the effective interest cost to I&M would be approximately 1.7% above a prime commercial rate of 6¾%, or about 8.45%. I&M will also file with the Commission, by Post-effective Amendment, lists of other banks not previously identified in filings with the Commission in this proceeding to which it proposes to issue and sell notes, and no such notes will be issued and sold to such banks not previously identified prior to the issuance of a Supplemental Order by the Commission in connection therewith. Such Post-effective Amendments will also indicate the compensating balances, if any, required to be maintained in connection with such borrowings and the effective annual cost of the borrowings. I&M proposes to issue and sell such short-term notes to 37 banks with lines of credit in an aggregate amount of $178,695,000.

I&M also proposes to issue commercial paper in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000, which will be of varying maturities, with no maturity more than 270 days after the date of issue and none will be prepayable prior to maturity. The commercial paper notes will be sold directly by I&M to Lehman Commercial Paper Incorporated (the "dealer") at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days if such commercial paper notes would have an effective interest cost which exceeds the effective interest cost at which I&M could borrow from banks. The dealer will reoffer the commercial paper notes to not more than 200 of the dealer's customers identified and designated in a nonpublic list prepared by the dealer in advance, at a discount rate of ⅛ of 1% per annum less than the discount rate to I&M. It is expected that such customers of the dealer will hold the commercial paper prior to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on its nonpublic list.

I&M also proposes to issue and sell its demand notes to the trust departments of Fort Wayne National Bank, Fort Wayne, Indiana and Lincoln National Bank, Fort Wayne, Indiana, in the maximum amounts of $5,000,000 and $10,000,000, respectively. It is stated that the bank trust departments have a flow of funds, as fiduciary for various accounts, which would be available for investment in such demand notes. These demand notes will be in the form of promissory notes in denominations of not less than $1,000 bearing an interest rate equivalent to the highest rate paid daily by General Motors Acceptance Corporation on its commercial paper with a maturity of less than 180 days. Notes issued from January 1 to June 30 will mature July 1 of the same year and those issued from July 1 to December 31 will mature January 1 of the following year. The bank trust departments will have the right to demand payment at any time and I&M will have the right to repay at any time without penalty, all or part of the principal amount of such notes outstanding.

On April 22, 1976, the highest rate paid by General Motors Acceptance Corporation on its commercial paper with a maturity of less than 180 days was 5⅛%. This rate was approximately 1¼% less than the rate at which I&M was then able to issue commercial paper of comparable maturites and approximately 3% below the effective rate for bank borrowings based on the then current prime rate of 6¾% and compensating balances of 15% and 20%. It is stated that based on past experiences, the rate on these demand notes will consistently be lower than the comparable rates for commercial paper and bank borrowings including the effect of compensating balances.

The proceeds from the issue and sale of the notes will be used by I&M to reimburse its treasury for past expenditures

made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the years 1976 and 1977 are estimated at approximately $140,000,000 and $106,000,000, respectivley, exclusive of the cost of the construction program of I&M's subsidiary, Indiana & Michigan Power Company. Estimates of this subsidiary's construction expenditures for the years 1976 and 1977 are approximately $80,000,000 and $87,000,000, respectively.

I&M claims exception from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks and demand notes to bank departments pursuant to paragraph (a) (2) thereof. Additionally, I&M requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a) (5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper of prime borrowers such as I&M are published daily in financial publications.

The application states that expenses of approximately $12,000 are to be incurred in connection with the proposed transactions. It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 29, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16974 Filed 6-10-76;8:45 am]

[70-5859]

KENTUCKY POWER CO.

Proposed Issue and Sale of Short-Term Notes to Banks

JUNE 4, 1976.

Notice is hereby given that Kentucky Power Company ("Kentucky"), 15th Street and Carter Avenue, Ashland, Kentucky 41101, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6 (b) of the Act and Rule 50(a)(2) promulgated thereunder regarding the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Kentucky requests that, from the date of the granting of this application to June 30, 1977, the exemption from the provisions of Section 6(a) of the Act afforded to it by the first sentence of Section 6(b), relating to the issue of short-term notes, be increased to provide that the aggregate principal amount of all short-term notes outstanding at any one time shall not exceed $20,000,000. The notes are to be issued from time to time prior to July 1, 1977, as funds may be required, provided that none of the notes will mature later than December 31, 1976.

Kentucky has established lines of credit with two commercial banks under which it may borrow an aggregate amount not to exceed $20,000,000 outstanding at any one time. Each note payable to these banks to be issued by I&M will mature not more than 270 days after the date of issuance or renewal thereof, will bear interest at an annual rate of interest not greater than the prime rate of commercial banks in effect at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. Sufficient bank balances to meet operating and financial needs must be kept at these banks to satisfy any compensating balance requirements of these banks in connection with the borrowings. If the average of such bank balances were maintained solely in order to fulfill the prevailing compensating balance requirements of such banks, generally about 20%, the effective interest cost to Kentucky would be approximately 1.7% above a prime commercial rate of 6¾% or about 8.45%. At April 22, 1976, Kentucky had short-term notes to these banks outstanding in an aggregate amount of $3,000,000 pursuant to the authorization of this Commission in File No. 70-5691, HCAR No. 19109, July 31, 1975.

The proceeds from the issue and sale of the notes will be used by Kentucky to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the years 1976 and 1977 are estimated at approximately $38,000,000 for each year.

Kentucky claims exception from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to the banks pursuant to paragraph (a) (2) thereof.

The application states that expenses of approximately $2,500 are to be incurred in connection with the proposed transaction. It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 29, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16975 Filed 6-10-76;8:45 am]

[70-5870]

MIDDLE SOUTH UTILITIES, INC. AND LOUISIANA POWER & LIGHT CO.

Proposed Issuance and Sale of Common Stock and Increase in Stated Value of Capital Stock

JUNE 4, 1976.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70012, a registered holding company, and Louisiana Power & Light Company ("Louisiana"), 142 Delaronde Street, New Orleans, Louisiana 70174, a public-utility subsidiary company of Middle South, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10, and 12(f) of the Act and Rule 43 promulgated thereunder as

applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Louisiana proposes to issue and sell to Middle South (the holder of all of the issued and outstanding shares of Louisiana's no par value common stock), the Middle South proposes to acquire, 3,900,000 additional shares of Louisiana's common stock for an aggregate purchase price of $25,000,000 in cash. Louisiana further proposes, concurrently with the consummation of the proposed stock sale, and in order to strengthen its capital structure for the benefit of holders of all classes of its securities, to increase the stated value of that part of its capital stock represented by the 41,500,000 shares of its common stock which will then be outstanding from $263,760,000 to $273,900,000 by transferring $10,140,000 from its Retained Earnings Account to its Common Stock Account. Louisiana proposes to use the net proceeds from the sale of the additional common stock in part or in whole for its construction program, estimated at $145,000,000 for 1976, for the payment of outstanding short-term promissory notes, and for other corporate purposes.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. It is further stated that no special or separate expenses are anticipated in connection with the proposed transactions other than the filing fee of $2,000 and legal fees not exceeding $1,000.

Notice is further given that any interested person may, not later than July 1, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16976 Filed 6-10-76;8:45 am]

[70-5867]

NEW ENGLAND POWER CO.

Proposed Continuation of Increase in Permitted Short-Term Unsecured Indebtedness

JUNE 4, 1976.

Notice is hereby given that New England Power Company ("NEPCO"), 20 Turnpike Road, Westborough, Mass. 01581, an electric utility subsidiary company of New England Electric System, a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a)(2), 7(e), and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposal. All interested persons are referred to the declaration as amended, which is summarized below, for a complete statement of the proposal.

The terms of the Cumulative Preferred Stock as set forth in the Articles of Organization and By-Law provide that, except as voted by holders of said stock, the short-term unsecured indebtedness of NEPCO shall not exceed 10% of the sum of the principal amount of all bonds and other secured indebtedness and the capital, premium, and surplus of NEPCO, and that all unsecured indebtedness of NEPCO shall not exceed 20% of such sum.

By votes of March 30, 1970, and February 22, 1973, pursuant to Commission approval (HCAR Nos. 16653 and 17853), and as part of the amendment of the Articles of Organization and By-Laws on July 25, 1975, preferred stockholders authorized NEPCO to issue short-term unsecured indebtedness in excess of the 10% limitation provided that all unsecured indebtedness would not exceed 20% of the sum of the principal amount of all bonds and other secured indebtedness and the capital, premium, and surplus of NEPCO and that such short-term unsecured indebtedness would be issued with limited periods after such votes. The current authority expires July 1, 1976. It is now proposed that this authorization be continued on the same terms, except that (1) such indebtedness shall be issued not later than July 1, 1980 and (2) such indebtedness shall have a maturity not later than July 1, 1981.

NEPCO states that the experience of the current authorization of the permitted amount of short-term unsecured indebtedness has demonstrated that temporary financing through larger amounts of short-term unsecured indebtedness pending completion of, and realization of earnings from, facilities under construction provides greater flexibility in financing and lower interest costs. NEPCO states further that since the 1970 authorization, referred to above, the need for a waiver of the 10% limitation has been accentuated due to inflation, larger unit sizes, and delays in obtaining licenses and regulatory approvals, including environmental requirements.

NEPCO intends to submit the proposal to the holders of Cumulative Preferred Stock for their approval at a special meeting to be held on June 30, 1976. In connection therewith, NEPCO proposes, pursuant to Rule 62 under the Act, to solicit proxies from such stockholders through the use of proposed soliciting material to be voted at said special meeting. It is stated that continuation of the current permitted amount of short-term unsecured indebtedness requires the affirmative vote of a majority of the total number of shares of Cumulative Preferred Stock of all series outstanding.

Expenses to be incurred by NEPCO in connection with the proposed transaction are estimated at $10,000, including services of the system service company, at cost, of $2,800. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 29, 1976, request in writing that a hearing be held with respect to the proposed continuation of the increase in permitted short-term unsecured indebtedness, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to this Commission that the declaration, insofar as it proposes the solicitation of proxies from NEPCO's preferred stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of

proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16977 Filed 6-10-76;8:45 am]

[70-5860]

OHIO POWER CO.

Proposed Issue and Sale of Notes

JUNE 4, 1976.

Notice is hereby given that Ohio Power Company ("Ohio"), 301 Cleveland Avenue SW., Canton, Ohio 44701, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Ohio requests that, from the date of the granting of this application to June 30, 1977, the exemption from the provisions of Section 6(a) of the Act afforded to it by the first sentence of Section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks, to dealers in commercial paper and demand notes to bank trust departments in an aggregate amount not to exceed $150,000,000 outstanding at any one time. In no event will the amount outstanding be in excess of the maximum amount allowable both under its Articles of Incorporation and the consent granted by its Cumulative Preferred stockholders permitting an increase in the amount of unsecured short-term debt that Ohio could incur. The notes are to be issued from time to time prior to July 30, 1977, as funds may be required, provided that none of the notes, commercial paper, and demand notes to bank trust departments will mature later than December 31, 1977. As of April 22, 1976, Ohio had short-term notes, including commercial paper and demand notes, outstanding in an aggregate amount of $151,000,000.

Each note payable to a bank to be issued by Ohio will mature not more than 270 days after the date of issuance or renewal thereof, will bear interest at an annual rate of interest not greater than the prime rate of commercial banks in effect at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. In the case of most of the banks from which Ohio proposes to borrow, sufficient bank balances to meet operating and financial needs are kept at such banks to satisfy any compensating balance requirements of such banks in connection with the borrowings. If the average of such bank balances were maintained solely in order to fulfill the prevailing compensating balance requirements of such banks, generally up to about 20%, the effective interest cost to Ohio of issuance and sale of such notes to such banks would be approximately 1.7% above a prime commercial rate of 6¾% or about 8.45%. In the case of those banks in which Ohio does not maintain bank balances for operating and financial needs, Ohio will be required to maintain compensating balances, generally 10% of the amount of the bank lines made available by such banks and additional compensating balances, generally 10%, of the amount of any borrowings. If the full amount were borrowed from these banks, the effective interest cost to Ohio would be approximately 1.7% above the current prime commercial rate of 6¾%, or about 8.45%. Ohio states that it will file with the Commission, by Post-Effective Amendment, lists of other banks not previously identified in filings with the Commission in this proceeding to which it proposes to issue and sell notes, and no such notes will be issued and sold to such banks not previously identified prior to the issuance of a Supplemental Order by the Commission in connection therewith. Such Post-Effective Amendments will also indicate the compensating balances, if any, required to be maintained in connection with such borrowings and the effective annual cost of the borrowings.

Ohio also proposes to issue commercial paper in the form of promissory notes in denominations of not less than $50,000, nor more than $5,000,000, will be of varying maturities with no maturity more than 270 days after the date of issue, and will not be prepayable prior to maturity. The commercial paper notes will be sold directly by Ohio to Lehman Commercial Paper Incorporated (the "dealer"), at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which Ohio could borrow from banks. The dealer will reoffer the commercial paper notes to not more than 200 of the dealer's customers identified and designated in a nonpublic list prepared by the dealer in advance, at a discount rate of ⅛ of 1% per annum less than the discount rate to Ohio. It is expected that such customers of the dealer will hold the commercial paper notes to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on its nonpublic list.

Ohio also proposes to issue and sell its demand notes to the trust departments of The Cleveland Trust Company, Cleveland, Ohio, and The Fidelity Bank, Philadelphia, Pennsylvania, in the maximum amounts of $10,000,000 and $20,000,000, respectively. It is stated that the bank trust departments have a flow of funds, as fiduciary for various accounts, which would be available for investment in such demand notes. These demand notes will be in the form of promissory notes in denominations of no less than $1,000 bearing an interest rate equivalent to not more than the sum of ¼% and the highest rate paid daily by General Motors Acceptance Corporation on its commercial paper with a maturity of less than 180 days. Notes issued from January 1 to June 30 will mature July 1 of the same year and those issued from July 1 to December 31 will mature on January 1 of the following year. The bank trust departments will have the right to demand payment at any time and Ohio will have the right to repay, without penalty, all or any part of the principal amount of such demand notes outstanding.

On April 22, 1976, the highest rate paid by General Motors Acceptance Corporation on its commercial paper with a maturity of less than 180 days was 5⅛%. This rate plus the ¼% referred to above was approximately ⅜% less than the rate at which Ohio was then able to issue commercial paper of comparable maturities and approximately 2¾% below the effective rate for bank borrowings based on a prime rate of 6¾% and compensating balances of 15% to 20%. It is stated that based on past experience, the rate on these demand notes will consistently be lower than the comparable rates for commercial paper and bank borrowings including the effect of compensating balances.

The proceeds from the issue and sale of the notes will be used by Ohio to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the years 1976 and 1977 are estimated at approximately $163,000,000 and $201,000,000, respectively, exclusive of the cost of the construction program of Ohio's subsidiary, Ohio Electric Company. Estimates of this subsidiary's construction expenditures for the years 1976 and 1977 are approximately $19,000,000 and $4,000,000, respectively.

Ohio claims exception from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks and demand notes to bank departments pursuant to paragraph (a)(2) thereof. Additionally, Ohio requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper of prime borrowers such as Ohio are published daily in financial publications.

The application states that expenses of approximately $12,000 are to be incurred in connection with the proposed

transactions. It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 29, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16979 Filed 6-10-76;8:45 am]

[Release No. 34-12508; File No. SR-PSE-76-8]
76-8]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 13, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change is intended to permit the trading of put option contracts on the Pacific Stock Exchange ("PSE") on much the same basis as it trades call option contracts. PSE proposes to trade puts pursuant to procedures very similar to those proposed to be utilized by the CBOE. The principal difference between the CBOE and PSE proposals is that a PSE employee called an Order Book Official will administer the book of limit orders. On CBOE an exchange member called a Board Broker performs this function.

The subjects dealt with by the present filing are certain definitions of terms involved in put trading, position limits, restrictions on out-of-the-money options, floor procedures, matters relating to customer accounts, exercise of options, and margin rules.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The general purpose of the proposed rule changes is to provide the self-regulatory framework for the trading of put options on PSE. In addition, certain related clarifying amendments are proposed with respect to existing rules applicable to call options. The purpose of each of the proposed rule changes is as set forth below:

RULE VI, SECTION 1(a)(23) DEFINITION OF "COVERED"

The principal purpose of this amendment is to define the term "covered" with respect to a short position in a put option to mean the situation where the writer of a put option holds on a share-for-share basis in the same account as the short put position a long position in a put option of the same class having an exercise price equal to or greater than the exercise price of the short put position. In addition, in the interest of clarity, it is proposed to add to the definition of a covered short position in a call option the situation where the obligation of the writer of the call is covered on a share-for-share basis with a long position in a call option contract of the same class having an exercise price equal to or less than the exercise price of the short call position. Appropriate changes are proposed in Section 5 of PSE's Rule VI (Position Limits) and Section 11 of PSE's Rule VI (Restriction of Out-of-the-Money Options) so that there will be no change in the application of these rules.

RULE VI, SECTION 5 POSITION LIMITS

Section 5 of PSE's Rule VI is being amended in a separate filing to express numerical position limits. PSE believes that these same position limits should be applicable to put options.

RULE VI, SECTION 11 RESTRICTION OF OUT-OF-THE-MONEY OPTIONS

Section 11 of PSE's Rule VI is proposed to be amended to provide limitations on the trading of out-of-the-money put options identical to the limitations applicable to the trading of out-of-the-money call options. In addition, the rule is to be amended to reflect the proposed clarification of the definition of "covered" discussed above. The deletion of Commentary 11.01 and the amendment of Commentary 11.03 reflect the proposed changes in Section 11.

RULE VI, SECTION 31 ALLOCATION OF EXERCISE ASSIGNMENT NOTICES

The proposed amendment makes clear that the provision of Rule VI, Section 31 which authorizes the Clearing Corporation to direct the allocation of an exercise notice to a customer who has made a specific deposit of an underlying security applies only to call option contracts.

RULE VI, SECTION 32 DELIVERY AND PAYMENT

The proposed amendment to Rule VI, Section 32 reflects that as between a call option and a put option, the respective roles of the holder and writer are reversed with respect to delivery and payment following exercise.

RULE VI, SECTION 36 TRADING ROTATIONS

Commentary 36.01 is to be amended by providing in respect of both opening rotations and closing rotations that when series of put and call option contracts covering the same underlying securities are traded, the Order Book Official shall determine the order in which such series of options should be opened or closed in light of current market conditions.

RULE VI, SECTION 49 PRIORITY OF BIDS AND OFFERS

The proposed amendment to Commentary 49.02 provides for straddle orders (as defined in proposed Section 57(e), below) the same priority as presently is provided for spread orders. This interpretation means that where a straddle order may be executed on the basis of bids or offers in the trading crowd, but may not be executed within the bids or offers displayed in the Order Book Official's book, the order may be filled in the trading crowd notwithstanding that one side, but not both sides, of the order touches a bid or an offer in the Order Book Official's book. Thus, if a Floor Broker has an order to buy an XYZ July 50 straddle for a total price of 10, and the Order Book Official is offering an XYZ July 50 call at 5⅜ and an XYZ July 50 put at 4¾, the order may be filled on the basis of a total offer in the crowd of 10 for the straddle, reflecting an offer of 5¼ for the call and 4¾ for the put.

RULE VI, SECTION 55 REPORTING DUTIES

Commentary 55.01 is proposed to be amended to provide that the card or ticket on which a transaction on the floor is reported shall include, in addition to the information presently set forth, the type of option contract that is the subject of the transaction i.e., whether it is a put or a call).

RULE VI, SECTION 57 CERTAIN TYPES OF ORDERS DEFINED

It is proposed to add to Section 57 the definition of "straddle order". This definition is relevant for the purpose of Section 49, and it conforms to existing interpretations of the Internal Revenue Service which provides special tax treatment for orders to buy or to sell the same number of options of each type (put or call) with respect to the same underlying security and having the same exercise

price and expiration date. In addition, the definition of "spread order" is proposed to be amended to mean an order to buy a stated number of option contracts and sell the same number of option contracts of the same class (i.e., a spread order may pertain to puts or to calls, but not to both puts and calls, with respect to the same underlying security.)

RULE VI, SECTION 62
RESPONSIBILITIES OF FLOOR BROKERS

The proposed amendment to paragraph (c) of Section 62 of PSE's proposed Rule VI would replace the word "spread" with the word "combination". This change reflects the fact that with the advent of put trading there will be multiple option orders in addition to spread orders (e.g., straddle orders) for which a Floor Broker may not be held responsible during a rotation, when options are traded one series at a time.

RULE VI, SECTION 80 RESTRICTION ON ACTING AS MARKET MAKER AND FLOOR BROKER

The proposed change to delete the phrase "same class" in Section 80 and to substitute therefor the pharse "covering the same underlying security" reflects that the restriction of this Rule applies to both puts and calls, which are separate "classes" of options.

RULE VI, SECTION 82 FINANCIAL ARRANGEMENTS OF MARKET MAKERS

The proposed amendment to Section 82 reflects that Market Makers appointed to both puts and calls in the same underlying security are appointed to separate classes of options. Accordingly, the amendment would require Market Makers to report all of their financial arrangements as Market Makers.

RULE X, SECTION 18
DOING A PUBLIC BUSINESS IN OPTIONS

The proposed amendment to Rule X, Section 18(c)(2)(b) would apply the same suitability standard presently applied to recommendations of uncovered call option writing transactions to recommendations of all put option writing, whether or not the short put position is "covered". Although analytically only the put writer who is also short the underlying security is subject to risks comparable to those of an uncovered call writer, PSE has determined to follow the more conservative approach of applying the special suitability standards of Rule X, Section 18(c)(2) to all recommended put writing transactions.

RULE XI. MARGINS
RULE XI, SECTION 2(c) EXCEPTIONS TO RULE

Changes are proposed in the provision titled "Long" and "Short" Provisions in Exchangeable or Convertible Securities and the provision titled Offsetting "Long" and "Short" Positions in the same security to make it clear that these provisions do not apply to options.

RULE XI, SECTION 2(d)
OTHER PROVISIONS

The proposed amendment to Section 2(d)(2)(E) dealing with margin when both a put and a call are short in an account, strengthens the existing rule by providing that in addition to maintaining margin on the put or the call, whichever is greater, there shall also be maintained the amount of any unrealized loss on the other option, provided that both the put and the call shall be subject to a minimum requirement of $250. The existing rule provides that the margin shall not be less than the combined unrealized loss on both the put and the call.

It is also proposed to amend Section 2(d) by adding a new clause (2) to Section 2(d)(2)(F), which will provide for puts equivalent treatment to that provided for calls in existing subparagraph (F). The present Section 2(d)(2)(F) provides that where an account reflects a so-called "spread" position between a short position in a call option and a long position in a call option on the same underlying securty, the minimum margin required on such positions shall be the amount by which the exercise price of the long call option exceeds the exercise price of the short call option.

The proposed amendment would add a comparable provision applicable to a spread position in put options, providing that when an account is short a put option and is at the same time long a put option covering the same number of units of the same underlying security, and the long put does not expire prior to the expiration of the short put, the minimum margin shall be the amount by which the exercise price of the short put exceeds the exercise price of the long put.

It is proposed to add new sub-paragraph (5) to Section 2(d)(2)(F). This sub-paragraph would permit a member to accept, in lieu of the margin otherwise required in respect of a short position in a put option, a letter of guarantee issued by an approved bank certifying that the bank holds for the account of the writer of the option the full amount of cash necessary to satisfy the writer's obligation on the option, and that the bank will pay this amount to the member against delivery of the underlying security. This provision is intended to facilitate put option writing by those customers who would not be able to maintain cash in a margin account with a broker, but who could deposit cash with a bank under the terms of a letter of guarantee. In this respect, the rule reflects established practice in the over-the-counter put option market.

It is also proposed that the existing language contained in Section 2(d)(2)(G) dealing with specific deposits or escrow deposits, and dealing with the situation when puts are carried short against a net short position in the underlying security, should be placed in separate subsections under subparagraph (G) and minor clarifying changes are made in these provisions.

PSE believes it is consistent with the protection of investors and the public interest to provide a central, regulated, competitive market for the trading of put options, complementary with the market PSE proposes to provide for the trading of call options. The basic economic function of a put option, as with a call option, is to permit the separation of the risks and opportunities of investing in securities, and their redistribution between the holder and the writer of the option. The advantages which a liquid trading market have provided calls will similarly benefit the trading of puts.

PSE believes there are many economic functions of put options, alone or in combination with calls or underlying securities, which will benefit investors. For example, the addition of put option trading will permit increased possibilities for the hedging of positions in common stocks by investors. The only manner in which listed options may be used to hedge long stock positions at the present time is by writing call options against such positions. This strategy serves the need of investors who are willing to sell stock at the exercise price but it only protects against a downside movement in the stock price which is no greater than the amount of the premium and further requires the investor to forego the opportunity for gain if the stock price should move above the exercise price by more than the amount of the premium. On the other hand, for the cost of the option, a put provides complete protection against loss no matter how far the price of the stock may decline below the exercise price, and the investor does not give up the opportunity to participate in increases in the stock price.

In addition, the commencement of put trading on PSE will give investors the opportunity to purchase puts as a risk limiting alternative to a short sale of common stock. Since an investor may be able to purchase puts covering a greater number of shares than he could have sold short, put options will permit leveraged participation in stock price declines. In addition, as with call options, puts may be written on a covered or uncovered basis to generate income for the writer.

Put options may also be used by investors who would not be adverse to acquiring a particular stock at a price less than the current market price. By writing a put option, such investors will be in a position to accomplish their objective and purchase the stock at a predetermined price, if the stock declines in price. Should the stock not decline, the writer will still benefit by the amount of premium income generated in the writing transaction.

While the uses of put options discussed above may be theoretically available in the over-the-counter options market, it is the secondary market that enables the risk limiting uses of options to achieve their full potential, since only in an exchange market may the investor estab-

lish and liquidate options positions in coordination with the establishment and liquidation of stock positions.

With respect to the safeguards needed for the prevention of fraudulent and manipulative acts and practices, and to enable PSE to enforce compliance by its members, PSE believes that the risks of put trading, both from an economic point of view and from the point of view of market regulation, are no different in kind or degree from the risks of call trading and are susceptible to the same types of controls. Since the pattern of regulatory rules and procedures which PSE is proposing to regulate trading of calls has worked well for call options, PSE sees no reasons why put options will require different kinds of safeguards. Accordingly, PSE proposes to extend to put trading the safeguards which it presently applies to calls.

PSE's position and exercise limit rules will apply to put options, just as they apply to call options. PSE's suitability rule will be applied to recommended transactions in put options, and special suitability standards will apply to all recommended writing transactions in puts in the same manner that they presently apply to recommendations for the writing of uncovered call options. PSE's prospectus delivery requirement will apply equally to put and call options and PSE understands that The Options Clearing Corporation is preparing a single prospectus for both types of options. PSE further believes that its proposal for trading puts will contribute to the removal of impediments to and perfection of the mechanism of a free and open market in options. PSE expects a substantial number of the calls traded by it will be calls on the same underlying securities as are traded on other exchanges, on a same expiration cycle basis and/or on an alternate expiration cycle basis. Puts are so complementary to calls, in terms of the trading strategies that combined put and call trading make possible, that once other exchanges commence put trading, PSE will be unable to provide a competitive market place for the trading of calls unless it can also provide put trading. Orders will flow to, and market-making activity will concentrate in, the exchanges that can provide combined executions of puts and calls. By providing a competitive market place for put and call trading, PSE believes that investors will be better served by more liquid markets.

PSE recognizes that it has not yet gained great experience with the trading of calls. It has, however, closely studied the experience of other exchanges in trading calls, and has modeled its present program for trading calls very closely after the way calls are traded on the Chicago Board Options Exchange.

PSE has furnished the rule changes required to commence trading in put options to the members of its options Committee and has described its plans for trading puts to the members of this committee. The comments of these persons were strongly in support of PSE's proposal for trading puts. Apart from this, comments have neither been formally solicited nor received from any persons.

PSE believes that the proposed rule changes will impose no burden on competition. To the contrary, by enabling PSE to develop a complete options trading facility, the proposed rule changes will promote competition by promoting the development of a competing marketplace with competing market makers.

On or before July 19, 1976, within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 5, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

JUNE 3, 1976.

[FR Doc.76-16908 Filed 6-10-76;8:45 am]

[Release No. 12520; SR-PBWSE-76-1]

PHILADELPHIA STOCK EXCHANGE

Order Approving Proposed Rule Change

JUNE 7, 1976.

On February 18, 1976, the Philadelphia Stock Exchange, 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change would conform the Exchange's net capital requirements to the standards of Rule 15c3-1.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 12368 (April 23, 1976)) and by publication in the FEDERAL REGISTER (41 Fed. Reg. 18372 (May 3, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-16978 Filed 6-10-76;8:45 am]

[Release No. 34-12517; File No. SR-PHLX 76-13]

PHILADELPHIA STOCK EXCHANGE, INC.

Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 1, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 1077. *No securities orders other than option contract orders or equity orders that are in the underlying security or convertible into the underlying security of the options traded on the Exchange can be received in or transmitted to the options room.*

PHILADELPHIA STOCK EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the rule change is to enable the exchange to offer a more efficient, fair and orderly method of combination stock and option execution.

The proposed rule change was prompted by the Philadelphia Stock Exchange Options Advisory Board which is composed of prominent members of the securities industry who are experts in the options field. The Board members felt that they, as brokers, had need at this time for combined option-underlying security execution as a more efficient and economical means of handling these types of orders.

Therefore, the Philadelphia Exchange believes that enactment of the proposed rule change will foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to, and facilitating transactions in securities and will protect investors and be in the public interest.

The Committees on Options and on Floor Procedure supported the proposed rule change as did the Options Advisory Board.

The Philadelphia Exchange does not believe that the proposed rule change would impose a burden on competition, but, rather, the enactment of the proposed rule change will foster competition between the Philadelphia Exchange and the Pacific Exchange which presently offers combined option-underlying security execution.

On or before July 19, 1976, or within such longer period (i) as the Commis-

sion may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Istitute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 12, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 4, 1976.

[FR Doc.76-16980 Filed 6-10-76;8:45 am]

[Release No. 9313; 811-1964]

SELECTED OPPORTUNITY FUND, INC.

Filing of Application Pursuant to Section 8(f) of the Act for an Order Declaring That Company has Ceased To Be an Investment Company

JUNE 4, 1976.

Notice is hereby given that Selected Opportunity Fund, Inc. ("Applicant"), 111 West Washington Street, Chicago, Illinois 60602, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end management investment company, filed an application on May 21, 1976, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a Delaware corporation, registered under the Act by filing its Notification of Registration on Form N-8A on October 30, 1969.

On May 3, 1976, pursuant to an Agreement and Plan of Reorganization which had been approved by Applicant's shareholders on April 27, 1976, Applicant sold substantially all of its assets to Selected Special Shares, Inc. ("Special"), also a registered open-end investment company under the Act, in exchange for shares of common stock of Special which have been delivered to or credited to the accounts of shareholders of Applicant according to their respective interests in liquidation of Applicant.

Applicant represents that it presently has no shareholders, no assets or liabilities, and engages in no business activity. Applicant, further represents that on May 6, 1976, it filed its certificate of dissolution with the Secretary of the State of Delaware.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 30, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16907 Filed 6-10-76;8:45 am]

[Release No. 34-12511; File No. SR-SCCP 76-2]

STOCK CLEARING CORP. OF PHILADELPHIA

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 25, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The Stock Clearing Corporation of Philadelphia (SCCP) proposes a series of rule changes for the purpose of clarifying the status of its liens on stock carried in its members' accounts in order to comply specifically with the requirements of Rules 8c-1(g) and 15c2-1(g) under the Securities Exchange Act of 1934 (the Act). Deleted material is in brackets and new material is underlined.

BY-LAWS

Article X, Sec. 2(*a*). Such clearing member shall in writing, in such form as may be approved by the Board of Directors, authorize Stock Clearing Corporation [of Philadelphia] to hypothecate any securities carried for such [member] *member's margin accounts and any securities in such member's cash account for which Stock Clearing Corporation has not been fully paid,* and shall give the Corporation [adequate] authority to liquidate [all or] *the unpaid* part of his account at any time.

(*b*) *With regard to its depository account such clearing member may in writing, in such form as may be approved by the Board of Directors, authorize Stock Clearing Corporation to segregate its positions therein in order that the member may hypothecate or pledge such segregated positions to a bank or other organization with which Stock Clearing Corporation has a pledge agreement.*

Article XI, Sec. 1. Stock Clearing Corporation [of Philadelphia] may, from time to time, borrow money in such amounts as may be reasonably necessary to effect the extension of credit to members and may pledge as collateral for such loans any securities carried in such members' *margin* accounts and *any securities in such members' cash accounts for which Stock Clearing Corporation has not been paid in full.* The Treasurer or an Assistant Treasurer or such other officer or officers as may be authorized to act for them shall sign notes or other instruments necessary to effectuate such loans.

RULES

Rule 13(*a*). In order to secure the payment of all money due Stock Clearing Corporation from a clearing member, [Stock Clearing] the Corporation shall have a lien therefor upon all securities in the account of the clearing member *for which the Corporation has not been paid in full.* Such lien [to] *shall* continue until all obligatoins of the clearing member to [Stock Clearing] *the* Corporation have been fulfilled. [The provisions of this Rule shall not apply to member banks or trust companies.]

(*b*) *Stock Clearing Corporation as a custodian of securities held for a clearing member in its system agrees that it will not for any reason, including the assertion of any claim, right or lien of any kind, refuse or refrain from promptly delivering any such securities (other than securities then hypothecated in accordance with such system) to such clearing member or as directed by it, except that nothing in these rules shall be deemed to require the Corporation as such custodian to deliver any securities in contravention of any notice of levy, seizure or similar notice, or order, or judgment, issued or directed by a governmental agency or court, or officer thereof, having jurisdiction over the Corporation as such custodian, which on its face affects such securities.*

A further change is represented by SCCP Member Bulletin No. 56 entitled "Pledging of Collateral Securities to Lending Banks" and attached as Exhibit 3. The Bulletin describes the procedures whereby SCCP members may use the depository facility of SCCP (called PHILADEP after its nominee name) to hypothecate securities to a bank by means of a book entry pledge in order to collateralize a loan. After discussing several advantages of the procedures, the Bulletin describes (1) how a pledge is made, (2) how it is released, (3) what reports are generated, (4) how dividends are processed and (5) what charges are applied.

STATEMENT OF BASIS AND PURPOSE

The main purpose of the rule changes is to describe clearly that SCCP does not have a lien on any stock for which the clearing member has paid SCCP in full, thereby establishing the status of stock held in custodial capacity by SCCP to be in a good control location according to the requirements of Rule 15c3-3(c)(1) under the Act. An additional purpose is to set forth more specifically the authority of SCCP with regard to the segregation of hypothecated or pledged securities upon instructions from clearing members.

The proposed rules relate to the following standards contained in Section 17A(b)(3) of the Act as well as to rules under the Act hereafter cited:

(a) They provide safeguards for securities and funds in the custody and control of SCCP for which SCCP is responsible;

(b) They comply, more specifically, with Rules 8c-1(g), 15c2-1(g) and 15c3-3(c)(1) under the Act relating to control locations;

(c) They protect investors against impositions of unwarranted liens which might be asserted in favor of SCCP or third parties.

SCCP has revised its membership application form in keeping with the concept of no liens on fully paid stock. Upon distribution of these forms for re-execution, no adverse comment has been received from members.

No burden on competition will be imposed by the proposed rules.

On or before July 19, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 10549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 2, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 7, 1976.

[FR Doc.76-16981 Filed 6-10-76;8:45 am]

[Release No. 34-12528]

SETTLING DISPUTES BETWEEN CUSTOMERS AND REGISTERED BROKERS AND DEALERS

Development of Nationwide Procedures

The Commission today invited all interested persons to submit in writing their ideas for a procedure that will be available nationwide through the self-regulatory organizations to investors for settling disputes arising out of deaings in securities between a customer and a registered broker-dealer.

In a letter to President Ford on January 8, 1976, Chairman Hills reported upon the actions that had been and would be taken at the Securities and Exchange Commission to implement the President's four point regulatory program.[1] The third point of that program was the matter of responsiveness to consumers, including the handling of investor complaints. The Chairman reported that two programs would be developed in response to the need to deal more effectively with investor complaints.

The first of these two programs is underway. On May 20, 1976, Chairman Hills announced the creation of an Office of Consumer Affairs and named Van P. Carter as its Acting Director.[2]

The second program involves the development of a model and uniform system of dispute grievance procedures for the adjudication of small claims. This system could provide for the efficient and economical disposition of grievances and should not be burdensome, complex or costly to the investor; in other words, the system could function in a manner similar to a small claims court. The Commission invites all interested persons to submit written comments dealing with the organization and operation of such a procedure. It is anticipated that a streamlined dispute grievance procedure will increase the effectiveness of existing arbitration facilities made available by the American Arbitration Association, the American, Boston, Cincinnati, Midwest, New York, Pacific and Philadelphia Stock Exchanges, the Chicago Board Options Exchange, and the National Association of Securities Dealers.

The establishment of an efficient system for resolving disputes involving small sums should contribute significantly to the protection of investors (which is the objective of the federal securities laws), to the increased participation of individual investors in the securities market (which the securities industry has often encouraged), and to the conduct of a securities business in a manner that observes high standards of commercial honor as required, for example, by Article III, Section 1 of the Rules of Fair Practice of the National Association of Securities Dealers, and that promotes just and equitable principles of trade as required by Section 6(b)(5) of the Securities Exchange Act of 1934.

Commentators are requested not to recite the factual basis for any pending or previous dispute or grievance against brokers, dealers or other persons; however, comments on the effectiveness of ongoing dispute grievance systems are invited. In addition, comments on the following matters would be appreciated:

1. The manner and practicality of making such a system readily available to investors in every city with a population of 100,000 and over.

2. Who should be permitted to participate in the system, e.g. should counsel be permitted for either party?

3. Should the system be restricted to claims below a stated dollar amount, for example, $1,000? $500? $300?

4. How will the system integrate with existing procedures, such as the current arbitration procedures available through certain self-regulatory organization and state and federal courts?

5. What standards should the Commission apply in determining whether to review the disposition of a complaint?

6. What is the role of the self-regulatory organizations and in what way can outside organizations, such as the American Arbitration Association and the Better Business Bureau, be utilized?

7. What procedures should apply to the receipt, processing and disposition of disputes submitted under this system;

8. The availability and procedures for selecting qualified persons to adjudicate grievances.

9. How should the expense of such a system be defrayed and to what extent should investors bear some portion, if any, of these expenses.

Written comments should be received by Monday, June 28, 1976 and may be addressed to Van P. Carter, Acting Director, Office of Consumer Affairs, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, marked Attention: Dispute Grievance Study. A public meeting will be held on Wednesday, July 7, 1976 in Room 776 at the foregoing address.

Persons or organizations who have submitted written comments may be invited to make an oral presentation at this meeting and requests to make such a presentation should accompany the written comments. In order to have a balanced sample of all points of view at the public meeting, the written submissions of all persons who have stated a desire to appear will be reviewed promptly as they are received and, as soon as possible after the June 28 deadline for such written submissions, the persons who will be invited to make a presentation will be notified. Oral presentations will be limited to 10 minutes for each individual or organization; and the staff may address questions to the speakers.

[1] The four principal points of a regulatory reform program had been articulated by the President on July 10, 1975 in a meeting with the ten independent regulatory agencies.

[2] An announcement dated May 20, 1976 describing the functions of the new office is available upon request from the Commission's Office of Public Information, 500 North Capitol Street, Washington, D.C. 20549.

All written responses will be placed in File No. S7-639 and will be available for public inspection in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 9, 1976.

[FR Doc.76-17280 Filed 6-10-76;8:45 am]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

EDUCATION PANEL

Meeting

JUNE 3, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Education Panel will convene at 9 a.m. both days at Washington, D.C., on July 8 and 9, 1976.

The purpose of the meeting is to review Pilot Grant Program applications submitted to the National Endowment for the Humanities for grants to educational institutions and nonprofit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation on the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-16948 Filed 6-10-76;8:45 am]

PLANNING OFFICE PANEL

Meeting

MAY 13, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Planning Office Panel will meet at Washington, D.C., on July 8 and 9, 1976 from 9 a.m. to 5:30 p.m.

The purpose of the meeting is to review Youthgrants in the Humanities applications submitted to the National Endowment for the Humanities for project grant awards.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code (202) 382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-16949 Filed 6-10-76;8:45 am]

PUBLIC PROGRAMS PANEL

Meeting

JUNE 1, 1976.

Pursuant to the provisions of the Federal Advisory Committee (Pub. L. 92-463) notice is hereby given that a meeting of the Public Programs Panel will meet at Mystic, Connecticut on July 1, and 2, 1976, commencing at 9 a.m.

The purpose of the meeting is to review Humanities Museums and Historical Organizations grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code (202) 382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-16950 Filed 6-10-76;8:45 am]

PUBLIC PROGRAMS PANEL

Meeting

MAY 26, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Public Programs Panel will meet at Washington, D.C. on July 6 and 7, 1976, commencing at 9:30 a.m.

The purpose of the meeting is to review Humanities Program Development Grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Panel.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code (202) 382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-16951 Filed 6-10-76;8:45 am]

PUBLIC PROGRAMS PANEL

Meeting

MAY 27, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Public Programs Panel will meet at Washington, D.C., on July 7, 8, and 9, 1976, commencing at 1 p.m.

The purpose of the meeting is to review Humanities Media Grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Declaration of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 25th Street, N.W., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-16952 Filed 6-10-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

NOTICE OF CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of May 21, 1976-May 28, 1976

Notice is hereby given that during the week of May 21 through May 28, 1976 the appeals and applications for exception or other relief listed in the Appendix to this notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of no-

tice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

MICHAEL F. BUTLER,
General Counsel.

JUNE 7, 1976.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, May 21 to 28, 1976*

Date	Name and location of applicant	Case No.	Type of submission
May 21, 1976	Atlantic Richfield Co., Los Angeles, Calif. (If granted: The exception decision issued to Atlantic Richfield Co. on May 14, 1976, would be modified.)	FEX-0044	Supplemental Order: Atlantic Richfield Co., FEA par. ____ (May 143 1976).
Do	BP Oil, Inc., Cleveland, Ohio. (If granted: FEA's interpretation would be rescinded and BP Oil, Inc., would receive an exception from the provisions of 10 CFR 212.112.)	FEA-0843	Appeal of FEA's interpretation.
Do	Gary Operating Co., Englewood, Colo. (If granted: Gary Operating Co. would receive an extension of the price relief granted in FEA's Mar. 19, 1976, decision and order.)	FEE-2499	Extension of FEA's exception relief: Gary Operating Co., 3 FEA par. ____ (Mar. 19, 1976).
Do	Shell Oil Co. (Bayou Goula), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2522	Extension of FEA's exception relief: Shell Oil Co., 3 FEA par. 83,169 (Apr. 23, 1976).
Do	Shell Oil Co. (Camargo), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2523	Do.
Do	Shell Oil Co. (Chalkley), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2524	Do.
Do	Shell Oil Co. (Elk City), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2525	Do.
Do	Shell Oil Co. (Goodwater), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2526	Do.
Do	Shell Oil Co. (Iowa), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1967, decision and order.)	FEE-2527	Do.
Do	Shell Oil Co. (KNDU), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2528	Do.
Do	Shell Oil Co. (Mermantua), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2529	Do.
Do	Shell Oil Co. (Norcol), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2530	Do.
Do	Shell Oil Co. (Person), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2531	Do.
Do	Shell Oil Co. (Prentice), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2532	Do.
Do	Shell Oil Co. (Red Fish Bay), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2533	Do.
Do	Shell Oil Co. (Van), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2534	Do.
Do	Shell Oil Co. (West Seminole), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's Apr. 23, 1976, decision and order.)	FEE-2535	Do.
Do	Shell Oil Co. (Conley), Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FEE-2539	Price exception (sec. 212.165).
Do	Shell Oil Co. (Halley), Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FEE-2540	Do.
Do	Shell Oil Co. (Lake Washington), Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase its prices for natural gas liquid products to reflect product cost increases in excess of $0.005/gal.).	FEE-2541	Do.
Do	Shell Oil Co. (Lirette), Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.).	FEE-2542	Do.
Do	Shell Oil Co. (O'Keene), Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.).	FEE-2543	Do.
Do	Shell Oil Co. (Seiling), Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.).	FEE-2544	Do.
Do	Shell Oil Co. (TXL), Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FEE-2545	Do.
Do	Shell Oil Co. (Yates), Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FEE-2546	Do.
Do	Sun Oil Co. (Burnell), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order).	FEE-2502	Extension of FEA's exception relief: Sun Oil Co., 3 FEA par. 83,102 (Feb. 13, 1976).
Do	Sun Oil Co. (Carney), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2503	Do.

Date	Name and location of applicant	Case No.	Type of submission
Do	Sun Oil Co. (Concho), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2504	Do.
Do	Sun Oil Co. (Cowden), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2505	Do.
Do	Sun Oil Co. (Heyser), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2506	Do.
Do	Sun Oil Co. (Luby), Dallas, Tex. (If granted: Sun Oil Co. would recieve an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2507	Do.
Do	Sun Oil Co. (Markham), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2508	Do.
Do	Sun Oil Co. (Maurice), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2509	Do.
Do	Sun Oil Co. (Peoria), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2510	Do.
Do	Sun Oil Co. (Robstown), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2511	Do.
Do	Sun Oil Co. (Steedman), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2512	Do.
Do	Sun Oil Co. (Tonkawa), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Feb. 13, 1976, decision and order.)	FEE-2513	Do.
Do	Sun Oil Co. (Mermentau), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Mar. 31, 1976, decision and order.)	FEE-2514	Extension of FEA's exception relief: Sun Oil Co., 3 FEA par. 83, 153 (Mar. 31, 1976).
Do	Sun Oil Co. (Spivey), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Mar. 31, 1976, decision and order.)	FEE-2515	Do.
Do	Sun Oil Co. (Canales), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Mar. 12, 1976, decision and order.)	FEE-2516	Extension of FEA's Exception relief: Sun Oil Co., 3 FEA par. 83,129 (Mar. 12, 1976).
Do	Sun Oil Co. (Delhi), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Mar. 12, 1976, decision and order.)	FEE-2517	Do.
Do	Sun Oil Co. (Dragon Trail), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Mar. 12, 1976, decision and order.)	FEE-2518	Do.
Do	Sun Oil Co. (Halley), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Mar. 12, 1976, decision and order.)	FEE-2519	Do.
Do	Sun Oil Co. (Jameson), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Mar. 12, 1976, decision and order.)	FEE-2520	Do.
Do	Sun Oil Co. (Mayfield), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the price relief granted in FEA's Mar. 12, 1976, decision and order.)	FEE-2521	Do.
May 24, 1976	Cotton Petroleum Corp., Denver, Colo. (If granted: Crude oil produced from the North Goose Lake unit, Sheridan County, Mont., would be sold at upper tier ceiling prices.)	FEE-2497	Price exception (sec. 212.74).
Do	Gustafson Oil Co., Washington, D.C. (If granted: FEA's Apr. 20, 1976, decision and order would be rescinded and Gustafson Oil Co. would retroactively be permitted to sell residual fuel oil at prices in excess of maximum levels computed pursuant to 10 CFR 212.93.)	FEA-0842	Appeal of FEA's exception decision and order: Gustafson Oil Co., 3 FEA par. 83,168 (Apr. 20, 1976).
Do	Goldking Production Co., Houston, Tex. (If granted: Crude oil produced from the Hummels unit No. 1, East Pheasant Field, Matagorda County, Tex., would be sold at upper tier ceiling prices.)	FEE-2498	Price exception (sec. 212.-74).
Do	Monsanto Co., St Louis, Mo. (If granted: Monsanto Co. would receive an exception from the provisions of 10 CFR 211.65, 211.66, and 211.67.)	FEE-2500	Allocation exception.
Do	PRC Computer Center, Inc., McLean, Va. (If granted: FEA's May 6, 1976, information request denial would be rescinded and Mr. Tupac of PRC Computer Center, Inc., would receive information pertaining to contract C-03-50050-50-00.)	FEA-0841	Appeal of FEA's information, request denial.
Do	Shell Oil Co. (Molino), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's May 7, 1976, decision and order.)	FEE-2536	Extension of FEA's Exception relief: Shell Oil Co., 3 FEA par. .... (May 7,
Do	Shell Oil Co. (Tallahala), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price in FEA's May 7, 1976, decision and order.)	FEE-2537	Do.
Do	Shell Oil Co. (Ventura), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the price relief granted in FEA's May 7, 1976, decision and order.)	FEE-2538	Do.
Do	Southland Oil Co. (VGS), Jackson, Miss. (If granted: Southland Oil Co. would not be required to reduce its gasoline prices in May to reflect a decline in purchased gasoline costs.)	FEE-2501 FES-2501	Price exception (sec. 212.81), stay requested.

Date	Name and location of applicant	Case No.	Type of submission
May 25, 1976...	Equitable Petroleum Corp., New Orleans, La. (If granted: Crude oil produced from the Little Lake Field, Jefferson Parish, La., would be sold at upper tier ceiling prices.)	FEE-2547	Price exception (sec. 212.74).
Do.....	Getty Oil Co., New York, N.Y. (If granted: FEA's Mar. 26, 1975, decision and order would be modified.)	FMR-0054	Modification of FEA's decision and order, San Joaquin Refining Co.; West Coast Oil Co., 1 FEA par. 20,759 as modified by Getty Oil Co., 2 FEA par. 80,521 (Mar. 26, 1975).
Do.....	Signal Petroleum, New Orleans, La. (If granted: Signal Petroleum would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $.005/gal.)	FEE-2548	Price exception (sec. 212.165).
Do.....	Union Carbide Caribe, Inc., Washington, D.C. (If granted: FEA's May 4, 1976, decision and order granting Commonwealth Oil Refining Co. entitlements for naphtha it imports and uses in an aromatics plant located in Penuelas, Puerto Rico, would be expanded through a rulemaking proceeding to include Union Carbide Caribe, Inc., and other Puerto Rican petrochemical producers.)	FEA-0844	Appeal of FEA's exception decision and order: Commonwealth Oil Refining Co., 3 FEA par. .... (May 4, 1976).
Do.....	Varibus Corp., Beaumont, Tex. (If granted: Varibus Corp. would receive an exception from the provisions of the FEA mandatory petroleum pricing regulations as they pertain to transactions between Varibus and 3 nonaffiliated entities.)	FEE-2549	Price exception (sec. 212.-).
May 26, 1976...	Crystal Skyways, Minneapolis, Minn. (If granted: FEA's Mar. 8, 1976, decision and order would be rescinded and Crystal Skyways would receive an increase in its base period use of aviation fuel.)	FMR-0055	Modification of FEA's decision and order: Crystal Skyways, 3 FEA par. 83,123 (Mar. 8, 1976).
Do.....	Midway Gas, Inc., Dadeville, Ala. (If granted: Midway Gas, Inc., would be assigned a new, lower priced supplier of propane.)	FEE-2550	Exception to change suppliers.
May 27, 1976...	Ashland Oil Co., San Francisco, Calif. (If granted: The application, if granted, would reinstate the exception relief granted in the order issued by the FEA on Apr. 30, 1976, Ashland Oil Co., 3 FEA par. 83,173 (Apr. 30, 1976), which was suspended by the FEA in its May 4, 1976, order, Ashland Oil Co., 3 FEA par. .... (May 4, 1976).)	FEX-0045	Supplemental order: Ashland Oil Co., 3 FEA par. .... (May 4, 1976).
May 28, 1976...	Allen Oil Co., Union, N.J. (If granted: Allen Oil Co., would be assigned a new, lower priced supplier of motor gasoline to replace its base period supplier, Ashland Oil Co.)	FEE-2551	Exception to change suppliers.
Do.....	Clark Equipment Co., Buchanan, Mich. (If granted: Clark Equipment Co. would receive an increase in its base period use of propane.)	FEE-2553	Exception to base period use.
Do.....	Fortune Drilling Corp., San Angelo, Tex. (If granted: Fortune Drilling Corp. would receive an exception from the mandatory petroleum price regulations for the crude oil produced from the Ruth Gordon lease during the period November 1973 through June 1975.)	FEE-2554	Price exception.
May 27, 1976...	National Oil Jobbers Council, Washington, D.C. (If granted: FEA's information request denial of Apr. 29, 1976, would be rescinded and National Oil Jobbers Council would receive sections of the FEA Compliance Manual which were withheld.)	FEA-0845	Appeal of FEA's information request denial.
May 28, 1976...	Pecos Valley Gas Co., Carlsbad, N. Mex. (If granted: Pecos Valley Gas would be assigned a new, lower priced supplier of propane to replace its base period suppliers, Queen Oil & Gas & Arrow Gas Co.)	FEE-2552	Exception to change supplier.

[FR Doc.76-16905 Filed 6-7-76;4:43 pm]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary's Labor review and certification procedures are set forth at 29 CFR Part 75, published January 29, 1975 (40 FR 4393). In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility under the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 7th day of June 1976.

BEN BURDETSKY,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending June 4, 1976

Name of applicant	Location of enterprise	Principal product or activity
Cayey Dairy Products, Inc	Cayey, P.R	Manufacture and packing of ice cream mixes and frozen dessert mixes.
M. Frenville Co	Gloversville, N.Y	Manufacture of leather goods.
Orlando Coals, Inc.-Liqui-Gas, Inc	Glenville, W. Va	Coal mining; processing of natural gas and its distribution.
Cotton Patch Restaurant	Eutaw, Ala	Restaurant.
Rockwell Tire & Fuel Co., Inc	Rockwell, N.C	Retail sales and services of agricultural products.
Pineville Health Care Center, Inc	Pineville, Ky	Nursing care.
Manchester Health Care Center, Inc	Manchester, Ky	Do.
South Gate Mall	South Leitchfield, Ky.	Shopping center.
Wilbourn Development Co., Inc	Grenada, Miss	Medical services.
Harral Helicopter, Inc	Circleville, Ohio	Crop services.
The Enstrom Helicopter Corp	Menominee, Mich	Manufacture of helicopters.
Tom W. Kaufman Co	Carrollton, Ohio	Manufacture of stainless steel.
Riverland Oil Mill, Inc	Bossier City, La	Cottonseed oil mill.
Louisiana Gulf Industries, Inc	Houma, La	Administrative and clerical services.
Crescent Chemicals, Inc	Rosenburg, Tex	Manufacture and distribution of agricultural chemicals.
Variform Plastics, Inc	Kearney, Mo	Extrusion of plastic shapes.
Norman F. Toft	Bennett, Colo	Retail grocery store.
Service & Parts	Maddock, N. Dak	Farm equipment sales and service.
Keesee Motor Co	Cortez, Colo	Auto sales.
Kelsen's	Lisbon, N. Dak	Restaurant and bowling alley.
Watkins Chevrolet Co	Avondale, Ariz	Auto sales.
Country Meats, Inc	Blackfoot, Idaho	Meat packing plant.
Santa Rosa Hospital	Guayama, P.R	Hospital.

[FR Doc.76-16959 Filed 6-10-76;8:45 am]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107 (e) (1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655) will meet on Tuesday, June 29, and Wednesday, June 30, 1976, starting at 9:00 a.m. in the Caucus Room of the Holiday Inn Central, 1501 Rhode Island Avenue, N.W., Washington, D.C. The meeting is open to the public.

The purpose of this meeting will be the presentation and adoption by the full committee of recommendations developed by the Asbestos Subgroup for a vertical standard regulating the use of asbestos in the construction industry.

Written data, views, or arguments may be submitted, preferably with 20 copies to the Committee Management Office. Any such submissions received prior to the meeting will be provided to the members of the group and will be included in the record of the meeting.

Communications may be mailed to:

J. Goodell, Committee Management Office, Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue, N.W., Room N-3635, Washington, D.C. 20210.

Signed at Washington, D.C. this 8th day of June 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-17101 Filed 6-10-76;8:45 am]

CITATION GUIDELINES IN MULTI-EMPLOYER WORKSITES

Extension of Time for Public Comment

On Tuesday, April 27, 1976, notice was published in the FEDERAL REGISTER (41 FR 17639) of citation guidelines in multi-employer worksites covered by the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq., 29 U.S.C. 651 et seq.). Interested persons were invited to submit data, views and arguments regarding the proposed guidelines on or before May 27, 1976. In response to the proposal submissions have been received from several interested parties requesting additional time in which to file comments. Generally, the reasons given for the requests are that the issues raised by the proposed guidelines are novel and complex and that more time is essential in order to properly respond to the proposed guidelines.

We find these requests and supporting rationale to have merit, and have decided to extend the period for the filing of comments and objections.

Moreover, an extended comment period will permit public consideration of recent Occupational Safety and Health Review Commission decisions in "Secretary v. Bechtel Power Corporation," OSHRC Docket No. 5064 (Rev. Com'n, March 11, 1976), "Secretary v. Grossman Steel & Aluminum Corp.," OSHRC Docket No. 12775 (Rev. Com'n. May 12, 1976) and "Secretary v. Anning-Johnson Company," OSHRC Docket No. 12775 (Rev. Com'n. May 12, 1976). These decisions detail the Occupational Safety and Health Review Commission's position on employer responsibility at multi-employer construction worksites. Therefore, notice is hereby given that the period for submitting written data, views and arguments, as well as for the filing of objections is extended from May 27, 1976 to July 12, 1976. As originally directed such material must be submitted in quadruplicate to Barry White, Associate Assistant Secretary for Regional Programs, Room N-3603, 200 Constitution Avenue, N.W., Washington, D.C. 20210 no later than July 12, 1976.

Signed at Washington, D.C. this 3rd day of June 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-17100 Filed 6-10-76;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the Subgroup on Compliance, National Advisory Committee on Occupational Safety and Health (NACOSH), will meet on July 16, 1976 in Room N-3437, Department of Labor Building, 3rd Street and Constitution Avenue, NW, Washington, D.C. 20210.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the administration of the Act.

The meeting will begin at 9 a.m. The public is invited to attend. The Subgroup will discuss issues regarding employer responsibility for safety and health conditions on multi-employer construction sites. OSHA has recently proposed new guidelines on this issue (41 FR 17639) and requested written comments from the public. The Subgroup wishes to provide the public an opportunity to com-

ment informally before developing its recommendations to the full committee on this matter.

For additional information on the Subgroup's agenda, please contact:

Nancy L. Hucke, National Advisory Committee on Occupational Safety and Health, Department of Labor–OSHA, Committee Management Office, Room N–3635, Third Street and Constitution Avenue, NW, Washington, D.C. 20210, Phone: (202) 523–8024.

Any written data or views concerning this agenda item or suggestions for future agenda items which are received by the Committee Management Office before the meeting, preferably with 20 copies, will be presented to the Subgroup and included in the official record of the meeting.

Anyone wishing to request an oral presentation should notify the Committee Management Office before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Subgroup Chairman, depending on the extent to which time permits.

Official records of the meeting will be available for public inspection at the above address.

Signed at Washington, D.C. this 2nd day of June 1976.

JOANNE L. GOODELL,
Executive Secretary.

[FR Doc.76–16733 Filed 6–10–76;8:45 am]

SOUTH CAROLINA STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the FEDERAL REGISTER (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.41 of 29 CFR provides that "A State initiated change supplement is required whenever the State takes with regard to its plan an action not otherwise covered by this part that would impact on the effectiveness of the State program." By letter dated March 17, 1976 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor to Donald E. MacKenzie, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards: amendments to § 1910.66, § 1910.68, § 1910.94, § 1910.103, § 1910.107, § 1910.108, § 1910.143, § 1910.178, § 1910.261, § 1910.263, § 1910.308, § 1910.309, § 1926.151, § 1926.351, § 1926.400, § 1926.401, § 1926.404, § 1926.803.

These standards were promulgated after public hearings held on March 11, 1976 and by filing with the South Carolina Secretary of State on March 11, 1976, respectively, pursuant to Act 379, South Carolina Acts Joint Resolutions, 1971 (Sections 40–261 through 40–274 South Carolina Code of Laws, 1962).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards while differing somewhat from the Federal provide equivalent worker protection. The differences include:

1. The provisions of the 1975 National Electrical Code (NFPA No. 70–1975 and ANSI C1–1975) are to be enforced.

2. Portions of NFPA 33–1975 and NFPA 34–1975 have been incorporated in the spray finishing (§ 1910.107) and dip tank (§ 1910.108) sections. These amendments are necessary for consistency with the 1975 National Electrical Code adoption.

The State standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309; and Office of the Associate Assistant Secretary for Regional Programs, Room N3603, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective June 11, 1976.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)) Signed at Atlanta, Georgia, this 26th day of April 1976.

DONALD E. MACKENZIE,
Regional Administrator.

[FR Doc.76–17099 Filed 6–10–76;8:45 am]

Office of the Secretary

[TA–W–755]

ALLEGHENY LUDLUM STEEL CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–755: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 29, 1976 in response to a worker petition received on March 29, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless steel sheet, strip, plate and silicon steel at the Brackenridge, Pennsylvania plant of Allegheny Ludlum.

The notice of investigation was published in the FEDERAL REGISTER on April 23, 1976 (41 FR 17027–17028). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Allegheny Ludlum, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Brackenridge plant increased 2 per-

cent from 1973 to 1974. Average weekly hours increased 2 percent during the same period. Employment declined 31 percent from 1974 to 1975. Average weekly hours during this period declined 9 percent.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Annual sales of hot rolled stainless strip by Allegheny Ludlum declined 71 percent in quantity from 1973 to 1974. Sales declined 71 percent in quantity from 1973 to 1974. Sales declined 100 percent from 1974 to 1975. Brackenridge accounts for all of Allegheny Ludlum's sales of hot rolled strip.

Annual sales of cold rolled stainless strip by Allegheny Ludlum declined 2 percent in quantity from 1973 to 1974. Sales declined 39 percent from 1974 to 1975. Brackenridge accounts for about 1 percent of Allegheny Ludlum's sales of cold rolled strip.

Annual sales of hot rolled sheet declined 94 percent in quantity from 1973 to 1974. Sales increased 37 percent from 1974 to 1975. Brackenridge accounts for all of Allegheny Ludlum's sales of hot rolled sheet. Hot rolled sheet accounts for less than 2 percent of total stainless product sales.

Annual sales of cold rolled stainless sheet increased 42 percent from 1973 to 1974. Sales declined 50 percent from 1974 to 1975. Brackenridge accounts for about 60 percent of Allegheny Ludlum's sales of cold rolled sheet.

Annual sales of stainless plate increased 51 percent in quantity from 1973 to 1974. Sales declined 12 percent from 1974 to 1975. Brackenridge melts and casts all of the plate sold by Allegheny Ludlum.

Annual sales of silicon steel declined 7 percent in quantity from 1973 to 1974. Sales declined 32 percent from 1974 to 1975. Brackenridge melts and hot rolls all of Allegheny Ludlum's silicon steel.

Total stainless steel melt production at the Brackenridge plant increased 1 percent from 1973 to 1974. Production decreased 36 percent from 1974 to 1975.

INCREASED IMPORTS

Total silicon steel melt production at the Brackenridge plant declined 4 percent from 1973 to 1974. Production declined 39 percent from 1974 to 1975.

INCREASED IMPORTS

Imports of hot and cold rolled stainless steel strip declined 9.1 percent from 1970 to 1971. Imports increased 52.7 percent from 1971 to 1972. Imports declined 36.9 percent from 1972 to 1973 and 1.9 percent from 1973 to 1974. Imports increased 36.5 percent from 1974 to 1975. The ratios of imports to domestic shipments and consumption increased from 3.0 percent and 3.2 percent, respectively, in 1974 to 6.9 percent and 6.8 percent in 1975.

Imports of hot and cold rolled stainless steel sheet increased 14.4 percent from 1970 to 1971. Imports declined 48.6 percent from 1971 to 1972 and 11.9 percent from 1972 to 1973. Imports increased 39.0 percent from 1973 to 1974. Imports decreased 5.0 percent from 1974 to 1975. The ratios of imports to domestic shipments and consumption increased from 10.5 percent and 10.0 percent, respectively, in 1974 to 22.4 percent and 19.1 percent in 1975.

Imports of stainless steel plate increased 25.3 percent from 1970 to 1971 and 65.4 percent from 1971 to 1972. Imports declined 33.9 percent from 1972 to 1973. Imports increased 13.3 percent from 1973 to 1974 and further increased 36.7 percent from 1974 to 1975. The ratios of imports to domestic shipments and consumption increased from 10.0 percent and 9.5 percent, respectively, in 1974 to 18.6 and 16.3 percent in 1975.

Imports of silicon steel were not recorded prior to 1972. Imports declined 25.2 percent from 1972 to 1973 and 20.3 percent from 1973 to 1974. Imports increased 17.0 percent from 1974 to 1975. The ratios of imports to domestic shipments and consumption increased from 4.2 percent and 4.0 percent, respectively, in 1974 to 7.4 percent and 7.0 percent in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of Allegheny Ludlum have indicated that they have reduced purchases from Allegheny Ludlum and increased purchases of imported stainless and silicon steel products. The price differential between domestic and imported steel was the factor cited most frequently as the reason that customers switched from domestic to foreign suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless and silicon steel products produced by the Brackenridge plant of Allegheny Ludlum contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Brackenridge, Pennsylvania plant of Allegheny Ludlum Steel Corporation who became totally or partially separated from employment on or after March 20, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of May 1976.

GLORIA G. PRATT,
Office of
Foreign Economic Policy.

[FR Doc.76-16734 Filed 6-10-76;8:45 am]

[TA-W-637]

ATLAS TILE AND MARBLE WORKS, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-637: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 27, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers who fabricate marble and granite at the Brooklyn, New York mill of the Atlas Tile and Marble Works, Incorporated, New Rochelle, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on March 12, 1976 (41 FR 10653). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Atlas Tile and Marble Works, Incorporated, its major customers, the U.S. Department of Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant nunber or proportion of such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, production or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly and salaried workers rose 25 percent from 1973 and 1974 and declined eight percent in 1975 compared to 1974. Since January 1976 the Brooklyn mill has been shutdown due to lack of work.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total dollar sales increased three percent from 1973 to 1974 and decreased 15 percent in 1975 compared to 1974. Labor costs for the Brooklyn mill, an indicator of fabrication activities, declined 38 percent from July–December 1974 to the like period in 1975.

INCREASED IMPORTS

Imports of marble and related products increased in dollar value each year from 1971 through 1974. In 1975 the ratio of marble imports to domestic production was 103.0 percent, which was above the average ratio of 91.8 percent for the 1971–1974 period. Imports of

rough and manufactured granite decreased in dollar value from 1972 through 1974 but increased 28 percent in 1975 over 1974. The import/production ratio for granite increased from 12.1 percent in 1974 to 19.4 percent in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that production and employment at the Brooklyn fabrication mill have been adversely affected by increased imports and a change in union rules effective in June, 1975 allowing New York City union workers for the first time to install imports of manufactured marble. In June 1975 the Atlas Tile and Marble Works began using imports of manufactured marble on its current New York contracts. Departmental files indicate that imports of manufactured marble and granite are being used to an increasing extent on new construction projects in the New York City area.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the marble and granite fabricated at the Brooklyn mill contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the fabrication of marble and granite at the Brooklyn, New York mill of the Atlas Tile and Marble Works, Incorporated, New Rochelle, New York who became totally or partially separated from employment on or after June 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of May 1976.

JAMES F. TAYLOR,
Directing Planning and Evaluation Staff.

[FR Doc.76-16737 Filed 6-10-76;8:45 am]

[TA-W-649]

BRISTOL CLOTHING MANUFACTURING, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-649: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 27, 1976 in response to a worker petition received on February 27, 1976 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing boy's sportcoats and suit coats at the New Bedford, Mass. plant of Bristol Clothing Mfg., Inc.

The notice of investigation was published in the FEDERAL REGISTER on March 19, 1976 (41 FR 11638-11639). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bristol Clothing, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 16 percent in 1974 compared to 1973. The average number of weekly workers declined 3 percent in 1975 compared to 1974. Average weekly hours worked declined 38 percent from 1973 to 1974 and then increased 25 percent from 1974 to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales declined 45 percent in quantity in 1974 compared to 1973 and declined 33 percent in quantity in 1975 compared to 1974.

Production at Bristol is equivalent to sales.

INCREASED IMPORTS

Imports of men's and boy's dress coats and sportcoats increased both absolutely and relatively in each year from 1971 to 1973. Imports increased relatively from 1973 to 1974, and then increased absolutely and relatively from 1974 to 1975. The ratios of imports of men's and boy's dress coats and sportcoats to domestic production and consumption increased from 21.2 percent and 17.5 percent, respectively, in 1974 to 28.2 percent and 22.0 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation indicated that Bristol performed contract operations primarily for one manufacturer. Retail customers of that manufacturer did not switch purchases to imports in 1974 and 1975. Those customers who reduced purchases switched to other domestic manufacturers in order to obtain a wider variety of styles. The manufacturer decreased purchases from Bristol as a result of the decline in demand by the manufacturer's customers.

CONCLUSION

After careful review of the facts obtained in the course of the investigation, I conclude that increases of imports like or directly competitive with boy's sportcoats and suit coats produced at Bristol Clothing Mfg., Inc. did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 28th day of May 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-16738 Filed 6-10-76;8:45 am]

[TA-W-775]

COLT INDUSTRIES—CRUCIBLE STEEL-TRENT TUBE DIVISION

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-775: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 29, 1976 in response to a worker petition received on March 29, 1976 which was filed by the United Steel Workers of America on behalf of workers and former workers producing stainless steel pipe and tubing at the East Troy, Wisconsin plant of Colt Industries—Crucible Steel-Trent Tube Division.

Notice of the Investigation was published in the FEDERAL REGISTER on May 4, 1976 (41 FR 18486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Colt Industries—Trent Tube Division, its customers, the International Trade Commission, the Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or

subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Trent Tube Division East Troy plant increased 5.4 percent in 1975 compared to 1974 and declined 9.8 percent in the first quarter of 1976 compared with the first quarter of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales in quantity of stainless steel pipe and tubing decreased 9.8 percent in 1975 compared with 1974 and decreased 23.4 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production of stainless steel pipe and tubing declined 4.9 percent in 1975 compared with 1974 and declined 22.2 percent in the first quarter of 1976 compared with the first quarter of 1975.

INCREASED IMPORTS

Imports of stainless steel pipe and tubing decreased 36.7 percent in 1972 compared with 1971 and decreased 34.6 percent in 1973 compared with 1972. In 1974, imports of stainless steel pipe and tubing increased 60.4 percent compared with 1973 and in 1975 increased 28.2 percent compared with 1974. The ratios of imports to domestic shipments and consumption increased from 16.0 and 16.3 respectively in 1974 to 25.7 and 24.0 respectively in 1975.

CONTRIBUTED IMPORTANTLY

Major customers of the Trent Tube Division East Troy plant indicated that they have increasingly turned to foreign sources of supply for stainless steel pipe tubing because of its lower price. Several customers indicated that their competitive stature had been eroded by competitors who have switched to lower priced imports of stainless steel pipe and tubing.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel pipe and tubing produced at the East Troy, Wisconsin plant of the Trent Tube Division of Colt Industries-Crucible Steel contributed importantly to the total or partial separation of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to production of stainless steel pipe and tubing at the East Troy, Wisconsin plant of Colt Industries-Crucible Steel-Trent Tube Division who became totally or partially separated from employment on or after January 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of May 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-16891 Filed 6-10-76;8:45 am]

[TA-W-776]

COLT INDUSTRIES—CRUCIBLE STEEL—TRENT TUBE DIVISION

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-776: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 29, 1976 in response to a worker petition received on March 29, 1976 which was filed by the United Steel Workers of America on behalf of workers and former workers producing stainless steel pipe and tubing at the Carrollton, Georgia plant of Colt Industries—Crucible Steel—Trent Tube Division.

Notice of the Investigation was published in the FEDERAL REGISTER on May 4, 1976 (41 FR 18486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Colt Industries—Trent Tube Division, its customers, the International Trade Commission, the Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Trent Tube Division, Carrollton plant increased 58.8 percent in 1974 compared to 1973, increased 41.7 percent in 1975 compared to 1974 and declined 7.9 percent in the first quarter of 1976 compared to the first quarter of 1975.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales in quantity of stainless steel pipe tubing increased 4.4 percent in 1975 compared with 1974 and decreased 44.0 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production of stainless steel pipe and tubing increased 43.5 percent in 1974 compared with 1973 and increased 17.6 percent in 1975 compared with 1974. Production declined 64.5 percent in the first quarter of 1976 compared with the first quarter of 1975.

INCREASED IMPORTS

Imports of stainless steel pipe and tubing decreased 36.7 percent in 1972 compared with 1971 and decreased 34.6 percent in 1973 compared with 1972. In 1974, imports of stainless steel pipe and tubing increased 60.4 percent compared with 1973 and in 1975 increased 28.2 percent compared with 1974. The ratios of imports to domestic shipments and consumption increased from 16.0 and 16.3 percent respectively in 1974 to 25.7 and 24.0 percent respectively in 1975.

CONTRIBUTED IMPORTANTLY

Major customers of the Trent Tube Division, Carrollton plant indicated that they have increasingly turned to foreign sources of supply for stainless steel pipe and tubing because of its lower price. Several customers indicated that their own competitive stature was being eroded by competitors who have switched to lower priced imports of stainless steel pipes and tubing.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel pipe and tubing produced at the Carrollton, Georgia plant contributed importantly to the total or partial separation of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to production of stainless steel pipe and tubing at the Carrollton, Georgia plant of Colt Industries—Crucible Steel—Trent Tube Division who became totally or partially separated from employment on or after February 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of May 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-16892 Filed 6-10-76;8:45 am]

[TA-W-774]

CYCLOPS CORPORATION, SAWHILL TUBULAR DIVISION

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-774; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 29, 1976 in response to a worker petition received on March 29, 1976 which was filed by the United Steelworkers of America, AFL-CIO on behalf of workers and former workers producing steel pipe products at the Sharon, Pennsylvania plant of the Sawhill Tube Division of Cyclops Corporation, Pittsburgh, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 17030) on April 23, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cyclops Corporation, its customers, the American Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 6 percent in 1975 compared to 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production declined 9 percent in 1974 compared to 1973 and then declined 19 percent in 1975 compared to 1974.

INCREASED IMPORTS

U.S. imports of carbon steel pipe and tubing declined from 1971 to 1973, increased from 1973 to 1974, and then decreased from 1974 to 1975. Because of an 18 percent decline in domestic shipments and a 20 percent decline in apparent U.S. consumption, imports increased relative to domestic shipments and consumption from 1974 to 1975. The ratios of imports to domestic shipments and consumption increased from 21.5 percent and 19.2 percent, to 22.8 percent and 20.0 percent respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of the Sawhill Tubular Division do not purchase imported steel pipe products. Customers who reduced purchases reported that their own sales had declined due to a reduced level of activity in the construction industry and a reduced level of capital investment by electric utilities. In addition some sales were lost due to a shift from steel pipe and tube to domestically produced alternate materials such as copper and plastic.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon steel pipe produced at the Sharon, Pennsylvania plant of the Sawhill Tubular Division of Cyclops Corporation did not contribute importantly to the total or partial separations of the worker at such plant.

Signed at Washington, D.C. this 28th day of May 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-16893 Filed 6-10-76;8:45 am]

[TA-W-490-516, 592]

FORD MOTOR CO.

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-490-516, 592: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 18, 1975 in response to worker petition (TA-W-483-516, 592) received on the same date which were filed by the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) on behalf of workers and former workers engaged in the production of full size cars, subcompact cars and components for such cars at thirty-five (35) plants of the Ford Motor Company, Dearborn, Michigan. This determination applies to workers at the twenty-eight (28) plants which produced components for Ford automobiles. During the course of the investigation, the UAW informed the Department that its petition was not intended to cover assembly plants or supplier plants involved in the production of Mercury automobiles. Injury was alleged only at auxiliary plants supplying parts to Ford luxury small and subcompact cars.

The Notice of Investigation was published in the FEDERAL REGISTER (41 FR 1342) on January 7, 1976. A public hearing was properly requested by the UAW and was held on January 26, 1976.

The information upon which the determination was made was obtained principally from officials of Ford Motor Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the Motor Vehicle Manufacturers Association, Automotive News, Ward's Automotive Reports, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, ether actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly workers declined from model year 1974 to model year 1975 by the following percentages at the petitioning auxiliary plants listed below: Stamping—Buffalo, New York—6.4 percent; Chicago, Illinois—17.3 percent; Cleveland, Ohio (Walton Hills)—17.7 percent; Dearborn, Michigan—13.5 percent; Woodhaven, Michigan—18.5 percent; Transmissions and chassis—Sharonville, Ohio—2.4 percent; Fairfax, Ohio—33.6 percent; Canton, Ohio—13.4 percent; Monroe, Michigan—8.1 percent; Warren, Michigan (Sterling/Van Dyke)—10.8 percent; Engines—Cleveland, Ohio—11.6 percent; Lima, Ohio—16.0 percent; Northville, Michigan—7.6 percent; Castings—Cleveland, Ohio—2.4 percent; Flat Rock, Michigan (Michigan Casting Center)—10.8 percent; Dearborn, Michigan—7.5 percent; Muscle Shoals, Alabama (Sheffield)—1.9 percent; Dearborn, Michigan (Vulcan Forge)—7.2 percent; Glass—Nashville,

Tennessee—14.6 percent; Dearborn, Michigan—12.8 percent; Steel—Dearborn, Michigan—0.9 percent; Electrical Equipment — Rawsonville, Michigan (Ypsilanti) — 7.1 percent; Ypsilanti, Michigan — 15.2 percent; Sandusky, Ohio—14.1 percent; Climate Control—Plymouth, Michigan (Sheldon Road)—16.6 percent; Green Island, New York—31.4 percent; Miscellaneous — Saline, Michigan—14.2 percent; Mt. Clemens, Michigan—20.8 percent; Utica, Michigan*—7.9 percent; Indianapolis, Indiana—17.6 percent.

The average number of hourly workers increased from model year 1974 to model year 1975 by the following percentages at the petitioning auxiliary plants listed below: Stamping—Maumee, Ohio—34.4 percent.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of parts for use in Ford Motor Company subcompact and luxury small cars declined in real terms from model year 1974 to model year 1975 by the following percentages at the petitioning auxiliary plants listed below: Stamping—Buffalo, New York—27.1 percent; Chicago, Illinois—70.8 percent; Cleveland, Ohio (Walton Hills)—47.5 percent; Dearborn, Michigan—51.6 percent; Woodhaven, Michigan—46.1 percent; Transmission and Chassis—Sharonville, Ohio—77.9 percent; Canton, Ohio—37.6 percent; Monroe, Michigan—48.3 percent; Warren, Michigan (Sterling/Van Dyke)—45.7 percent; Engines—Lima, Ohio (Four Cylinder)—51.7 percent; Northville, Michigan—66.9 percent; Castings—Cleveland, Ohio—34.8 percent; Flat Rock, Michigan (Michigan Casting Center)—41.7 percent; Dearborn, Michigan—47.7 percent; Muscle Shoals, Alabama (Sheffield)—61.5 percent; Dearborn, Michigan (Vulcan Forge)—53.4 percent; Glass—Nashville, Tennessee—68.3 percent; Dearborn, Michigan—20.6 percent; Steel—Dearborn, Michigan—32.9 percent; Electrical Equipment—Rawsonville, Michigan (Ypsilanti)—39.0 percent; Ypsilanti, Michigan—47.2 percent; Sandusky, Ohio—47.5 percent; Climate Control—Plymouth, Michigan (Sheldon Road)—51.1 percent; Green Island, New York—82.4 percent; Miscellaneous—Saline, Michigan—47.6 percent; Mt. Clemens, Michigan—56.6 percent; Utica, Michigan—23.0 percent; Warren, Michigan (Van Dyke)—23.2 percent; Indianapolis, Indiana—52.1 percent.

Sales of parts for use in Ford Motor Company luxury small and subcompact cars increased in real terms from model year 1974 to model year 1975 by the following percentages at the petitioning auxiliary plants listed below: Stamping—Maumee, Ohio—166.8 percent; Engines—Cleveland, Ohio (Eight Cylinder)—423.1 percent.

The following plants did not have any production of parts for use in Ford luxury small or subcompact cars in model year 1974 or model year 1975: Transmission and Chassis—Fairfax, Ohio; Engines—Cleveland, Ohio (Six Cylinder); Lima, Ohio (Six and Eight Cylinder).

INCREASED IMPORTS

Retail sales of new automobiles in the U.S. declined 18.3 percent from MY 1973 to MY 1974 and declined 14.4 percent from MY 1974 to MY 1975. Sales of domestically built cars declined more rapidly, falling 19.6 percent from MY 1973 to MY 1974 and 20.4 percent from MY 1974 to MY 1975. Imports of new cars declined 14.0 percent from MY 1973 to MY 1974 and then increased 4.6 percent from MY 1974 to MY 1975. Imports increased their share of domestic consumption from 22.8 percent in MY 1973 to 24.0 percent in MY 1974 and to 29.3 percent in MY 1975.

The decline in retail sales of subcompact cars was less pronounced than the decline in the market as a whole. Sales of subcompact cars fell by 365 thousand units or 15.0 percent from MY 1973 to MY 1974 and fell by 188 thousand units or 9.1 percent from MY 1974 to MY 1975. Sales of domestically produced subcompact cars declined 11.8 percent from MY 1973 to MY 1974 and 25.0 percent from MY 1974 to MY 1975. Sales of imported subcompact cars decreased from 1,630 thousand units comprising 67.0 percent of the U.S. subcompact car market in MY 1973 to 1,360 thousand units comprising 65.7 percent of the market in MY 1974. In MY 1975, import sales declined slightly in absolute terms to 1,349 thousand units but rose to 71.7 percent of domestic sales.

In contrast to the subcompact car market, domestic sales of luxury small cars rose sharply during the same period, increasing 30.8 percent from MY 1973 to MY 1974 and 64.6 percent from MY 1974 to MY 1975. Sales of domestically produced luxury small cars increased 91.8 percent from MY 1973 to MY 1974 and 71.0 percent from MY 1974 to MY 1975. Sales of imported luxury small cars decreased 10.2 percent from MY 1973 to MY 1974 and then increased 55.3 percent from MY 1974 to MY 1975. The market share held by imports declined steadily from 59.8 percent in MY 1973 to 41.0 percent in MY 1974 and to 38.7 percent in MY 1975.

CONTRIBUTED IMPORTANTLY

The Department of Labor previously determined that increased imports of luxury small cars from Canada and overseas imports of subcompact cars "contributed importantly" to the total or partial separation of workers employed in the production of Ford Motor Company luxury small and subcompact cars at three Ford assembly plants. (TA-W-487-489) (41 FR 20042-4)

The determination of injury to workers producing Ford luxury small cars was based upon the finding that increased imports of General Motors luxury small cars from Canada in MY 1975 adversely affected sales of the Ford Mustang. The increase in sales of imported General Motors luxury small cars from MY 1974 to MY 1975 was 38 percent greater than the decline in Mustang sales during the same period.

The determination of injury to workers producing Ford subcompact cars was based upon the finding that sales of imported subcompact cars (including those produced in Canada) increased as a percentage to domestic subcompact car consumption from 65.7 percent in MY 1974 to 71.7 percent in MY 1975 and that consumers in the MY 1975 period shifted their purchases to foreign subcompacts. Sales of subcompacts imported from overseas increased from 54.6 percent to 65.9 percent of domestic subcompact car sales during the same period.

It was further determined that imports of cars other than luxury small cars from Canada and subcompacts had a negligible impact on Ford's domestic production of luxury small and subcompact cars.

Nearly all of the petitioning auxiliary plants produce only a fraction of their output for use in Ford luxury small and subcompact cars. Eight of the petitioning auxiliary plants produced a significant proportion of their output for use in Ford subcompact and luxury small cars. The Maumee, Ohio stamping plant, one of the eight, began production in July 1974. Total sales from that plant increased by almost 375 percent from MY 1974 to MY 1975 while sales of stampings to the affected carlines increased by more than 150 percent.

The Lima, Ohio engine plant produced all of its four cylinder engines for use in the adversely affected cars. The Cleveland, Ohio stamping plant; the Dearborn, Michigan stamping plant; the Woodhaven, Michigan stamping plant; the Warren, Michigan (Sterling/Van Dyke) transmission and chassis plants; and the Utica, Michigan trim plant produced approximately one-fourth to one-third of their output for use in Ford subcompact and luxury small cars.

It is concluded that increased imports of subcompact cars and luxury small cars contributed importantly to decreased sales and employment at the seven plants listed above. Declines in dollar sales (in real terms) of parts for use in Ford subcompact and luxury small cars and in total plant employment from MY 1974 to MY 1975 are shown below: Cleveland, Ohio (Walton Hills) stamping plant—47.5 percent and 17.7 percent; Dearborn, Michigan stamping plant—51.6 percent and 13.5 percent; Woodhaven, Michigan stamping plant—46.1 percent and 18.5 percent; Warren, Michigan (Sterling/Van Dyke) transmission and chassis plants—45.7 percent and 10.8 percent; and the Utica, Michigan trim plant—23.0 percent and 7.9 percent.

The remaining petitioning auxiliary plants of Ford produced less than one-fifth of their output for use in subcompact and luxury small cars. These plants include cases TA-W-491, 493-497, 500-506, 509, 511, 513-516, and 592.

*(Includes employment at the Van Dyke Trim plant as well).

At the Sharonville, Ohio transmission plant, production of automatic transmissions for 2.8 liter Ford Pinto engines was reduced and eliminated during the 1975 model year. The production of the automatic transmissions was transferred to a Ford Motor Company facility in Bordeaux, France. The automatic transmissions for the 2.8 liter Ford Mustang engine were not affected by the transfer and are still exclusively made at the Sharonville facility. Sales of transmissions for 2.8 liter Ford Pinto engines declined 87.9 percent in value (in real terms) from MY 1974 to MY 1975 and total plant employment declined 2.4 percent during the same period.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with Ford Motor Company luxury small and subcompact cars contributed importantly to the total or partial separation of workers producing parts for such Ford Motor Company cars at the Cleveland, Ohio (Walton Hills) stamping plant; the Dearborn, Michigan stamping plant; the Woodhaven, Michigan stamping plant; the Warren, Michigan (Sterling and Van Dyke) transmission and chassis plants; the Lima, Ohio engine plant (four cylinder engines only); and the Utica, Michigan trim plant of the Ford Motor Company; and that increases of imports like or directly competitive with automatic transmissions for Ford Pintos produced at the Sharonville, Ohio plant of the Ford Motor Company contributed importantly to the total or partial separation of the workers at that plant. I further conclude that increases of imports like or directly competitive with Ford Motor Company cars did not contribute importantly to the total or partial separation of workers at the remaining twenty (20) petitioning auxiliary plants of the Ford Motor Company.

In accordance with the provisions of the Act, I make the following certifications:

All hourly and salaried workers of the Ford Motor Company Cleveland, Ohio (Walton Hills) stamping plant (TA-W-508) engaged in employment related to the production of parts for use in Ford subcompact or luxury small cars who became totally or partially separated on or after November 18, 1974 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All hourly and salaried workers of the Ford Motor Company Dearborn, Michigan stamping plant (TA-W-512) engaged in employment related to the production of parts for use in Ford subcompact or luxury small cars who become totally or partially separated on or after November 18, 1974 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All hourly and salaried workers of the Ford Motor Company Woodhaven, Michigan stamping plant (TA-W-507) engaged in employment related to the production of parts for use in Ford subcompact or luxury small cars who became totally or partially separated on or after November 18, 1974 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All hourly and salaried workers of the Ford Motor Company Lima, Ohio engine plant (TA-W-490) engaged in employment related to the production of four cylinder engines for use in Ford subcompact or luxury small cars who became totally or partially separated on or after November 18, 1974 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All hourly and salaried workers of the Ford Motor Company Warren, Michigan (Sterling) transmission and chassis plant (TA-W-498) engaged in employment related to the production of parts for use in Ford subcompact or luxury small cars who become totally or partially separated on or after November 18, 1974 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All hourly and salaried workers of the Ford Motor Company Warren, Michigan (Van Dyke) transmission and chassis plant (TA-W-499) engaged in employment related to the production of parts for use in Ford subcompact or luxury small cars who became totally or partially separated on or after November 18, 1974 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All hourly and salaried workers of the Ford Motor Company Utica, Michigan trim plant (TA-W-510) engaged in employment related to the production of parts for use in Ford subcompact or luxury small cars who became totally or partially separated on or after November 18, 1974 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All hourly and salaried workers of the Ford Motor Company Sharonville, Ohio transmission plant (TA-W-492) engaged in employment related to the production of parts for use in Ford subcompact or luxury small cars who became totally or partially separated on or after November 18, 1974 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 2d day of June 1976.

JOEL SEGALL,
Deputy Under Secretary,
International Affairs.

[FR Doc.76-16894 Filed 6-10-76;8:45 am]

[TA-W-616]

L. AND W. BRASSIERE CO.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-616: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 20, 1976 in response to a worker petition received on February 20, 1976 which was filed by the Corset and Brassiere Workers Union on behalf of former workers producing brassieres, blouses, and bikinis at the New York City, New York plant of L. and W. Brassiere Company.

The Notice of Investigation was published in the FEDERAL REGISTER on March 12, 1976 (41 FR 10643). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of L. and W. Brassiere Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by workers' firm or an appropriate subdivision thereof, have increased either absolutely, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at L. and W. Brassiere Company increased 14 percent in the last six months of 1974 from the last six months of 1973. Employment fell in the first, second and third quarters of 1975 compared to the same quarter of the previous year.

Employment of salaried workers fell 30 percent in the last six months of 1974 from the last six months of 1973 and 50 percent in the first ten months of 1975 from the first ten months of 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of domestically manufactured brassieres, girdles and panties by L. and W. Brassiere declined seven percent from 1973 to 1974 and declined ten percent from 1974 to 1975.

Production data was not available for the L. and W. Brassiere Company. All production ceased in November 1975, when the company closed.

ICREASED IMPORTS

Imports of brassiers, bra-lettes and bandeaux increased in each year from 1970 through 1974, both absolutely and relative to domestic production and consumption. The ratio of imports to domestic production and consumption increased from 31.7 and 30.1 percent, respectively in 1973 to 35.4 percent and 37.0

percent, despectively in 1974. Imports increased absolutely by 12 percent from 1974 to 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that L. and W. Brassiere Company began importing brassiers in 1975 to fill out inventories and because of the lower prices afforded by imports. In 1975, approximately twenty five percent of L. and W.'s total sales consisted of imports. The investigation further revealed that L. and W.'s largest customer decreased purchases of L. and W. brassieres in 1975 and increased purchases of imported brassieres.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with brassieres produced at the New York City, New York plant of L. and W. Brassiere Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of brassieres at the New York City, New York plant of L. and W. Brassiere Company who became totally or partially separated from employment on or after February 12, 1975 and before December 31, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of May 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-16736 Filed 6-10-76;8:45 am]

[TA-W-618]

MELTON SHIRT CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-618: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 20, 1976 in response to a worker petition received on the same date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's and boys' shirts and jackets at the Batavia plant of the Melton Shirt Company, Batavia, New York.

The notice of investigation was published in the FEDERAL REGISTER on March 12, 1976 (41 FR 10644). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Melton Shirt Company, its customers, the Department of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers increased 19 percent in 1974 compared to 1973, then decreased 22 percent from 1974 to 1975.

Average weekly hours worked by production workers rose 5 percent from 1973 to 1974 and then declined 9 percent in 1975 compared to the previous year.

Employment fell in each quarter of 1975 from the same quarter of the previous year.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales rose 18 percent from 1973 to 1974, then declined 22 percent from 1974 to 1975. Sales fell 54 percent in the first quarter of 1975 when compared to the same quarter, previous year.

Production of cotton flannel shirts increased 59 percent from 1973 to 1974, then decreased 2 percent from 1974 to 1975. Production of wool shirts declined 6 percent from 1973 to 1974 and 36 percent from 1974 to 1975. Wool jacket production fell 1 percent from 1973 to 1974 and 44 percent from 1974 to 1975.

INCREASED IMPORTS

Imports of men's and boys' woven cotten sport shirts increased absolutely and relatively from 1971 to 1972, then fell absolutely and relatively from 1972 to 1973. Imports increased absolutely and relatively 1973 to 1974 and from 1974 to 1975. The ratio of imports to domestic production and consumption rose from 53.4 percent and 34.8 percent respectively in 1974 to 58.4 percent and 36.9 percent respectively in 1975.

Imports of men's and boys' woven wool sport shirts increased relatively in each year from 1971 to 1973, then decreased both absolutely and relatively from 1973 to 1974. Imports increased absolutely from 1974 to 1975. The ratios of imports to domestic production and consumption in 1975, of 52.2 percent and 34.3 percent respectively, while decreasing from the 1974 ratios, exceed the 1970–1974 averages of 44.8 percent and 27.4 percent respectively.

Imports of men's and boys' non-tailored outer jackets increased absolutely in each year from 1971 to 1973. Imports decreased relative to domestic production and consumption from 1971 to 1972, then increased relatively from 1972 to 1973. From 1973 to 1974, imports declined absolutely and relatively. Imports fell absolutely from 1974 to 1975. The ratio of imports to domestic production and consumption increased from 48.4 percent and 32.6 percent respectively in 1974 to 58.9 percent and 37.1 percent in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation indicated that most customers surveyed reduced purchases of shirts and jackets from the Melton Shirt Company and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's and boys' shirts and jackets produced at the Batavia, New York plant of the Melton Shirt Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of men's and boys' shirts and jackets at the Batavia, New York plant of the Melton Shirt Company who became totally or partially separated from employment on or after February 5, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of May 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-16735 Filed 6-10-76;8:45 am]

[TA-W-633]

PENN FOOTWEAR CO.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-633: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 27, 1976 in response to a worker petition received on February 27, 1976 which was filed by the Boot and Shoe Workers' Union on behalf of workers and former workers producing women's and children's casuals and infants' shoes at Penn Footwear Company, Nanticoke, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on March 12, 1976 (41 FR 10661–10662). No pub-

lic hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Penn Footwear Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibilty requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That articles like or directly competitive with articles produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that all of the above four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers increased by 1.4 percent in 1974 compared to 1973 and declined 18.3 percent in 1975 compared to 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production, in quantity, declined 17.1 percent in 1974 compared to 1973 and 26.9 percent in 1975 compared to 1974.

INCREASED IMPORTS

Imports of infants' and babies' nonrubber footwear increased from 1971 to 1972, decreased in 1973 and 1974 compared to the preceding year, and increased in 1975 compared to 1974. The import to production and import to consumption ratios increased from 28.6 percent and 22.2 percent, respectively, in 1974 to 31.5 percent and 24.0 percent, respectively, in 1975.

Imports of children's nonrubber footwear increased from 1971 to 1972 and decreased every year thereafter up to and including 1975. The import to production and import to consumption ratios increased from 1971 to 1972, decreased in 1973, and increased every year thereafter up to and including 1975. Imports of children's nonrubber footwear decreased 9.0 percent in 1975 compared to 1974, while apparent U.S. consumption and production declined also. The import to production and import to consumption ratios increased from 59.2 percent and 37.2 percent, respectively, in 1974 to 64.5 percent and 39.2 percent, respectively in 1975.

Imports of women's and misses' nonrubber footwear with nonleather uppers alternately rose and fell between 1971 and 1975 beginning with a decrease from 1971 to 1972 and ending with a 3.6 percent increase in 1975 compared to 1974. The ratios of imports to production and consumption increased annually from 151.2 and 60.2 percent, respectively in 1971 to 174.5 and 63.6 percent, respectively, in 1973, before falling to 153.5 and 60.6 percent, respectively, in 1974. In 1975 the ratios of imports to production and consumption increased to 160.1 and 61.6 percent, respectively.

CONTRIBUTED IMPORTANTLY

Customers of Penn Footwear Company indicated that increased purchases of imported women's and children's casual shoes resulted in decreased purchases of shoes from the Penn Footwear Company. A number of reasons, including cheaper prices, were given by customers as influencing their decision to purchase imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's and children's casuals and infants' shoes produced by the Penn Footwear Company, contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Penn Footwear Company who became totally or partially separated from employment on or after February 19, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-16740 Filed 6-10-76;8:45 am]

[TA-W-666]

REPUBLIC STEEL CORP.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 222 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-666: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 12, 1976 in response to a worker petition received on March 12, 1976 which was filed by the United Steel Workers of America on behalf of workers and former workers producing stainless steel at the Massillon plant of Republic Steel Corporation, Massillon, Ohio.

Notice of the Investigation was published in the FEDERAL REGISTER on March 26, 1976 (41 FR 12754). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Republic Steel Corporation, its customers, the International Trade Commission, the Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 27.0 percent in 1975 compared with 1974. Average weekly hours worked declined 7.7 percent in 1975 compared with 1974. Employment of production workers within the Enduro Division declined 43.7 percent in 1975 compared with 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production figures are furnished in terms of shipments in quantity. Shipments of all stainless steel products from the Massillon plant decreased 56.1 percent in 1975 compared with 1974. Shipments declined every quarter of 1975 compared with the like quarters of 1974.

Shipments of stainless steel sheet decreased 60.8 percent in 1975 compared with 1974. Shipments declined every quarter of 1975 compared with the like quarters in 1974.

Shipments of stainless steel strip decreased 54.4 percent in 1975 compared with 1974. Shipments declined every quarter of 1975 compared with the like quarters in 1974.

Shipments of stainless steel plate increased 0.5 percent in 1975 compared with 1974. However, shipments declined in the last two quarters of 1975 compared with the like quarters of 1974. Stainless steel plate represented less than 2 percent of total company stainless steel shipments in 1975.

Shipments in stainless steel bars decreased 24.3 percent in 1975 compared

with 1974. Shipments declined in the last three quarters of 1975 compared to the like quarters of 1974.

Shipments of semifinished stainless steel decreased 18.3 in 1975 compared with 1974.

INCREASED IMPORTS

In absolute terms, imports of stainless steel sheet declined in 1972 by 48.6 percent compared to 1971 and again in 1973 by 11.9 percent compared with 1972. Imports of sheet increased in 1974 by 39.0 percent compared with 1973. Imports declined by 5.0 percent in 1975 compared with 1974 in absolute terms. The ratios of imports to domestic shipments and consumption increased from 10.5 and 10.0, respectively, in 1974 to 22.4 and 19.1, respectively in 1975.

Imports of stainless steel strip increased by 52.7 percent in 1972 compared with 1971. Imports decreased by 36.9 percent in 1973 compared with 1972 and again in 1974 by 1.9 percent compared with 1973. In 1975, imports increased by 36.5 percent compared with 1974. The ratios of imports to domestic shipments and consumption increased from 3.0 and 3.2 respectively in 1974 to 6.9 and 6.8 respectively in 1975.

Imports of stainless steel plate increased by 64.4 percent in 1972 compared to 1971. Imports declined in 1973 by 33.9 percent compared with 1972, increased by 13.3 percent from 1973 to 1974 and increased again in 1975 compared with 1974 by 36.7 percent. The ratios of imports to domestic shipments and consumption increased from 10.0 to 9.5, respectively, in 1974 to 18.6 and 16.3, respectively, in 1975.

Imports of stainless steel bar have increased each year from 1971 to 1975; by 14.2 percent in 1972 compared to 1971, 8.6 percent in 1973 compared to 1972, and 38.3 percent in 1974 compared to 1973. Imports increased 5.0 percent in 1975 compared with 1974. The ratios of imports to domestic shipments and consumption increased from 16.6 and 15.0, respectively, in 1974 to 29.5 and 23.9 respectively in 1975.

CONTRIBUTED IMPORTANTLY

Customers of the Republic Steel Massillon Works plant indicated that they have increasingly turned to foreign sources for these stainless steel products. The reason given for these increased purchases of imports was the price differential which exists between domestic and imported stainless steel.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel produced at the Massillon Works plant contributed importantly to the total or partial separation of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to production of stainless steel at the Massillon, Ohio plant of the Republic Steel Corporation who became totally or partially separated from employment on or after March 9, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of May 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-16895 Filed 6-10-76;8:45 am]

[TA-W-617]

WARNER GEAR CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-617; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 20, 1976 in response to a worker petition received on that date which was filed by the United Automobile Workers of America on behalf of workers and former workers producing transmissions at the Warner Gear Company, Muncie, Indiana.

The notice of investigation was published in the FEDERAL REGISTER on March 12, 1976 (41 FR 10652). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Warner Gear Company, its major customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistnace, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Warner Gear Company rose three percent from 1973 to 1974 and dropped 41 percent in 1975 compared to 1974. Starting in the fourth quarter of 1975, however, recalls exceeded layoffs causing monthly employment of production workers to rise.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Unit sales of automobile and truck transmissions increased 14 percent from 1973 to 1974 and decreased 47 percent in 1975 compared to 1974. Total dollar sales of all transmissions and of certain sub-assemblies and replacement parts increased 26 percent from 1973 to 1974 and dropped 32 percent from 1974 to 1975.

INCREASED IMPORTS

Import data for automotive transmissions and for marine and industrial transmissions are not separately identifiable. The results of an OTAA survey indicate that imports of three-speed manual transmissions increased absolutely and relatively from 1973, when there were no reported imports, through 1975, when the import/consumption ratio reached 40.5 percent.

CONTRIBUTED IMPORTANTLY

The Department's investigation indicated that major customers, who bought automotive transmissions from Warner Gear, had purchased substantial quantities of three-speed manual transmissions from a Mexican firm in 1974–1975. Manual transmissions for cars and trucks comprised over 80 percent of total transmission shipments by Warner Gear during the 1974–1975 period. This loss of business adversely affected sales and employment at Warner Gear from mid-1974 through the third quarter of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the transmissions produced at the Warner Gear Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of transmissions at the Warner Gear Company, Muncie, Indiana, who became totally or partially separated from employment on or after February 10, 1975 and before October 1, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-16739 Filed 6-10-76;8:45 am]

[TA-W-693]

WOHL SHOE COMPANY WAREHOUSE

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of

Labor herein presents the results of TA-W-693: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 19, 1976 in response to a worker petition received on March 19, 1976 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America on behalf of workers and former workers of the St. Louis, Missouri warehouse of Wohl Shoe Company, a division of Brown Group, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 2, 1976 (41 FR 14225). No public hearing was requested and none was held. The information upon which the determination was made was obtained principally from Wohl Shoe Company.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibilty requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

The Department of Labor has already determined that the performance of services is not included within the term "articles" as used in Section 222(3) of the Act. See Notice of Negative Determination in Pan American World Airways, Incorporated (TA-W-153; 40 FR 54639).

The St. Louis warehouse of Wohl Shoe Company is a finished goods warehouse handling footwear and accessories purchased for retail distribution by Wohl Shoe Company. Wohl Shoe Company performs no manufacturing operations. Footwear is purchased from both domestic and foreign sources; no more than 15 percent of the footwear purchased by Wohl in recent years has been produced by Brown Shoe Company, which is also a division of Brown Group. Employees of the warehouse are not involved in the production of an article within the meaning of Section 222(3) of the Act. Employment reductions at the St. Louis warehouse in 1975 were due to a decision by Wohl to have shoe orders "pre-packed" by manufacturers prior to shipment.

After careful review of the issues, I have determined that services of the kind provided by workers at the St. Louis, Missouri warehouse of Wohl Shoe Company are not "articles" within the meaning of section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of May 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-16890 Filed 6-10-76;8:45 am]

[International Labor Affairs Revised Order No. 1]

WORKER ADJUSTMENT ASSISTANCE

Assignment of Responsibility and Designation of Certifying Officers

1. Purpose. To assign responsibility and designate officials as certifying officers to carry out functions required under the worker adjustment assistance provisions of the Trade Act of 1974 (19 U.S.C. 2101 et seq.; hereinafter referred to as the Act) and the implementing regulations published in 29 CFR Part 90.

2. Background. Pursuant to the Act and the implementing regulations, the Secretary of Labor must expeditiously process petitions filed by worker groups and promptly reach a determination of whether such groups should be certified as eligible to apply for adjustment assistance. The Act and the regulations also provide for the issuance of subpenas and when requested by petitioners or other interested parties, public hearings concerning determinations on petitions. Secretary's Order 3-75 (40 FR 17863) delegated general responsibility for administration of the petitioning and determination processes to the Deputy Under Secretary for International Affairs; and the regulations (29 CFR Part 90) authorize persons titled "certifying officers" to issue subpenas, preside at public hearings, make determinations, order is issued to designate those persons issue certifications, and perform such other duties as may be required. This order is issued to designate those persons who shall act as certifying officers under the implementing regulations.

3. Assignment of Responsibility and Designation of Officials.

a. The following officials of the Bureau of International Labor Affairs are hereby designated as certifying officers under 29 CFR 90:

1. The Deputy Under Secretary for International Affairs;

2. The Associate Deputy Under Secretary for International Affairs;

3. The Director of the Office of Foreign Economic Policy;

4. The Director of Planning and Evaluation Staff; and

5. The Acting Executive Assistant to the Deputy Under Secretary.

b. Persons designated as certifying officers are hereby assigned responsibility to make determinations and issue certifications of eligibility to apply for adjustment assistance, preside at public hearings held under 29 CFR 90.13, issue subpenas under 29 CFR 90.14, issue terminations certifications of eligibility under 29 CFR 90.17, and make findings of fact concerning determinations, pursuant to 29 CFR 90.16 and 90.17.

c. Any certifying officer who receives the recommendations of the Director of the Office of Trade Adjustment Assistance, pursuant to 29 CFR 90.15, shall generally continue to act as the certifying officer with regard to the particular petition involved until a notice of negative determination or a notice of certification is issued covering the group of workers involved.

4. Effective Date. This order is effective immediately.

Signed at Washington, D.C. on this 3d day of June 1976.

JOEL SEGALL,
Deputy Under Secretary for International Affairs.

[FR Doc.76-16890 Filed 6-10-76;8:45 am]

[TA-W-809]

ASTOR CLOTHES COMPANY, INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 23, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of the workers and former workers of the Astor Clothes Company, Inc., Brooklyn, New York.

Notice of the investigation was published in the FEDERAL REGISTER on May 14, 1976 (41 FR 20041). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of the Astor Clothes Company, Inc. were separated on or before November 20, 1974. Section 223(b)(1) of the Trade Act of 1974 provides, in substance, that a certification shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than one year before the date of the petition on which such certification is granted.

The date of the petition in this case is April 1, 1976 and, thus, workers terminated prior to April 1, 1975 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, this investigation has been terminated.

Signed at Washington, D.C. this 2d day of June 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-17102 Filed 6-10-76;8:45 am]

[TA-W-884]

BETHLEHEM STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 19, 1976, the Department of Labor received a petition dated May 7,

1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Lackawanna plant, Woodlawn, New York, subsidiary of Bethlehem Steel Corp., Bethlehem, Pa. (TA–W–884).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with steel bars, beams, strips, ingots, billetts and specialty steel items produced by Bethlehem Steel Corporation, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 21, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of May 1976.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.76–17103 Filed 6–10–76;8:45 am]

[TA–W–885]

BETHLEHEM STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 19, 1976, the Department of Labor received a petition dated April 15, 1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Seattle, Washington plant of Bethlehem Steel Corporation, Bethlehem, Pennsylvania (TA–W–885).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with industrial fasteners produced by Bethlehem Steel Corporation, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 21, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of May 1976.

MARVIN M. FOOKS,
Director, Office of
of Trade Adjustment Assistance.

[FR Doc.76–17104 Filed 6–10–76;8:45 am]

[TA–W–872]

DANA CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 19, 1976 the Department of Labor received a petition dated April 20, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America on behalf of the workers and former workers of Spicer Transmission Division of Dana Corporation, Toledo, Ohio (TA–W–872).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with truck transmissions produced by Dana Corporation, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 21, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of May 1976.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.76–17106 Filed 6–10–76;8:45 am]

[TA–W–684]

JAY GARMENT CO.

Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 19, 1976, in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of the workers and former workers of the Brookville, Indiana plant of Jay Garment Company, Portland, Indiana.

Notice of the Investigation was published in the FEDERAL REGISTER on April 2, 1976 (41 FR 14231). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of the Brookville, Indiana plant were separated on or before January 1975. Section 223 (b)(1) of the Trade Act of 1974 provides, in substance, that a certification shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than one year before the

date of the petition on which such certification is granted.

The date of the petition is this case is March 9, 1976, and, thus, workers terminated prior to March 9, 1975, are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, this investigation has been terminated.

Signed at Washington, D.C., this 27th day of May 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-17105 Filed 6-10-76;8:45 am]

SATRALLOY INC.

[TA-W-883]

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 19, 1976, the Department of Labor received a petition dated April 29, 1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Satralloy, Inc., Steubenville, Ohio, a subsidiary of Satra Corporation, Pittsburgh, Pennsylvania (TA-W-883).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with low carbon ferro chrome alloys produced by Satralloy, Inc., or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 21, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 19th day of May 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-17107 Filed 6-10-76;8:45 am]

[TA-W-880]

TELEDYNE PITTSBURGH TOOL STEEL

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 19, 1976, the Department of Labor received a petition dated April 15, 1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Teledyne Pittsburgh Tool Steel, Monaca, Pennsylvania, a division of Teledyne Inc., Los Angeles, California (TA-W-880).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with cold finished steel produced by Teledyne Pittsburgh Tool Steel, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 2, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 19th day of May 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-17108 Filed 6-10-76;8:45 am]

[TA-W-881]

TORRINGTON CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 19, 1976, the Department of Labor received a petition dated May 6, 1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of the Broad Street plant of The Torrington Company, Torrington, Connecticut (TA-W-881).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with anti-friction bearings produced by the Broad Street plant of The Torrington Company, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 21, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 19th day of May 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-17109 Filed 6-10-76;8:45 am]

[TA-W-873]

TYROL SPORTSWEAR, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 19, 1976, the Department of Labor received a petition dated May 1,

1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Tyrol Sportswear, Incorporated, Brooklyn, New York (TA–W–873).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's and women's sweaters produced by Tyrol Sportswear, Inc., or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 21, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 19th day of May 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76–17110 Filed 6–10–76;8:45 am]

[TA–W–879]

WESCO INDUSTRIES CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 19, 1976, the Department of Labor received a petition dated April 28, 1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Wesco Industries Corp., Plainview, N.Y., a wholly owned subsidiary of Ingersoll-Rand Corp., Woodcliffe Lake, N.J. (TA–W–879).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with stop motion devices produced by Wesco Industries Corporation, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 21, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 19th day of May 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76–17111 Filed 6–10–76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 66]

ASSIGNMENT OF HEARINGS

JUNE 7, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 121745 Sub-2, J. T. Spain And C. D. Spain, d.b.a. Spain's Transfer, now being assigned September 13, 1976 (1 Week), at Bismarck, N. Dakota, in a hearing room to be later designated.

MC 59120 (Sub-No. 38), Eazor Express, Inc., now assigned June 28, 1976, at Pittsburgh, Pa., is postponed indefinitely.

MC-C-8958, Global Van Lines, Inc.—Investigation and Revocation of Certificates, now assigned July 7, 1976, at Los Angeles, Calif. will be held in Room 552, Federal Courthouse, 312 North Spring St.,

MC 141722, Norm's Delivery Service, Inc. now assigned July 8, 1976, at Los Angeles, Calif. will be held in Room 522, Federal Courthouse, 312 North Spring Street.

MC 135518 Sub-4, Everett Trucking, Inc., now being assigned October 18, 1976 (1 Week), at Salem, Oregon, in a hearing room to be later designated.

MC-F-12713, Campbell Sixty-Six Express, Inc.—Purchase (Portion)—Tranamerican Freight Lines, Inc. now assigned July 7, 1976, at St. Louis, Mo. will be held in Court Room 3, 5th Floor, 1114 Market Street.

MC-F-12312, Whitfield Transportation, Inc.—Purchase (Portion)—Lee Hawkes Transfer; and Whitfield Transportation, Inc.—Control and Merger—Miller Bros. Truck Line and MC 108461 (Sub-No. 123), Whitfield Transportation, Inc. now assigned August 9, 1976, at Salt Lake City, Utah is postponed indefinitely.

MC 141726 Sub-3, 4, and 5, National Distributors, Inc., now being assigned July 26, 1976 (2 days), at San Francisco, Calif., in a hearing room to be later designated.

MC 138253 Sub-2, Monfort Transportation Company, now being assigned September 27, 1976 (1 day), at Denver, Colo., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–17077 Filed 6–10–76;8:45 am]

[Ex Parte No. MC–43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

At a Session of the Interstate Commerce Commission, Motor Carrier Leasing Board, held at its office in Washington, D.C., on the 28th day of May 1976.

It appearing, That a petition has been filed by Wells Cargo, Inc. (MC 43269) and Wells Cargo, Inc., Operator of Western Truck, Inc. (MC 121319), for waiver of paragraph (d) of section 1057.5 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057), concerning inspection of equipment interchanged between petitioners;

It appearing, That the U.S. Department of Transportation offers no adverse comment;

It further appearing, That petitioners have offered no evidence warranting the broad relief requested, which would include waiver of the proviso of paragraph (d) above;

It is ordered, That waiver of the requirements of paragraph (d) of section 1057.5 as set forth in the first paragraph of this Order be, and it is hereby denied, because the relief requested has not been found to be justified.

By the Commission, Motor Carrier Leasing Board, Board members Teeple and Sibbald.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–17076 Filed 6–10–76;8:45 am]

[Notice No. 267]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 10, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76608. By application filed June 2, 1976, MILKO-AMERICAN FARMS, INC., 1225 West Main, Norman, OK, seeks temporary authority to lease the operating rights of GOVAN EXPRESS, INC., 103 Southwest Sixth, Oklahoma City, OK, under section 210a(b). The transfer to MILKO-AMERICAN FARMS, INC., of the operating rights of GOVAN EXPRESS, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-17078 Filed 6-10-76;8:45 am]

[Notice No. 131]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Kroblin Refrigerated Express, Inc., MC-30844 Sub-545	MC-30844 Sub-531	June 1, 1976
Refrigerated Transport Co., Inc., MC-107515 Sub-930	MC-107515 Sub-936	May 28, 1976
Umthun Trucking Co., MC-118468 Sub-41	MC-118468 Sub-40	Do.
D.b.a. Central Transport Co., MC-119489 Sub-41	MC-119489 Sub-42	June 1, 1976
Merchants Home Delivery Service, Inc., MC-136211 Sub-30	MC-136211 Sub-31	May 28, 1976
Logan Motor Lines, Inc., MC-139091 Sub-8	MC-139091 Sub-7	Do.
National Carriers, Inc., MC-139495 Sub-121	MC-139495 Sub-75	Do.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-17075 Filed 6-10-76;8:45 am]

federal register

FRIDAY, JUNE 11, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

GRANTS

Project Grants for Community Health Services

Title 42—Public Health

CHAPTER 1—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—GRANTS

PART 51—GRANTS TO STATE FOR COMPREHENSIVE HEALTH PLANNING AND PUBLIC HEALTH SERVICES

PART 51c—GRANTS FOR COMMUNITY HEALTH SERVICES

Project Grants for Community Health Services

The Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby adopts a new Part 51c, entitled "Grants for Community Health Services," of Title 42, Code of Federal Regulations. Subpart E of Part 51 of Title 42, Code of Federal Regulations, entitled "Grants for Family Health Center Projects," is hereby revoked. For the reasons set out below, the Secretary has determined that public participation in rulemaking and postponement of effective date with respect to these regulations would be impractical and contrary to the public interest, and, accordingly, that good cause exists for making these regulations effective immediately on June 11, 1976.

Title V of Pub. L. 94–63, which became effective on July 29, 1975, repealed section 314(e) of the Public Health Service Act (42 U.S.C. 246(e)) and replaced it with a new section 330 (42 U.S.C. 254 (c)). In accordance with the expressed Congressional intent to continue the program formerly funded under section 314 (e), the Secretary has provided continuation funding under section 330 for grantees under the former section 314 (e). However, in accordance with the determination set forth at 40 FR 59346–7 (December 23, 1975), new grants under section 330 are not being funded in the absence of program regulations. Issuance of the regulations set forth below is necessary in order to allow new grants to be made prior to the expiration of fiscal year 1976 funds appropriated for that purpose and to clarify the responsibilities of all grantees under section 330. In addition, issuance of regulations effective immediately will permit assignment, under section 329 of the Act, of personnel due to enter the National Health Service Corps at the close of the academic year to new projects funded under section 330.

The regulations set forth below establish requirements for all grants under section 330. Subpart A of the new Part 51c sets forth general administrative and management requirements applicable to all grants under section 330. Subpart B contains specific program requirements applicable to grants for planning and developing community health centers under section 330(c). Subpart C contains specific program requirements applicable to grants for operating community health centers under section 330(d)(1)(A). Subpart D establishes specific program requirements applicable to grants for operating community health projects under section 330(d)(1)(B). Subpart E, which will be issued at a later date, will contain specific program requirements applicable to all grants under section 330 which contain authority to acquire or modernize existing buildings.

Interested persons are invited to submit written comments, suggestions, or objections concerning Part 51c to the Director, Division of Policy Development, Bureau of Community Health Services, Health Services Administration, Room 6–17, 5600 Fishers Lane, Rockville, Maryland 20852, on or before August 10, 1976. All comments received in timely response will be considered, and will be available for public inspection at the above address during regular business hours. Following the close of the comment period, the regulations will be revised as warranted by the public comments received in response to this Notice. It is intended to publish the regulations as revised within 60 days following the close of the comment period, and the regulations, as so revised, will be binding on all grantees who are awarded grants subsequent to June 11, 1976.

Part 51c of Title 42, Code of Federal Regulations is adopted and Subpart E of Part 51, Code of Federal Regulations is revoked effective as of June 11, 1976.

Dated: May 12, 1976.

THEODORE COOPER,
Assistant Secretary for Health.

Approved: June 4, 1976.

MARJORIE LYNCH,
Acting Secretary.

§§ 51.401–51.417 (Subpart E) [Revoked]

1. Subpart E of 42 CFR Part 51 is revoked.

2. Title 42, CFR, Part 51c is revised to read as follows:

Subpart A—General Provisions

Sec.
51c.101 Applicability.
51c.102 Definitions.
51c.103 Eligibility.
51c.104 Application.
51c.105 Accord with health planning.
51c.106 Amount of grant.
51c.107 Use of project funds.
51c.108 Grant payments.
51c.109 Nondiscrimination.
51c.110 Confidentiality.
51c.111 Publications and copyright.
51c.112 Grantee accountability.
51c.113 Applicability of 45 CFR Part 74.

Subpart B—Grants for Planning and Developing Community Health Centers

51c.201 Applicability.
51c.202 Application.
51c.203 Project elements.
51c.204 Grant evaluation and award.

Subpart C—Grants for Operating Community Health Centers

51c.301 Applicability.
51c.302 Application.
51c.303 Project elements.
51c.304 Governing board.
51c.305 Grant evaluation and award.

Subpart D—Grants for Operating Community Health Projects

Sec.
51c.401 Applicability.
51c.402 Application.
51c.403 Project elements.
51c.404 Grant evaluation and award.

AUTHORITY: Secs. 215, 330, Public Health Service Act (42 U.S.C. 216, 254c).

Subpart A—General Provisions

§ 51c.101 Applicability.

The regulations of this subpart are applicable to all project grants authorized by section 330 of the Public Health Service Act (42 U.S.C. 254c).

§ 51c.102 Definitions.

As used in this part:

(a) "Act" means the Public Health Service Act.

(b) "Catchment area" means the area served by a project funded under section 330 of the Act.

(c)(1) "Community health center" or "center" means an entity which, through its staff and supporting resources or through contracts or cooperative arrangements with other public or private entities, provides for all residents of its catchment area:

(i) Primary health services;

(ii) As determined by the Secretary to be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services;

(iii) Referral to providers of supplemental health services and payment, as determined by the Secretary to be appropriate and feasible, for their provision of such services;

(iv) Environmental health services, as determined by the Secretary to be appropriate for particular centers; and

(v) Information on the availability and proper use of health services.

(2) For purposes of paragraph (c)(1) of this section, the provision of a given service by a center will be determined by the Secretary to be appropriate where

(i) There is a need, as determined by the Secretary, for the provision of such service in the catchment area; and

(ii) The provision of such service by the center is feasible, taking into consideration the center's projected revenues, other resources, and grant support under this part.

(d) "Environmental health services" means the detection and alleviation of unhealthful conditions of the environment of the catchment area, such as problems associated with water supply, sewage treatment, solid waste disposal, rodent and parasite infestation, and housing conditions. For the purposes of this part, the detection and alleviation of unhealthful conditions of the environment includes the notification of and making of arrangements with appropriate Federal, State, or local authorities responsible for correcting such conditions.

(e) "Medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal

health services or a population group designated by the Secretary as having a shortage of such services. Medically underserved areas will be designated by the Secretary through publication in the FEDERAL REGISTER from time to time, taking into consideration the following factors, among others:

(1) Available health resources in relation to size of the area and its population, including appropriate ratios of primary care physicians in general or family practice, internal medicine, pediatrics, or obstetrics and gynecology to population;

(2) Health indices for the population of the area, such as infant mortality rate;

(3) Economic factors affecting the population's access to health services, such as percentage of the population with incomes below the poverty level; and

(4) Demographic factors affecting the population's need and demand for health services, such as percentage of the population age 65 and over.

(f) "Nonprofit," as applied to any private agency, institution, or organization, means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(g) "Physician" means a licensed doctor of medicine or doctor of osteopathy.

(h) "Primary health services" means:

(1) Diagnostic, treatment, consultative, referral, and other services rendered by physicians, and, where feasible, by physicians' extenders, such as physicians' assistants, nurse clinicians, and nurse practitioners;

(2) Diagnostic laboratory services and diagnostic radiologic services;

(3) Preventive health services, including children's eye and ear examinations, prenatal and post-partum care, prenatal services, well child care (including periodic screening), immunizations, and voluntary family planning services;

(4) Emergency medical services, including provision, through clearly defined arrangements, for access of users of the center to health care for medical emergencies during and after the center's regularly scheduled hours;

(5) Transportation services as needed for adequate patient care, sufficient so that residents of the catchment area served by the center with special difficulties of access to services provided by the center receive such services; and

(6) Preventive dental services provided by a licensed dentist or other qualified personnel, including (i) oral hygiene instruction; (ii) oral prophylaxis, as necessary; and (iii) topical application of fluorides, and the prescription of fluorides for systemic use when not available in the community water supply.

(i) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(j) "Supplemental health services" means health services which are not included as primary health services and which are:

(1) Inpatient and outpatient hospital services;

(2) Home health services;

(3) Extended care facility services;

(4) Rehabilitative services (including physical and occupational therapy) and long-term physical medicine;

(5) Mental health services, including services of psychiatrists, psychologists, and other appropriate mental health professionals;

(6) Dental services other than those provided as primary health services;

(7) Vision services, including routine eye and vision examinations and provision of eyeglasses, as appropriate and feasible;

(8) Allied health services;

(9) Pharmaceutical services, including the provision of prescription drugs;

(10) Therapeutic radiologic services;

(11) Public health services (including nutrition education and social services);

(12) Ambulatory surgical services;

(13) Health education services; and

(14) Services, including the services of outreach workers, which promote and facilitate optimal use of primary health services and services referred to in the preceding subparagraphs of this paragraph and, if a substantial number of individuals in the population served by the center are of limited English-speaking ability, the services of outreach workers and other personnel fluent in the language or languages spoken by such individuals.

§ 51c.103 Eligibility.

Any public or nonprofit private entity is eligible to apply for a grant under this part.

§ 51c.104 Application.

(a) An application for a grant under this part shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe.

(b) The application shall contain a budget and narrative plan of the manner in which the applicant intends to conduct the project and carry out the requirements of this part. The application must describe how and the extent to which the project has met, or plans to meet, each of the requirements in Subpart B (relating to grants for planning and developing community health centers), Subpart C (relating to grants for the operation of community health centers), or Subpart D (relating to grants for the operation of community health projects), as applicable. In addition, applications must include:

(1) A statement of specific, measurable objectives and the methods to be used to assess the achievement of the objectives in specified time periods and at least on an annual basis.

(2) The precise boundaries of the catchment area to be served by the applicant, including an identification of the medically underserved population or populations within the catchment area. In addition, the application shall include information sufficient to enable the Secretary to determine that the applicant's catchment area meets the following criteria:

(i) The size of such area is such that the services to be provided by the applicant are available and accessible to the residents of the area promptly and as appropriate;

(ii) The boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and areas served by Federal and State health and social service programs; and

(iii) The boundaries of such area eliminate, to the extent possible, barriers resulting from the area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation.

(3) The results of an assessment of the need that the population served or proposed to be served has for the services to be provided by the project (or in the case of applications for planning and development projects, the methods to be used in assessing such need), utilizing, but not limited to, the factors set forth in § 51c.102(e)(1)–(4).

(4) Position descriptions for key personnel who will be utilized in carrying out the activities of the project and a statement indicating the need for the positions to be supported with grant funds to accomplish the objectives of the project.

(5) Letters and other forms of evidence showing that efforts have been made to secure financial and professional assistance and support for the project within the proposed catchment area and the continuing involvement of the community in the development and operation of the project.

(6) An assurance that an independent certified public accountant will be engaged to certify that the system for the management and control of its financial assets will be in accord with sound financial management practices, including applicable Federal requirements.

(7) A list of all services proposed to be provided by the project.

(8) A list of services which are to be provided directly by the project through its own staff and resources and a description of any contractual or other arrangements (including copies of documents, where available) entered into, or planned for the provision of services.

(9) The schedule of fees and/or payments and schedule of discounts for services provided by the project.

(10) Evidence that:

(i) The requirements of Part I of Office of Management and Budget Circular No. A–95 have been satisfied, and

(ii) All applicable requirements for review and/or approval of the applica-

tion under Title XV of the Act have been met.

(11) An assurance that the project will be conducted in accordance with the applicable requirements of this part.

(c) The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute, the applicable regulations of this part, and any additional conditions of the grant.

§ 51c.105 Accord with health planning.

A grant may be made under this part only if the applicable requirements of title XV of the Act relating to review and approval by the appropriate health planning agencies have been met.

§ 51c.106 Amount of grant.

(a) The amount of any award under this part will be determined by the Secretary on the basis of his estimate of the sum necessary for a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either:

(1) On the basis of the estimate of the actual indirect costs reasonably related to the project; or

(2) On the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary: *Provided, however,* That no grant shall be made for an amount in excess of the total cost found necessary by the Secretary to carry out the project.

(i) In determining the percentage of project costs to be borne by the grantee, factors which the Secretary will take into consideration will include the following:

(A) The ability of the grantee to finance its share of project costs from non-Federal sources;

(B) The need in the area served by the project for the services to be provided; and

(C) The extent to which the project will provide services in an innovative manner which the Secretary desires to stimulate in the interest of developing more effective health service delivery systems on a regional or national basis.

(ii) At any time after approval of an application under this part, the Secretary may retroactively agree to a percentage of project costs to be borne by the grantee lower than that determined pursuant to paragraph (a)(2)(i) of this section where he finds that changed circumstances justify a smaller contribution.

(iii) In determining the grantee's share of project costs, costs borne by Federal grant funds, or costs used to match other Federal grants, may not be included except as otherwise provided by law or regulations.

(b) All grant awards shall be in writing, and shall set forth the amount of funds granted and the period for which support is recommended.

(c) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application.

§ 51c.107 Use of project funds.

(a) Any funds granted pursuant to this part, as well as other funds to be used in performance of the approved project, may be expended solely for carrying out the approved project in accordance with section 330 of the Act, the applicable regulations of this part, the terms and conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

(b) Project funds awarded under this part may be used for, but need not be limited to, the following:

(1) The costs of acquiring and modernizing existing buildings (including the costs of amortizing the principal of, and paying interest on, loans), but only in accordance with subpart E of this part and as approved in the grant award;

(2) The costs of obtaining technical assistance to develop and improve the management capability of the project, but only as approved by the Secretary;

(3) To reimburse members of the grantee's governing board, if any, for reasonable expenses actually incurred by reason of their participation in board activities;

(4) To reimburse governing board members for wages lost by reason of participation in the activities of such board if the member is from a family with an annual family income below $10,000 or if the member is a single person with an annual income below $7,000;

(5) The cost of delivering health services, including services rendered on a prepaid capitation basis, to residents of the project's catchment area within the following limitations: grant funds may be used to pay the full cost of project services to individuals and families with annual incomes at or below those set forth in the most recent "CSA Income Poverty Guidelines" (45 CFR 1060.2) issued by the Community Services Administration; and to pay the portion of the cost of services provided in accordance with the schedule of discounts which, under such schedule, is uncompensated; *Provided,* That (i) charges will be made to such individuals and families in accordance with § 51c.303(f) of Subpart C; (ii) reasonable effort shall be made to collect such charges under a billing and collections system; and (iii) the charge to grant funds shall exclude any amounts collected pursuant to paragraph (b)(5)(ii) of this section;

(6) The cost of insurance for medical emergency and out-of-area coverage;

(7) The cost of providing to the staff of the project training related to the provision of health services provided or to be provided by the project, and, to the staff and governing board, if any, training related to the management of an ambulatory care facility, consistent with the applicable requirements of 45 CFR Part 74;

(8) The cost of developing and maintaining a reserve fund where required by State law for prepaid health care plans.

(c) Prior approval by the Secretary of revisions of the budget and project plan is required whenever there is to be a significant change in the scope or nature of project activities.

§ 51c.108 Grant payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred or to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 51c.109 Nondiscrimination.

(a) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, (42 U.S.C. 2000d et seq.)) and in particular section 601 of such Act which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation, in be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance. A regulation implementing such title VI, which applies to grants made under this part, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80). In addition, no person shall, on the grounds of age, sex, creed, or marital status (unless otherwise medically indicated), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity so receiving Federal financial assistance.

(b) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 51c.110 Confidentiality.

All information as to personal facts and circumstances obtained by the project staff about recipients of services shall be held confidential, and shall not be divulged without the individual's consent except as may be required by law or as may be necessary to provide service to

the individual or to provide for medical audits by the Secretary or his designee with appropriate safeguards for confidentiality of patient records. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

§ 51c.111 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this part, subject, however, to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

§ 51c.112 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project, the grantee shall account for the sum total of all amounts paid as well as other funds and in-kind contributions by presenting or otherwise making available evidence satisfactory to the Secretary of expenditure for direct and indirect costs meeting the requirements of this part: *Provided, however,* That when the amount awarded for indirect costs was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) *Accounting for interest earned on grant funds.* Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the government of the political subdivisions of the State. All grantees other than a State, as defined, must return all interest earned on grant funds to the Federal Government.

(c) *Grant closeout.* (1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest pursuant to paragraph (a) of this section;

(iii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

§ 51c.113 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this part:

45 CFR PART 74

SUBPART

A General.
B Cash depositories.
C Bonding and insurance.
D Retention and custodial requirements for records.
F Grant-related income.
G Matching and cost sharing.
K Grant payment requirements.
L Budget revision procedures.
M Grant closeout, suspension, and termination.
O Property.
Q Cost principles.

Subpart B—Grants for Planning and Developing Community Health Centers

§ 51c.201 Applicability.

The regulations of this subpart, in addition to the regulations of subpart A of this subpart, are applicable to grants awarded pursuant to section 330(c) of the Act for projects for planning and developing community health centers which will serve medically underserved populations.

§ 51c.202 Application.

To be approved by the Secretary under this subpart, an application for a grant must, in addition to meeting the requirements of § 51c.104 of Subpart A, contain information sufficient to enable the Secretary to determine that the project for which the grant is sought will meet the requirements of § 51c.203.

§ 51c.203 Project elements.

A project for the planning and developing of a community health center supported under this subpart must:

(a) Prepare an assessment of the need of the population proposed to be served by the community health center for the services set forth in § 51c.102(c)(1) of Subpart A, with special attention to the need of the medically underserved population for such services. Such assessment of need shall, at a minimum, consider the factors listed in § 51c.102(e)(1)–(4).

(b) Design a community health center program for such population, based on such assessment, which indicates in detail how the proposed community health center will fulfill the needs identified in the assessment prepared pursuant to paragraph (a) of this section and how it will meet the requirements contained in subpart C of this part.

(c) Develop a plan for the implementation of the program designed pursuant to paragraph (b) of this section. Such implementation plan shall provide for the time-phased recruitment and training of the personnel essential for the operation of a community health center and the gradual assumption of operational status of the project so that the project will, in the judgment of the Secretary, meet the requirements contained in subpart C of this part as of the end of the project period.

(d) Implement the plan developed pursuant to paragraph (c) of this section in accordance with such paragraph.

(e) Make efforts to secure, within the proposed catchment area of such center to the extent possible, financial and professional assistance and support for the project.

(f) Initiate and encourage continuing community involvement in the development and operation of the project.

(g) Establish standards and qualifications for personnel (including the project director).

(h) Utilize, to the maximum extent feasible, other Federal, State, local, and private resources available for support of the project, prior to use of project funds under this subpart.

§ 51c.204 Grant evaluation and award.

(a) Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to applicants therefor which will, in his judgment, best promote the purposes of section 330(c) of the Act and the applicable regulations of this part, taking into account:

(1) The degree to which the proposed project satisfactorily provides for the elements set forth in § 51c.203;

(2) The relative need of the population to be served for the services to be provided;

(3) The administrative and management capability of the applicant;

(4) The potential of the project for development of new and effective methods for health services delivery and management;

(5) The soundness of the fiscal plan for assuring effective utilization of grant funds and maximizing non-grant revenue;

(6) The extent to which community resources will be utilized in the project;

(7) The extent to which grants approved under this part will provide for an appropriate distribution of resources throughout the country, taking into consideration the following factors;

(i) The urban-rural area to be served;

(ii) The nature of the organization applying; and

(iii) The organizational structure for delivery of services;

(8) Whether the project's catchment area is exclusive of the area served by a community health center;

(9) The degree to which the applicant intends to integrate services supported by a grant under this subpart with health services provided under other Federally assisted health services or reimbursement programs or projects.

(b) The Secretary may:

(1) Make no more than two grants under this subpart for the same project.

(2) Make a grant under this subpart to an entity which has been awarded one or more grants under section 330(d)(1)(A) and/or section 330(d)(1)(B) of the Act only if the grant under this subpart is for a new project.

Subpart C—Grants for Operating Community Health Centers

§ 51c.301 Applicability.

The regulations of this subpart, in addition to the regulations of Subpart A, are applicable to grants awarded pursuant to section 330(d)(1)(A) of the Act for the costs of operation of community health centers which serve medically underserved populations.

§ 51c.302 Application.

To be approved by the Secretary under this subpart, an application for a grant must, in addition to meeting the requirements of § 51c.104 of Subpart A,

(a) Be submitted by an entity which the Secretary determines is a community health center, and

(b) Contain information sufficient to enable the Secretary to determine that the center will meet the requirements of § 51c.103.

§ 51c.303 Project elements.

A community health center supported under this subpart must:

(a) Provide the health services of the center so that such services are available and accessible promptly, as appropriate, and in a manner which will assure continuity of service to the residents of the center's catchment area.

(b) Implement a system for maintaining the confidentiality of patient records in accordance with the requirements of § 51c.110 of Subpart A.

(c) Have an ongoing quality assurance program which provides for the following:

(1) Organizational arrangements, including a focus of responsibility, to support the quality assurance program and the provision of high quality patient care;

(2) Periodic assessment of the appropriateness of the utilization of services and the quality of services provided or proposed to be provided to individuals served by the center. Such assessments shall:

(i) Be conducted by physicians or by other licensed health professionals under the supervision of physicians;

(ii) Be based on the systematic collection and evaluation of patient records; and

(iii) Identify and document the necessity for change in the provision of services by the center and result in the institution of such change, where indicated.

(d) Develop management and control systems which are in accordance with sound financial management procedures, including the provision for an audit on an annual basis (unless waived for cause by the Secretary) by an independent certified public accountant to determine, at a minimum, the fiscal integrity of grant financial transactions and reports, and compliance with the regulations of this part and the terms and conditions of the grant.

(e) Where the cost of care and services furnished by or through the project is to be reimbursed under Title XIX or Title XX of the Social Security Act, obtain or make every reasonable effort to obtain a written agreement with the Title XIX or Title XX State agency for such reimbursement.

(f) Have prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts adjusted on the basis of the patient's ability to pay. *Provided*, That such schedule of discounts shall provide for a full discount to individuals and families with annual incomes at or below those set forth in the most recent CSA Poverty Income Guidelines (45 CFR 1060.2) and for no discount to individuals and families with annual incomes greater than twice those set forth in such Guidelines.

(g) Make every reasonable effort, including the establishment of systems for eligibility determination, billing, and collection, to:

(1) Collect reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under Title XVIII of the Social Security Act, to medical assistance under a State plan approved under Title XIX of such Act, to social services and family planning under Title XX of such Act, or to assistance for medical expenses under any other public assistance program, grant program, or private health insurance or benefit program on the basis of the schedule of fees prepared pursuant to paragraph (f) of this section without application of any discounts, and

(2) Secure from patients payments for services in accordance with the schedule of fees and discounts required by paragraph (f) of this section.

(h) Have a governing board which meets the requirements of § 51c.304.

(i) Have developed an overall plan and budget for the center that:

(1) Provides for an annual operating budget and a three-year financial management plan which include all anticipated income and expenses related to items which would, under generally accepted accounting principles, be considered income and expense items;

(2) Provides for a capital expenditures plan for at least a three-year period (including the year to which the operating budget described in paragraph (i)(1) of this section is applicable) which includes and identifies in detail the anticipated sources of financing for, and the objective of, each anticipated expenditure in excess of $100,000 related to the acquisition of land, the improvement of land, buildings, and equipment and the replacement, modernization and expansion of buildings and equipment which would, under generally accepted accounting principles, be considered capital items;

(3) Provides for plan review and updating at least annually; and

(4) Is prepared under the direction of the governing board, by a committee consisting of representatives of the governing board, and administrative staff, and the medical staff, if any, of the center.

(j) Establish basic statistical data, cost accounting, management information, and reporting or monitoring systems which shall enable the center to provide such statistics and other information as the Secretary may reasonably require relating to the center's costs of operation, patterns of utilization of services, and the availability, accessibility, and acceptability of its services and to make such reports to the Secretary in a timely manner with such frequency as the Secretary may reasonably require.

(k) Review its catchment area annually to insure that the criteria set out in § 51c.104(b)(2) of Subpart A are met and, where such criteria are not met, revise its catchment area, with the approval of the Secretary, to conform to such criteria to the extent feasible.

(l) In the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, have developed a plan and made arrangements responsive to the needs of such populations for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and have identified an individual on its staff who is fluent in both that language and in English and whose responsibilities include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences. If more than one non-English language is spoken by such group or groups, an individual or individuals fluent in those languages and English shall be so identified.

(m) Be operated in a manner calculated to preserve human dignity and to maximize acceptability and effective utilization of services.

(n) To the extent possible, coordinate and integrate project activities with the activities of other Federally funded, as well as State and local, health services delivery projects and programs serving the same population.

(o) Establish means for evaluating progress toward the achievement of the specific objectives of the project.

(p) Provide sufficient staff, qualified by training and experience, to carry out the activities of the center.

(q) Assure that facilities utilized in the performance of the project meet applicable fire and life safety codes.

(r) Utilize, to the maximum extent feasible, other Federal, State, and local,

and private resources available for support of the project, prior to use of project funds under this part.

(s) Provide for community participation through, for example, contributions of cash or services, loans of full- or part-time staff, equipment, space, materials, or facilities.

(t) Where the center will provide services through contract or other cooperative arrangements with other providers of services, establish rates and methods of payment for health care. Such payments must be made pursuant to agreements, with a schedule of rates and payment procedures maintained by the project. The project must be prepared to substantiate that such rates are reasonable and necessary.

(u) Operate in a manner such that no person shall be denied service by reason of his inability to pay therefor. *Provided, however,* That a charge for the provision of services will be made to the extent that a third party (including a Government agency) is authorized or is under legal obligation to pay such charges.

(v) In addition to the above, projects which are supported with grant funds for the operation of a prepaid health care plan also must provide:

(1) A marketing and enrollment plan, including market analysis, marketing strategy, and enrollment growth projections.

(2) A plan that provides for funding on a capitation basis of such portion of the residents of the catchment area of the center, as the Secretary shall determine.

(3) An assurance that services shall be available to all residents of the catchment area without regard to method of payment or health status.

§ 51c.304 Governing board.

A governing board for the center shall be established by an applicant as follows:

(a) *Size.* The board shall consist of at least 9 but not more than 25 members.

(b) *Composition.* (1) A majority of the board members shall be individuals who are or will be served by the center and who, as a group, represent the individuals being or to be served in terms of demographic factors, such as race, ethnicity, sex.

(2) No more than one-half of the remaining members of the board may be individuals who derive more than 10 percent of their annual income from the health care industry.

(3) The remaining members of the board shall be representative of the community in which the center's catchment area is located and shall be selected for their expertise in community affairs, local government, finance and banking, legal affairs, trade unions, and other commercial and industrial concerns, or social service agencies within the community.

(4) No member of the board shall be an employee of the center, or spouse or child, parent, brother or sister by blood or marriage of such an employee. The project director may be a non-voting, ex-officio member of the board.

(c) *Selection of members.* The method of selection of all governing board members shall be prescribed in the by-laws or other internal governing rules of the center. Such by-laws or other rules must specify a process of selection of individuals on the governing board who represent the population served or to be served by the center so that such individuals, as a group, are representative of such population. Such process of selection in the by-laws or other rules is subject to approval by the Secretary.

(d) *Functions and responsibilities.* (1) The governing board for the center shall have authority for the establishment of policy in the conduct of the center.

(2) The governing board shall hold regularly scheduled meetings, at least once each month, for which minutes shall be kept.

(3) The governing board shall have specific responsibility for:

(i) Approval for the selection and dismissal of a project director or chief executive officer of the center;

(ii) Establishing personnel policies and procedures, including selection and dismissal procedures, salary and benefit scales, employee grievance procedures, and equal opportunity practices;

(iii) Adopting policy for financial management practices, including a system to assure accountability for center resources, approval of the annual project budget, center priorities, eligibility for services including criteria for partial payment schedules, and long-range financial planning;

(iv) Evaluating center activities including services utilization patterns, productivity of the center, patient satisfaction, achievement of project objectives, and development of a process for hearing and resolving patient grievances;

(v) Assuring that the center is operated in compliance with applicable Federal, State, and local laws and regulations; and

(vi) Adopting health care policies including scope and availability of services, location and hours of services, and quality-of-care audit procedures.

§ 51c.305 Grant evaluation and award.

Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to applicants therefor which will, in his judgment, best promote the purposes of section 330(d)(1)(A) of the Act and the applicable regulations of this part, taking into consideration:

(a) The extent to which the project would provide for the elements set forth in § 51c.303;

(b) The relative need of the population to be served for the services to be provided;

(c) The potential of the center for the development of new and effective methods for health services delivery and management;

(d) The soundness of the fiscal plan for assuring effective utilization of grant funds and maximizing non-grant revenue;

(e) The administrative and management capability of the applicant;

(f) The extent to which grants approved under this part will provide for an appropriate distribution of resources throughout the country, taking into consideration the following factors:

(1) The urban-rural area to be served;

(2) The nature of the organization applying;

(3) The organizational structure for delivery of services;

(g) The number of users of the center and the level of utilization of services in previous operational periods, if any;

(h) Whether the center's catchment area is exclusive of the area served by another center;

(i) The degree to which the applicant intends to integrate services supported by a grant under this subpart with health services provided under other Federally assisted health services or reimbursement programs or projects;

(j) The extent to which community resources will be utilized by the project;

(k) The extent to which the center will provide preventive health services so as to maintain and improve the health status of the population served; and

(l) The extent to which center operations will emphasize direct health services, efficiency of operations and sound financial management.

Subpart D—Grants for Operating Community Health Projects

§ 51c.401 Applicability.

The regulations of this subpart, in addition to the regulations of Subpart A are applicable to grants awarded pursuant to section 330(d)(1)(B) of the Act for the costs of operation of projects which provide health services to medically underserved populations.

§ 51c.402 Application.

To be approved by the Secretary under this subpart, an application for a grant must, in addition to meeting the requirements of § 51c.104 of Subpart A, contain information sufficient to enable the Secretary to determine that the project for which the grant is sought will meet the requirements of § 51c.403 of this subpart.

§ 51c.403 Project elements.

A project for the operation of a community health project supported under this subpart must:

(a) Meet all of the requirements of § 51c.303 of this part except for paragraph (h).

(b) Provide those services enumerated in § 51c.102(c)(1) of this part which the Secretary determines to be feasible and desirable and which are specified in the grant award.

(c) Establish a governing board meeting the requirements of § 51c.304 by the end of the period of support under section 330(d)(1)(B) of the Act and this subpart.

§ 51c.404 Grant evaluation and award.

(a) Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to applicants therefor which will, in his judgment, best promote the purposes of section 330(d)(1)(B) of the Act and the applicable regulations of this part,

(1) Where the project meets the requirements of § 51c.403(a); and

(2) Taking into consideration the following:

(i) The degree to which the project would provide the services enumerated in § 51c.102(c)(1) and the feasibility of its providing all of such enumerated services by the end of the period of support under section 330(d)(1)(B) of the Act and this subpart;

(ii) Whether the project will have a governing board meeting the requirements of § 51c.304 by the end of the period of support under section 330(d)(1)(B) of the Act and this subpart;

(iii) The degree to which the applicant intends to integrate services supported by a grant under this subpart with health services provided under other Federally assisted health service or reimbursement programs or projects;

(iv) The need of the population to be served for the services to be provided;

(v) The potential of the project for the development of new and effective methods for health services delivery and management;

(vi) The soundness of the fiscal plan for assuring effective utilization of grant funds and maximizing non-grant revenue;

(vii) The administrative and management capacity of the applicant; and

(viii) The extent to which community resources will be utilized in the project.

(b) The Secretary may:

(1) Make no more than two grants for the same entity under section 330(d)(1)(B) of the Act;

(2) Not make any grant under section 330(d)(1)(B) to an entity which, for the same project, has been awarded more than one grant under section 330(c) of the Act;

(3) Not make a grant under section 330(d)(1)(B) to an entity which has been awarded a grant under section 330(d)(1)(A) of the Act.

[FR Doc.76-16843 Filed 6-10-76;8:45 am]

federal register

FRIDAY, JUNE 11, 1976

PART III:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

BILINGUAL EDUCATIONAL PROGRAM

Criteria for Governing Grants Awards

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 123—BILINGUAL EDUCATION PROGRAM

Criteria for Governing Grants Awards

Notice of proposed rulemaking was published in the FEDERAL REGISTER on April 8, 1976 (41 FR 14986) setting forth a proposed regulation under the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13).

The proposed regulation set forth proposed rules and criteria for governing the award of grants by the Commissioner of Education under Part A of the Bilingual Education Act and the award of grants and contracts by the Commissioner or the Director of NIE under Part C of the Bilingual Education Act.

In developing both the proposed and final regulations, the Office of Bilingual Education met and consulted with State and local educational agencies and appropriate organizations representing parents and children of limited English-speaking ability and teachers and educators involved in bilingual education.

A. *Summary of comments; changes in the regulation.* Interested members of the public were invited to offer their recommendations or comments in response to the proposed regulation, and a number of comments were received. All of these comments and recommendations have been carefully reviewed. Summaries of the comments on the proposed regulation are set forth below on a section by section basis, together with responses explaining the changes which have been made in the final regulation in response to the comments, or indicating why no changes were deemed appropriate. The comments and responses are organized in the order of the sections of the regulation.

1. *Comment.* One commenter made a number of suggestions with respect to teachers of English for speakers of other languages (ESOL) and its emphasis in the regulation. One suggestion was to encourage program administrators to involve ESOL specialists who may not be fluent in the first language of the students in the program while the specialists are studying the first language of the students. Another suggestion was to allot more funds to support the teaching of ESOL in content areas. The commenter also suggested standards for the preparation of language teachers.

Response. No change has been made in the regulation. § 123.02(g) of the regulation defines a "program of bilingual education" to include "instruction given in, and study of, English and (to the extent necessary to allow a child to progress effectively through the educational system) the native or dominant language of the children of limited English-speaking ability." It also provides that with respect to elementary school instruction, such instruction be given "in all courses of study necessary to allow a child to progress effectively through the educational system." While it is clear that a bilingual education program is something more than merely ESOL, it is also clear that ESOL is a necessary part of a bilingual education program, that ESOL should apply to elementary school instruction in the content areas, and that training for personnel participating in, or preparing to participate in, bilingual education programs may include training for teachers of ESOL. However, the specific suggestions of the commenter, if implemented by amendments to the regulation, would unnecessarily interfere with the discretion of grant recipients in fashioning their projects. The regulation deliberately leaves to applicants and grantees discretion as to how to treat the specific matters raised in the comment.

2. *Comment.* One comment recommended amending § 123.02(d) to include "nonprofit educational agencies" which receive funding from a public board of education within the definition of a "local educational agency."

Response. The definition of "local educational agency" in the regulation is taken directly from section 801(f) of the Elementary and Secondary Education Act and cannot be amended as suggested by the comment. The type of agency described by the comment would not appear to constitute a public authority for purposes of the statutory and regulatory definition, but this type of determination would have to be made by the Office of Education in reviewing specific applicants on a case by case basis.

3. *Comment.* Several commenters protested the limitation in § 123.02(j) of stipends for full-time baccalaureate students to $800, which was understood to be a reduction in the level of stipends provided in prior years under the Bilingual Education Program.

Response. The stipend level for full-time students at the baccalaureate level has been increased to $1,500 for a twelve-month program of study (or $1,000 for an 8 month academic year program), provision has been made for dependency allowances for these students, and other changes have been made in the definition of "stipend" to clarify the scope and applicability of the provisions. Under program regulations previously in effect, traineeships were limited to $3,500, but this amount had to cover stipends, tuition, books, and all other training costs (45 CFR 123.12(h)). The proposed regulation properly separated out tuition and other fees from stipends in order not to prejudice students at institutions of higher education charging high tuition levels, with the result that many students may in effect receive a higher traineeship award under the proposed regulation than was the case in prior years. The stipend figure of $800 in the proposed regulation for students at the baccalaureate level was derived from the one or two other programs which the Commissioner was able to identify as paying stipends at the baccalaureate level. However, in light of the comments that this figure may reduce stipend support for students at institutions with very low tuition levels, the stipend level has been increased, and provision has been made for dependency allowances. The new stipend levels were arrived at with reference to the graduate level stipend rate structure prescribed by Department policy and are deemed to be adequate at the undergraduate level, particularly when coupled with support for tuition and other fees and dependency allowances and considering the likelihood that many trainees will also be receiving remuneration for part-time work in bilingual education programs.

In accordance with Department policy, references to stipend levels have been amended to relate to a twelve month period (rather than an academic year), and provisions have been added to clarify that proportionate stipends will be awarded when an individual attends school for less than a twelve-month period. The proposed regulation had also inadvertently omitted stipend rates for graduate level (non-fellowship) training, and provisions have been added to cover this. Provisions in the proposed regulation on short-term training have been clarified, and language has been added to indicate that the hourly payments are in addition to any tuition and related costs and to provide for higher hourly pay when educational personnel participating as trainees receive higher hourly wages under a collective bargaining agreement.

4. *Comment.* One commenter objected that "the compulsory 15 percent for training in the demonstration program is somewhat of a burden on projects that have a rural population" and suggested an exception to that requirement for those programs in rural areas.

Response. The requirement of § 123.13(c) that no less than 15 percent of the amounts paid to the applicant for the purpose of carrying out a basic program be expended for auxiliary and supplementary training programs is mandated by section 721(b)(2)(B) of the Act. While the concern of the commenter is well-taken, the Office of Education is without authority to make the suggested change.

5. *Comment.* Several commenters objected to the provision in § 123.14(b)(4) of the proposed regulation which they interpreted to limit the amount of a Federal award to the product of one-third of the combined State and local educational agency per pupil expenditures for the applicant local educational agency multiplied by the number of participating children in the program. The comments expressed the understanding that the provision would reduce the level of Federal support for ongoing bilingual education projects and questioned the statutory basis for the provision.

Response. The subject provision was never intended as a limitation on the amount of specific project awards to be made, but rather was promulgated in order to provide a ballpark figure for the guidance of applicants. The regulation has been amended to clarify this. As amended, § 123.14(b)(4) clearly does not preclude the award of individual projects in excess of the formula provided. The

formula is appropriate as a guide to applicants. Funds available for the program are not unlimited, and the Commissioner is responsible, under section 721(b)(2) of the Act, for assuring an equitable distribution of assistance. In the past, for want of this type of guidance, particular applicants have wasted considerable time and effort preparing applications which asked for so much money that they stood no reasonable chance of being funded. Contrary to the understanding of the commenters, the greatest proportion of ongoing bilingual education projects involve costs within the range suggested by § 123.14(b)(4). So as not to put poorer school districts at a disadvantage (even in terms of guidance), the final regulation has also been amended to relate the guide formula to the average per pupil expenditures by the State and local educational agencies for the State as a whole rather than to such expenditures by the State and applicant local educational agency for the applicant local educational agency.

6. *Comment.* With reference to § 123.14(b)(8), requiring each application for a basic program of bilingual education to include a statement that the appropriate State educational agency (SEA) has been given a reasonable opportunity to offer recommendations to the applicant and to the Commissioner on the proposed activities and to include a copy of any recommendations made by the SEA to the applicant, one comment recommended that the provision requiring inclusion in the application of copies of SEA recommendations be deleted, or alternatively, that it be waived for this year. The commenter expressed the view that the time required to submit the application to the SEA and to provide the SEA an opportunity for review would create an undue burden on the applicant preparing an application within tight time deadlines. The commenter also argued that most State educational agencies have neither the time nor the resources to perform this task with the prompt and careful attention it deserves.

Response. No change has been made in the regulation. Section 721(a)(2)(D) of the Bilingual Education Act provides that an application for a grant under Part A of the Act may be approved only if the State educational agency "has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner." The regulation provision must comport with this statutory provision and is not subject to waiver. The concern of the commenter with respect to time constraints for preparing applications really bears upon the issue of whether the SEA ought to be given the opportunity to make recommendations on the application to the applicant, but that is an issue foreclosed by the statute. No extra time burdens are placed upon the applicant as a result of the specific requirement that applicants attach to the application SEA comments, if there are any SEA comments. It should be noted in this connection that there is nothing in the regulation to preclude submission of an application if an SEA fails to comment on the application; the regulation merely requires that the SEA be given a reasonable opportunity to offer recommendations on the application. What may constitute a "reasonable opportunity" may vary depending upon the amount of time available to an applicant to prepare and submit the application. In this respect, the proposed regulation provides more flexibility than the regulation heretofore in effect, which required that the SEA have at least 15 days to review the proposed program (45 CFR 123.13(b)(8)). Finally, the real answer to the commenter's concern lies in providing applicants with sufficient time to prepare the application and to obtain SEA recommendations. OE believes that sufficient time was provided for these purposes in FY 1976 and is committed to providing applicants with more time for these purposes in successive fiscal years.

7. *Comment.* Section 123.15(a)(1)(iii) of the proposed regulation provides that in evaluating applications for basic bilingual education projects, the Commissioner will consider recommendations from the appropriate State educational agency as to the relative need for the authorized activities in different geographic areas within the State, the relative ability of local educational agencies within the State to conduct such activities, and other factors relevant to achieving an equitable distribution of assistance within the State. One commenter recommended deletion of this provision, on the basis that many SEAs are not capable of making a reliable assessment of relative need among local educational agencies and that such information should be self-evident from data in the applications. The commenter recommended that if the provision were not deleted, amendments be added to require the SEA to develop its recommendations in consultation with LEA applicants and to provide its recommendations in writing to each grant applicant to be included in the grant application.

Response. The subject provisions concerning recommendations by the SEA are derived directly from section 721(b)(2)(A) of the Bilingual Education Act and therefore may not be deleted from the regulation. As regards the alternative suggestion respecting consultation with the affected LEAs, the Office of Education would certainly encourage SEAs to follow the suggested procedures as a matter of relationships with their LEAs, but does not believe that a Federal requirement on this would be appropriate.

8. *Comment.* One commenter suggested that applicants be reminded that information related to program participants required in § 123.14(b)(5) is also to be provided for eligible children enrolled in nonprofit, nonpublic schools.

Response. Such information has always been supplied by applicants. The final regulation, however, does explicitly require such information by adding a new § 123.16(a)(3), in accordance with the comment.

9. *Comment.* One commenter felt that § 123.16(a)(1) left unclear the extent of the local educational agency's obligation to service nonpublic school children, stating: "No provision is made to assure that the number of nonpublic school students participating in the program reflects a proportion of the total nonpublic school population which is equivalent to the proportion of public school eligible students being served."

Response. Section 123.16(a)(1) reflects the wording of the statute—section 721(b)(2)(C)(ii) of the Act. The language of both—"to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served"—has consistently been interpreted as requiring equitable participation by such children. See Sen. Rept. No. 93-1026, at 150 (1974). Such participation, therefore, means proportional participation, as the commenter suggests. Prior to this restatement of the regulations, it was not deemed necessary explicitly to state this matter in the regulation. However, appropriate language has been added to § 123.16 to clarify this point, by relettering § 123.16(b) of the notice of proposed rulemaking as § 123.16(d) and providing a new § 123.16(b) and (c) in the final regulation. The new § 123.16(c) provision is quite similar to the regulatory scheme of Title I of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 242) in 45 CFR 116.19(b) and Title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 344b) in 45 CFR 118.15(a). In the case of applicants which opt, under § 123.16(b), to serve private school children whose dominant language is other than the dominant language of public school children of limited English-speaking ability to be served by the program, this rule on proportionate participation would apply with reference to the cumulative numbers of children of limited English-speaking ability of both dominant languages in public and private schools (at the appropriate age or grade levels) in the area to be served.

10. *Comment.* One comment took issue with the apparent ineligibility, under § 123.22, of institutions to apply to serve children outside of their own designated area. The comment indicated that there might be children with a particular dominant language other than English scattered among a number of the service areas without adequate concentration in any one service area to warrant a training center or resource center within the area specifically addressing their needs. The comment further expressed the view that skilled resources may be lacking within particular service areas to address the needs of children with a particular dominant language other than English. In sum, the commenter recommended that permitting applicants to provide services beyond the designated service areas would better meet the needs of children and result in a more efficient use of personnel and resources.

Response. A new paragraph (d)(3) has been added to § 123.22 to address the

problem raised by the commenter by authorizing departures from the service areas where specifically justified. It should also be noted that § 123.22(d)(2) in the proposed regulation is another route to ensuring that the needs for activities under subpart C are met.

11. *Comment.* One commenter expressed concern that a vehicle for an advisory council "does not exist specifically for input in the design, evaluation and monitoring of bilingual education graduate and undergraduate college level programs."

Response. No change is necessary in the regulation. Such a vehicle does exist in the Act and is reflected in the regulation. Section 723(a)(5) requires parent and community participation for certain specified training activities which may involve institutions of higher education. Section 123.33(b)(10) of the regulation reiterates this same requirement.

12. *Comment.* One commenter recommended the establishment of "a separate bilingual advisory group, composed of fellowship recipients, faculty and LEA bilingual program administrators, whose duties would entail monitoring and evaluating the IHE's bilingual [fellowship] program, as well as providing interim and final reports on the quality of the program."

Response. No change has been made in the regulation. Whereas the Act provides for an advisory council in connection with basic programs of bilingual education and certain training activities (Sections 703(a)(4)(E) and 723(a)(5)), the fellowship provisions of the Act (20 U.S.C. 880b-9(a)(2)-(3)) do not provide for the establishment of a separate advisory group for the fellowship program. Under these circumstances, it would not be appropriate to mandate by regulation an advisory council for the fellowship program. However, there is no provision in the Act or regulation that precludes establishment of such a group by local grantees at their discretion.

B. *Other changes.* 1. Section 123.04 has been added to authorize multi-year projects (project period awards) under any of the subparts of the regulation excepting Subparts E and F. These provisions were set forth in the proposed regulation only for the basic program under Subpart B in § 123.15(b) and the training program under Subpart D in § 123.34(b). Conforming amendments in §§ 123.15(b) and 123.34(b) have been made.

2. Other changes of a typographical and technical nature have been made.

C. *Promulgation of regulation.* After consideration of all comments, Part 123 of Title 45 of the Code of Federal Regulations is amended to read as set forth below.

D. *Effective date.* Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions thereof concerning congressional action and adjournment.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education.)

Dated: May 26, 1976.

T. H. BELL,
U.S. Commissioner of Education.

Dated: May 27, 1976.

VIRGINIA Y. TROTTER,
Assistant Secretary for Education.

Approved: June 4, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

PART 123—BILINGUAL EDUCATION ACT

Subpart A—General Provisions

Sec.
123.01 Purpose.
123.02 Definitions.
123.03 General terms and conditions.
123.04 Duration of projects.
123.05–123.10 [Reserved]

Subpart B—Basic Programs of Bilingual Education

123.11 Eligibility for assistance.
123.12 Authorized activities.
123.13 Requirements of a basic program.
123.14 Applications.
123.15 Criteria for assistance.
123.16 Participation of children enrolled in nonpublic schools.
123.17 Parent and community participation.
123.18–123.20 [Reserved]

Subpart C—Support Services for Programs of Bilingual Education

123.21 Eligibility for assistance.
123.22 Designated service areas.
123.23 Authorized activities.
123.24 Applications.
123.25 Criteria for assistance—training resource centers.
123.26 Criteria for assistance—materials development centers.
123.27 Criteria for assistance—dissemination/assessment centers.
123.28–123.30 [Reserved]

Subpart D—Training Programs

123.31 Eligibility for assistance.
123.32 Authorized activities.
123.33 Applications.
123.34 Criteria for assistance.
123.35–123.40 [Reserved]

Subpart E—Fellowships for Preparation of Teacher Trainers

123.41 General provisions.
123.42 Participation by institutions of higher education.
123.43 Awards of fellowships to individuals.
123.44–123.50 [Reserved]

Subpart F—Coordination of Technical Assistance by States Educational Agencies

123.51 Eligibility for awards.
123.52 Authorized activities.
123.53 Program applications.
123.54 Criteria for assistance.
123.55–123.60 [Reserved]

Subpart G—Research and Demonstration Projects

123.61 Authorized activities.
123.62 Administration; award procedures.
123.63 Consultation.

AUTHORITY: Title VII of the Elementary and Secondary Education Act of 1965, as amended, 81 Stat. 816–819 (20 U.S.C. 880b–880b–13).

Subpart A—General Provisions

§ 123.01 Purpose.

The purpose of awards under this Part is, in order to establish equal educational opportunity for all children, to encourage the establishment and operation of educational programs using bilingual educational practices, techniques, and methods and to demonstrate effective ways of providing, for children of limited English-speaking ability, instruction designed to enable them, while using their native or dominant language, to achieve competence in the English language.

(20 U.S.C. 880b(a))

§ 123.02 Definitions.

The following definitions shall apply to the terms used in this Part:

(a) "Dominant language" means the language most relied upon for communication in the home.

(20 U.S.C. 880b–1(a)(1)(B))

(b) "Institution of higher education" means an educational institution in any State which meets the requirements set forth in section 801(e) of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 881(e))

(c) "Limited English-speaking ability," when used with reference to an individual, means individuals who have difficulty speaking and understanding instruction in the English language by reason of their being:

(1) Individuals who were not born in the United States or whose native language is a language other than English; or

(2) Individuals whose dominant language is other than English.

(20 U.S.C. 880b–1(a)(1))

(d) "Local educational agency" means:

(1) A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(2) A nonprofit institution or organization of an Indian tribe which:

(i) Operates an elementary or secondary school in which Indian children constitute more than 50 per cent of the enrollment, and

(ii) Is approved by the Commissioner of Education for purposes of this Part; and

(3) An elementary or secondary school for Indian children on a reservation which is operated or funded by the Department of the Interior.

(20 U.S.C. 880b-8 (a), (b); 881(f))

(e) "Low income," when used with reference to a family, means an annual income which does not exceed the low annual income determined pursuant to section 103 of Title I of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 241c; 880b-1(a)(3))

(f) "Native language," when used with reference to an individual of limited English-speaking ability, means the language normally used by such individual, or, in the case of a child, the language normally used by the parents of the child.

(20 U.S.C. 880b-1(a)(2))

(g) "Program of bilingual education" means:

(1) A program of instruction, designed for children of limited English-speaking ability in elementary or secondary schools, in which, with respect to the years of study to which such program is applicable:

(i) There is instruction given in, and study of, English and (to the extent necessary to allow a child to progress effectively through the educational system) the native or dominant language of the children of limited English-speaking ability;

(ii) Such instruction is given with appreciation for the cultural heritage of such children; and

(iii) With respect to elementary school instruction, such instruction is given in all courses or subjects of study necessary to allow a child to progress effectively through the educational system.

(2) A program of bilingual education shall also meet the requirements of § 123.17, regarding parent and community participation, and the requirements set forth in paragraphs (g)(2) (i), (ii), and (iii) below:

(i) A program of bilingual education may make provision for the voluntary enrollment to a limited degree therein, on a regular basis, of children of other than limited English-speaking ability, in order that they may acquire an understanding of the cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such programs, priority shall be given to children of limited English-speaking ability. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children.

(ii) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

(iii) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment, as determined after measuring such attainment through the use of all necessary languages. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to ensure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

(20 U.S.C. 880b-1(a)(4); Sen. Rep. No. 93-1026, at 148-49 (1974))

(h) "State" means, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 881(j))

(i) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(20 U.S.C. 881(k))

(j) "Stipend" means an allowance for subsistence and other expenses for an individual and his or her dependents, to enable such individual to participate in training activities where authorized under Subparts B, C, D, and E.

(1) *Fellowships.* (i) In the case of a recipient of a fellowship under subpart E of this Part, the amount of the stipend for a support year of twelve months shall be the sum of the following:

(A) The costs of tuition, books, and fees, and other costs directly related to the program of study in which the recipient is enrolled and required by the institution of higher education offering the program (but not including any indirect or operational costs of the institution);

(B) An allowance of $600 for each dependent of the recipient; and

(C) An allowance, for subsistence and other expenses of the recipient, of $2,400 for the first post-baccalaureate year, $2,600 for any year after the first post-baccalaureate year except in the terminal year of the program of study, and $2,800 for the terminal year.

(ii) Where a recipient of a fellowship has had professional work experience in the field of bilingual education, the amount of the allowance referred to in paragraph (j)(1)(i)(C) of this section shall be the following:

(A) At least one but less than 12 months of experience—$3,000.

(B) At least 12 but less than 24 months of experience—$3,300.

(C) At least 24 but less than 36 months of experience—$3,600.

(D) At least 36 but less than 48 months of experience—$3,900.

(E) At least 48 months of experience—$4,200.

(iii) Each full-time academic year of study above the baccalaureate level in the field of bilingual education shall equal 12 months of experience for purposes of paragraph (j)(1)(ii) of this section.

(iv) Where a recipient of a fellowship has been awarded a Master's degree in the field of bilingual education, the amount of the allowance referred to in paragraph (j)(1)(ii) of this section shall be increased by $500.

(2) *Post-baccalaureate training.* In the case of an individual enrolled at an institution of higher education at the post-baccalaureate level in training under Subparts B, C, or D (other than in short-term training described in paragraph (j)(5) of this section), the stipend shall be for an amount up to the appropriate amounts prescribed in paragraph (j)(1) of this section, at the discretion of the grantee.

(3) *Baccalaureate level training.* In the case of an individual enrolled in an institution of higher education at the baccalaureate level in training under Subparts B, C, or D (other than in short-term training described in paragraph (j)(5) of this Paragraph) the amount of the stipend for a support year of twelve months shall be for up to the sum of the following, at the discretion of the grantee:

(i) The costs of tuition, books, and fees, and other costs directly related to the bilingual education program of study in which the individual is enrolled and required by the institution offering the program;

(ii) Where the individual is enrolled on a full-time basis, $1,500; and

(iii) An allowance of $600 for each dependent of the individual.

(4) *Attendance part-time or for less than a full year.* Amounts determined pursuant to paragraphs (j) (1), (2), or (3) of this section shall be proportionately reduced for attendance on a part-time basis or for less than a twelve-month period. As provided in § 123.41, fellowships may be awarded only for a full-time program of study, which may be an academic year shorter than a twelve-month period. This subparagraph, and paragraphs (j) (1), (2), and (3) of this section, do not apply to short-term training described in subparagraph (5) of this paragraph.

(5) *Short-term training.* In the case of an individual participating in a training activity under Subparts B, C, or D designed to provide individual participants with training with a duration of 90 days or less, the amount of the stipend shall be:

(i) Any costs of tuition, books, and fees, and other costs directly related to the bilingual education program of study in which the individual is enrolled, required by the institution offering the program, and not otherwise paid for under this part.

(ii) Where the individual receives no other compensation for participating in, or performing work during, the activity, $6 for each hour of participation, except that the amount shall exceed neither (A) $30 for any day, nor (B) $150 for any week, except as provided under paragraph (j)(5)(iii) of this section.

(iii) Where educational personnel participating as trainees are ordinarily paid for their work at a salary scale determined by a collective bargaining agreement in which the minimum hourly rate for any such individual is more than

$6 per hour, such individual would be compensated at the minimum hourly rate provided for under the collective bargaining agreement.

(20 U.S.C. 880b-9(a)(3))

§ 123.03 General terms and conditions.

Assistance provided under this Part is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters), except that such assistance shall not be subject to the provisions of § 100a.26(b) of this chapter, relating to criteria for awards.

(20 U.S.C. 880b—880b-13)

§ 123.04 Duration of projects.

(a) The provisions of this section apply to awards of assistance under this part, excepting awards under Subparts E and F.

(b) Awards of assistance under this part shall be made for a specified project period. The duration of the project shall be only for the minimum period determined by the Commissioner to be needed to carry out the demonstration or other approved objectives of the program.

(c) New applications proposing multiyear projects must be accompanied by an explanation of the need for multiyear support, an overview of the objectives and activities proposed, and budget estimates to attain these objectives in any proposed subsequent year.

(d) Applications for assistance to continue a program during the project period but subsequent to the initial fiscal year of assistance shall be evaluated on the basis of the progress of the program in meeting its objectives, except that where funds are insufficient to support all programs determined on such basis to merit continuation, applications for continued support shall be evaluated on the basis of the applicable criteria set forth in other subparts of this part.

(e) Following the expiration of the project period for a particular program, an application for further assistance to support such program shall be evaluated on the basis of the applicable criteria set forth in other subparts of this part in competition with other applications to which such criteria apply.

(20 U.S.C. 1221e-3(a)(1), 880b)

§§ 123.05–123.10 [Reserved]

Subpart B—Basic Programs of Bilingual Education

§ 123.11 Eligibility for assistance.

(a) *General.* An application for a grant under this subpart for a basic program of bilingual education may be submitted by:

(1) One or more local educational agencies, or

(2) An institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies.

(b) *Joint applications.* In the case of a joint application for a basic program of bilingual education submitted pursuant to paragraph (a)(2) of this section, a single application with a single budget shall be submitted, and a single local educational agency shall serve as the fiscal agent for all joint applicants.

(20 U.S.C. 880b-7(b)(1))

§ 123.12 Authorized activities.

The following activities are authorized to be carried out with financial assistance made available under this subpart where such activities are designed to carry out the purposes described in § 123.01:

(a) Establishing, operating, and improving programs of bilingual education;

(b) Providing auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in paragraph (a) of this section, including such activities as:

(1) Adult education programs related to the purposes of this Part, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, as amended (20 U.S.C. 1201–1211a); and

(2) Preschool programs preparatory and supplementary to bilingual education programs;

(c) Providing auxiliary and supplementary training programs for personnel preparing to participate in, or personnel participating in, the conduct of a basic program, including:

(1) Programs emphasizing oportunities for career development, advancement, and lateral mobility;

(2) Special training programs designed to meet individual needs;

(3) The operation of short term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs; and

(4) The payment of stipends, as defined in § 123.02, to personnel participating in such training programs; and

(d) Planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

(20 U.S.C. 880b-7(a)(1), (2), (3)(B), (4); 880b-9(a)(1)(A)(i)(I), (A)(ii)(I), (B), (a)(3), (a)(5); Sen. Rep. No. 93-1026, at 153 (1974))

§ 123.13 Requirements of a basic program.

(a) A basic program shall meet the requirements for a "program of bilingual education" as those requirements are set forth in § 123.02.

(20 U.S.C. 880b-1(a)(4))

(b) Nothing in this Part shall be construed to authorize isolation of children of limited English-speaking ability by language or ethnic background unless the applicant demonstrates that separation for specific language learning activities for a portion of the school day is essential to the achievement of the purposes of this Part.

(42 U.S.C. 2000d–2000d-6)

(c) Auxiliary and supplementary training programs described in § 123.12(c) to train personnel preparing to participate in, or personnel participating in, the conduct of a basic program shall be included in each such program. Not less than 15 percent of the amounts paid to the applicant for the purpose of carrying out a basic program shall be expended for auxiliary and supplementary training programs.

(20 U.S.C. 880b-7(a)(3)(B), (b)(2)(B))

(d) A basic program assisted under this subpart shall include provisions for making available, at a cost not exceeding the actual cost of reproduction, sample copies of any materials resulting from the program to any local educational agency which requests copies of such materials.

(20 U.S.C. 880b-7(b)(1))

(e) Federal funds made available under this Part shall not be used for religious worship or instruction, or in connection with any part of a school or department of Divinity. "School or department of Divinity," for purposes of this paragraph, means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(20 U.S.C. 885; *Lemon v. Kurtzman*, 403 U.S. 602 (1971))

§ 123.14 Applications.

(a) *General provisions.* An applicant desiring to receive assistance under this subpart shall submit to the Commissioner an application which shall include a description of the activities set forth in § 123.12 which the applicant desires to carry out, and which shall provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant. The Commissioner may require the information described in this section to be submitted either in a single application or sequentially, and may require additional information and assurances of selected applicants. Such application, together with all correspondence and other written materials relating thereto (including reports concerning performance and evaluation of approved programs) shall be made readily available to members of the public by the applicant. The applicant shall make copies of such materials available at a cost not exceeding the actual cost of reproduction.

(20 U.S.C. 88b-7(b)(1); 1231d)

(b) *Content of application.* Applications for assistance under this subpart shall contain the following assurances and information:

(1) *Administration by applicant.* Evidence that the activities for which assistance is sought under this subpart will be administered by or under the supervision of the applicant;

(2) *Methods of administration.* A description of such methods of administration as are necessary for the proper and efficient administration of the program;

(3) *Financial management.* A description of such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for Federal funds paid to the applicant under this subpart;

(4) *Budget and justification.* A statement detailing the costs of services and property in the budget for the proposed program. It is expected that funds made available to carry out a basic program of bilingual education under this subpart generally will not exceed an amount equal to one-third of the State average per pupil expenditure (computed with regard to expenditures by the State educational agency and by all local educational agencies in the State) multiplied by the number of participating children in the proposed program. Nothing in this subparagraph shall be construed as a limitation on the amount of funds which may be made available to a particular grantee;

(5) *Program participants.*—(i) The number and percentage of children of limited English-speaking ability enrolled in the schools of the applicant local educational agency or agencies as of the date of the application;

(ii) The number of children of limited English-speaking ability and other than limited English-speaking ability to be served by the proposed program;

(iii) A description of when and how the applicant identified the children of limited English-speaking ability for whom the proposed program is designed, measured the extent of such children's lack of competence in the English language, and otherwise assessed the needs of such children; and

(iv) In the case of an application to carry out the activities described in § 123.12 (a) or (b), the number of persons from low-income families sought to be benefitted by the proposed program, and a description of how such persons will be benefitted;

(6) *Use of educational resources.* A description of provisions made by the applicant for the use, in connection with the proposed program, of the assistance of the most qualified available personnel with expertise in the educational problems of children of limited English-speaking ability, and for the use in such program of the cultural and educational resources in the area to be served. For purposes of this subparagraph, the term "cultural and educational resources" includes State educational agencies, institutions of higher education, nonprofit nonpublic schools, and public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television outlets, and other cultural and educational resources;

(7) *Evaluation, reports, and records.*—(i) Evidence that the applicant will cooperate with the Commissioner (or a public or private agency designated by the Commissioner) in the evaluation of the extent to which funds made available under this subpart have been effective in achieving the purposes of this Part;

(ii) Evidence that the applicant will submit to the Commissioner such reports, in such form and containing such information as the Commissioner may reasonably require to carry out the Commissioner's functions under this Part (including reports of evaluations of any approved program, to be submitted at least twice annually), and will keep such records and afford such access thereto as the Commissioner may find necessary to verify such reports; and

(iii) A description of the evaluation design of the proposed program. Such evaluation design shall include provisions for assessing the applicant's progress in achieving the objectives set out in its application for assistance. In the case of an application to carry out the activities described in § 123.12(a), the evaluation design shall also include the following:

(A) Provisions for comparing the performance of participating children on tests of reading skills in English and in the language other than English to be used in the proposed program with an estimate of what such children's performance would have been in the absence of the program. Where the applicant chooses to base such estimate on the performance of nonparticipating but similar children on such tests, the evaluation design shall include a description of the methods used to identify nonparticipating but similar children for such purpose;

(B) A description of instruments of measurement to be used by the applicant in evaluating the performance of participants in the program, the rationale for selecting these instruments, and procedures to be followed in their use; and

(C) Provisions for reporting pre-test and post-test results on reading tests for all participating children (and, where their performance is compared with the performance of nonparticipating but similar children, for all such nonparticipating children) using mean scores, standard deviations, and appropriate tests of statistical significance. No application which fails to include the elements of an evaluation design described in this paragraph will be approved for assistance under this subpart;

(8) *Review by State educational agency.* A statement indicating that the appropriate State educational agency, as defined in § 123.02, has been given a reasonable opportunity to offer recommendations to the applicant and to the Commissioner on the proposed activities, including the identity of the State official or agency to whom the proposed program was submitted, the date of such submission, and a copy of any recommendations made by such official or agency to the applicant. In the case of an application submitted by an elementary or secondary school for Indian children on a reservation which is operated or funded by the Department of the Interior, the Secretary of the Interior or the Secretary's designate shall be treated as the appropriate State educational agency for purpose of this subparagraph;

(9) *Coordination.* A description of procedures employed and to be employed by the applicant to coordinate its proposed program with related activities carried out or to be carried out with Federal or non-Federal funds;

(10) *Cross-reference.* The assurances and information described in § 123.16 and § 123.17(a).

(20 U.S.C. 880b–7 (b)(1), (b)(2) (A), (C), (D); 1232c (a) (1), (2) (b)(3))

(c) *Information pertaining to Indian institutions and organizations.* In addition to the assurances and information required in paragraph (b) of this section, an application submitted by a nonprofit institution or organization of an Indian tribe operating an elementary or secondary school for Indian children shall include:

(1) The date when such school was founded and a brief summary of the number of children enrolled in, number of staff employed by, and grade structure of, the school since its founding; and

(2) Evidence of the applicant's nonprofit status. Any of the following shall be acceptable evidence of nonprofit status:

(i) A reference to the organization's listing in the Internal Revenue Service's most recent cumulative list of organizations described in section 501(c) of the Internal Revenue Code as tax exempt;

(ii) A copy of a currently valid Internal Revenue Service tax exemption certificate;

(iii) A statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State, and that no part of its net earnings may lawfully inure to the benefit of any private shareholder or individual;

(iv) A certified copy of the organization's certificate of incorporation or similar document, where such document clearly establishes the nonprofit status of the organization;

(v) Any of the evidence described in clauses (i) through (iv) of this subparagraph which applies to a State or national parent organization, and a statement by the parent organization that the applicant organization is a local nonprofit affiliate.

(20 U.S.C. 880b–8(a))

§ 123.15 Criteria for assistance.

(a) *General criteria.* In evaluating applications for assistance under this subpart (except as provided in paragraph (b) of this section) the Commissioner shall apply the following criteria:

(1) *Need for assistance.* (20 points) The need for assistance, as indicated by:

(i) The number and percentage of children of limited English-speaking

ability enrolled in the schools of the applicant local educational agency or agencies as of the date of the application;

(ii) The extent of such children's lack of competence in the English language and other needs related to their ability to progress effectively through the educational system, where the existence of such needs is supported by reliable evidence contained in the application; and

(iii) Recommendations from the appropriate State educational agency as to the relative need for the activities described in § 123.12 in different geographic areas within the State, the relative ability of local educational agencies within the State to conduct such activities, and other factors relevant to achieving an equitable distribution of assistance under this subpart within the State.

(2) *Approach.* (50 points) The quality of the applicant's educational approach, as indicated by the following factors:

(i) The extent to which the application sets forth objectives, designed to meet the needs assessed, which objectives are interrelated, specific, measurable, and realistically attainable within specified periods; and the extent to which the proposed program provides for concentrating services for a limited number of participants;

(ii) The extent to which the proposed program:

(A) Employs a comprehensive approach for instruction in, and the study of, English and the dominant language of participating children of limited English-speaking ability;

(B) Incorporates instruction in the history and culture of the United States and the history and culture of the geographic area associated with the dominant language of such children;

(C) Includes effective use of the cultural and educational resources in the area to be served;

(D) Affords promise of facilitating conceptual development and the improvement of reading and writing skills in English and a language other than English, on the part of participating children of limited English-speaking ability which will permit such children to progress through the educational system at the same rate as other children of the same age; and

(E) In the case of an application to carry out the activities described in § 123.12 (a) or (b), provides for benefiting persons from low-income families;

(iii) The extent to which the proposed program includes an adequate staffing plan, and will employ the services of persons with proficiency in the dominant language of participating children of limited English-speaking ability and experience in carrying out activities designed to develop listening, speaking, reading, writing, and other academic skills in the English language and in the dominant language of such children;

(iv) The extent to which the application:

(A) Provides for auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of the proposed program; and

(B) Delineates specific opportunities for the participation of the community advisory committee described in § 123.17 in the planning, implementation, and evaluation of the proposed program, and contains evidence that such participation has been encouraged and has in fact occurred; and

(v) The extent to which the auxiliary and supplementary training activities included in the proposed program afford promise of increasing the effectiveness of the program;

(3) *Administration.* (15 points) The extent to which the application sets forth:

(i) Effective methods of administration;

(ii) Effective financial management procedures;

(iii) Reasonable costs for services and property for the proposed program, and evidence that efforts have been made to minimize funds requested for the purchase of equipment and for personnel normally supported by the applicant;

(iv) Procedures for effective coordination of activities under the proposed program with related activities not funded under this subpart; and

(v) A plan for continuing the program without Federal support at the end of the project period; and

(4) *Evaluation.* (15 points) The extent to which the application sets forth an evaluation design as described in § 123.14(b)(7)(iii) which ensures a reliable and comprehensive assessment of the performance of participants in the proposed program.

(b) *Continuation awards.* Applications for assistance to continue a program during the project period but subsequent to the initial fiscal year of assistance shall be evaluated in accordance with § 123.04(d).

(20 U.S.C. 880b(a); 880b–7 (b)(1)(B), (b)(2)(A), (b)(2)(C) (i), c); Sen. Rep. No. 93–763, at 43–45 (1974); Sen. Rep. No. 93–1026, at 149 (1974))

§ 123.16 Participation of children enrolled in nonpublic schools.

(a) An application for assistance under this subpart shall contain:

(1) Evidence that, to the extent consistent with the number of children of limited English-speaking ability enrolled in nonprofit nonpublic schools in the area to be served, provision has been made for the participation of such children in the proposed program;

(2) A description of the nature and extent of such participation; and

(3) The information relating to program participants described in § 123.14(b)(5) as applied to eligible children enrolled in nonprofit, nonpublic schools.

(b) The participation of children of limited English-speaking ability enrolled in nonprofit, nonpublic schools in the area to be served may, at the option of the applicant, involve children enrolled in a nonpublic school whose dominant language is other than the dominant language of public school children of limited English-speaking ability to be served by the proposed program.

(c) The number of children of limited English-speaking ability enrolled in nonprofit, nonpublic schools who participate in the program, in relation to the total number of such children in the area to be served whose educational needs are of the type the program is designed to meet, shall be consistent with the number of public school children of limited English-speaking ability who participate in the program in relation to the total number of public school children in the area to be served whose educational needs are of the type the program is designed to meet.

(d) The applicant shall provide information satisfactory to ensure that services to participating nonpublic school children will be provided under public administrative direction and control.

(20 U.S.C. 880b–7(b)(2)(C)(ii); Sen. Rep. No. 93–1026, at 150 (1974))

§ 123.17 Parent and community participation.

(a) *Information and assurances.*—(1) Applications for assistance under this subpart shall contain a description of the procedures by which parents of children of limited English-speaking ability, teachers, secondary school students (where the proposed program will serve students enrolled in secondary schools), and other interested persons in the areas to be served have been consulted in the development of the application.

(2) An application for assistance under this subpart shall contain an assurance that in the event the application is approved:

(i) The applicant will consult with a community advisory committee established in accordance with paragraph (b) of this section at reasonable intervals (at formal meetings open to the public) with respect to the administration and operation of the program;

(ii) The applicant will provide such committee with a reasonable opportunity periodically to observe (upon prior and adequate notice by the applicant and at such time or times as such committee and such applicant may agree) and comment upon all activities included in the program; and

(iii) The applicant will make such provisions as are necessary to ensure the participation of such committee in the evaluation of the program.

(b) *Composition of community advisory committee.* The community advisory committee required by this section shall be composed of, and selected by, parents of children of limited English-speaking ability in the areas to be served and, where the program will serve students enrolled in secondary schools, representatives of secondary school students to be served.

(20 U.S.C. 880b–1(a)(4)(E); 1231d)

§§ 123.18–123.20 [Reserved]

Subpart C—Support Services for Programs of Bilingual Education

§ 123.21 Eligibility for assistance.

(a) An application for a grant under this subpart for the operation of a training resource center serving a designated service area may be submitted by:

(1) One or more institutions of higher education (including junior colleges and community colleges) which apply after consultation with, or jointly with, one or more local educational agencies;

(2) One or more local educational agencies; or

(3) One or more State educational agencies.

(20 U.S.C. 880b–9(b))

(b) An application for a grant under this subpart for the operation of a materials development center serving a designated service area, or for the operation of a dissemination/assessment center serving a designated service area, may be submitted by:

(1) One or more local educational agencies; or

(2) An institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies.

(20 U.S.C. 880b–7(b)(1))

(c) In the case of a joint application submitted pursuant to paragraphs (a)(1) or (b)(2) of this section, a single application with a single budget shall be submitted, and a single institution of higher education shall serve as the fiscal agent for all joint applicants.

(20 U.S.C. 880b–7(b)(1), 880b–9(b))

§ 123.22 Designated service areas.

(a) *Training resource centers.* Activities authorized under § 123.23(a), relating to training resource centers, shall be carried out in one of the following designated service areas:

(1) Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont);

(2) Region II (New York, New Jersey, Puerto Rico, and the Virgin Islands);

(3) Regions III and IV (Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia, Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee);

(4) Region V (Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin);

(5) Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas);

(6) Regions VII and VIII (Iowa, Kansas, Missouri, Nebraska, Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming);

(7) Region IX (Arizona, California, Hawaii, Nevada, American Samoa, Guam, and the Trust Territory of the Pacific Islands); and

(8) Region X (Alaska, Idaho, Oregon, and Washington).

(b) *Materials development centers.* Activities authorized under § 123.23(b), relating to materials development centers, shall be carried out in one of the following designated service areas:

(1) Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont);

(2) Region II (New York, New Jersey, Puerto Rico, and the Virgin Islands);

(3) Regions III and IV (Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee);

(4) Regions V and VII (Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin, Iowa, Kansas, Missouri, and Nebraska);

(5) Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas);

(6) Regions VIII and X (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, Alaska, Idaho, Oregon, and Washington); and

(7) Region IX (Arizona, California, Hawaii, Nevada, American Samoa, Guam, and the Trust Territory of the Pacific Islands).

(c) *Dissemination/assessment centers.* Activities authorized under § 123.23(c), relating to dissemination/assessment centers, shall be carried out in one of the following designated service areas:

(1) Regions I, II, III, and IV (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New York, New Jersey, Puerto Rico, the Virgin Islands, Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia, Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee);

(2) Regions V, VI, VII, and VIII (Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin, Iowa, Kansas, Missouri, Nebraska, Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming); and

(3) Regions IX and X (Arizona, California, Hawaii, Nevada, American Samoa, Guam, the Trust Territory of the Pacific Islands, Alaska, Idaho, Oregon, and Washington).

(d) (1) No more than one award of assistance shall be made to carry out the activities authorized under § 123.23 (a), (b), and (c), respectively, in any fiscal year in a designated service area unless the Commissioner determines that additional awards are required to meet the needs for such activities in any such area, or except as provided in paragraph (d)(3) of this section.

(2) Where the Commissioner determines that the needs for activities authorized under § 123.23 (a), (b), or (c) in all or part of a designated service area will not be met by the activities proposed in pending applications, the Commissioner may require applicants whose applications are of sufficient merit to warrant approval to expand their proposed activities to meet such needs.

(3)(i) Where the Commissioner determines that it is necessary in order to meet the needs for activities authorized under § 123.23 (a), (b), or (c) or otherwise to carry out the purposes of this subpart most effectively, the Commissioner may award one or more specific projects to carry out activities authorized under § 123.23 (a), (b), or (c) without regard to the service areas designated in this section.

(ii)(A) Applications under this subpart which propose to carry out activities without regard to the service areas designated in this section must set forth a special justification in terms of the standard described under paragraph (a)(1)(i) of this section for not following the service area designations.

(B) For applications under this subparagraph, requirements and criteria in this subpart referring to "designated service area" shall be applied with reference to the areas proposed to be served by the application.

(20 U.S.C. 880b–7 (a)(1) and (4), (b)(1), (2)(A), (c); 880b–9)

§ 123.23 Authorized activities.

The following activities are authorized to be carried out with financial assistance made available under this subpart where such activities are designed to carry out the purposes described in § 123.01:

(a) *Training resource centers.* In the case of a training resource center, the training of teachers, administrators, paraprofessionals, teacher aides, parents, and other persons associated or preparing to be associated, with a program of bilingual education (including persons employed by institutions of higher education and State educational agencies who are providing training under subpart B, D, or E of this Part) in the skills set forth in this paragraph, and the payment of stipends, as defined in § 123.02, to personnel participating in such training activities. In carrying out training activities described in this paragraph, priority shall be given to improving the likelihood of success of programs of bilingual education assisted under this Part in the designated service area.

(1) The use of bilingual educational practices, techniques, and methods;

(2) The use of instructional materials for programs of bilingual education, including procedures for field or pilot testing of such materials;

(3) The selection and use of appropriate instruments for measuring the educational performance of children of limited English-speaking ability;

(4) Means of involving parents and community organizations in programs of bilingual education, and of incorporating into such programs the use of available cultural and educational resources;

(5) The development and implementation of procedures to evaluate the impact of programs of bilingual education; and

(6) Any other skills which the Commissioner determines would facilitate the success of programs of bilingual education.

(20 U.S.C. 880b(a); 880b–9 (a)(1)(A)(i) (II) and (III), (a)(3))

(b) *Materials development centers.* In the case of a materials development center:

(1) The development of instructional and testing materials for use in programs of bilingual education in the designated service area; and

(2) The development of instructional materials for use by institutions of higher education in preparing persons for vocations in the field of bilingual education.

(20 U.S.C. 880b–7(a) (1), (4))

(c) *Dissemination/assessment centers.* In the case of a dissemination/assessment center:

(1) The publication and distribution of instructional and testing materials for use in programs of bilingual education, and by institutions of higher education in preparing persons for vocations in the field of bilingual education;

(2) The assessment of the effectiveness and applicability of materials described in subparagraph (1) of this paragraph with respect to various language groups of limited English-speaking ability residing in the designated service area; and

(3) The assessment of the need for instructional and testing materials on the part of children of limited English-speaking ability residing in the designated service area.

(20 U.S.C. 880b–7(a) (1), (4))

§ 123.24 Applications.

(a) *General provisions.* An applicant desiring to receive assistance under this subpart for a training resource center, a materials development center, or a dissemination/assessment center shall submit to the Commissioner an application which shall include a description of the activities set forth in § 123.23(a), (b), or (c) which the applicant desires to carry out. Where an applicant desires to operate more than one type of center described in this subpart, a separate application for each center shall be submitted. The Commissioner may require the information described in this section to be submitted either in a single application or sequentially, and may require additional information and assurances of selected applicants. Such application, together with all correspondence and other written materials relating thereto (including reports relating to performance and evaluation of approved centers) shall be made readily available to members of the public by the applicant. The applicant shall make copies of such materials available at a cost not exceeding the actual cost of reproduction.

(b) *Content of application.* An application for assistance under this subpart for a training resource center, a materials development center, or a dissemination/assessment center shall contain the following information:

(1) *Administration by applicant.* Evidence that the activities for which assistance is sought under this subpart will be administered by or under the supervision of the applicant;

(2) *Methods of administration.* A description of such methods of administration as are necessary for the proper and efficient administration of the center;

(3) *Financial management.* A description of such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for Federal funds paid to the applicant under this subpart;

(4) *Budget and justification.* A statement detailing the costs of services and property in the budget for the proposed center;

(5) *Needs and needs assessment.* A description of the needs in the designated service area for the activities proposed by the applicant, and of the procedures employed by the applicant to identify and assess such needs;

(6) *Staffing.* A description of the professional qualifications of key personnel for the proposed center, as such qualifications relate to the activities which the applicant proposes to carry out;

(7) *Evaluation, reports, and records.*

(i) Evidence that the applicant will cooperate with the Commissioner (or a public or private agency designated by the Commissioner) in the evaluation of the extent to which funds made available under this subpart have been effective in achieving the purposes of this part; and

(ii) Evidence that the applicant will submit to the Commissioner such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out the functions under this Part, and will keep such records and afford such access thereto as the Commissioner may find necessary to verify such reports;

(8) *Coordination.* A description of procedures employed and to be employed by the applicant to coordinate the activities of the proposed center:

(i) With the activities of other centers assisted under this subpart;

(ii) With activities under other Federally-supported programs to assist children of limited English-speaking ability; and

(iii) In the case of a training resource center, with any other programs training auxiliary educational personnel for programs of bilingual education;

(9) *Review by State educational agency.* In the case of an application for a materials development or a dissemination/assessment center, a statement indicating that the State educational agencies, as defined in § 123.02, in the designated service area of the proposed center have been given a reasonable opportunity to offer recommendations to the applicant and the Commissioner for the improvement of the proposed activities, including the identity of the State officials or agencies to whom the proposed activities were submitted, the date of such submission, and a copy of any recommendations made by such officials or agencies to the applicant. In the case of an application submitted by an elementary or secondary school for Indian children on a reservation which is operated or funded by the Department of the Interior, the Secretary of the Interior or the Secretary's designate shall be treated as the appropriate State educational agency for purposes of this subparagraph.

(20 U.S.C. 880b–7(b)(1), (b)(2)(D); 800b–9; 1231d; 1232c (a) (1), (2), (b)(33))

§ 123.25 Criteria for assistance—training resource centers.

In evaluating applications for assistance under this subpart for training resource centers, the Commissioner shall apply the following criteria:

(a) *Needs identification.* (20 points) The extent to which the applicant has identified, by reliable and objective means, the nature and magnitude of the needs for the authorized training activities described in § 123.23(a) in the designated service area;

(b) *Approach.* (50 points) The quality of the applicant's training approach, as indicated by the following factors:

(1) The extent to which the application sets forth objectives designed to meet the needs identified, which objectives are interrelated, specific, measurable, and realistically attainable within specified periods;

(2) The extent to which the application includes an adequate staffing plan, and the extent to which personnel who will carry out the proposed activities are proficient in a dominant language of children of limited English-speaking ability residing in the designated service area and possess demonstrated competence and experience in the authorized training activities described in § 123.23 (a);

(3) The extent to which the application provides for a continuing exchange of information between the applicant and both administrators of programs of bilingual education assisted under this Part and other persons providing training under this Part in the designated service area; and

(4) The extent to which the application contains provisions for effective coordination with the activities of other centers assisted under this subpart and other programs training auxiliary educational personnel for programs of bilingual education;

(c) *Administration.* (15 points) The extent to which the application sets forth:

(1) Effective methods of administration;

(2) Effective financial management procedures; and

(3) Evidence that efforts have been made to minimize funds requested for the purchase of equipment, travel, and other support costs; and

(d) *Evaluation.* (15 points) The extent to which the application sets forth procedures for evaluating, by objective and quantifiable means, the success of the proposed activities in achieving the applicant's objectives.

(20 U.S.C. 880b–7 (b)(2)(A), (c); 880b–9)

§ 123.26 Criteria for assistance—materials development centers.

In evaluating applications for assistance under this subpart for materials development centers, the Commissioner shall apply the following criteria:

(a) *Needs identification.* (20 points) The extent to which the applicant has identified, by reliable and objective means, the nature and magnitude of the needs for the kinds of materials described in § 123.23(b) in the designated service areas;

(b) *Approach.* (50 points) The quality of the applicant's approach, as indicated by the following factors:

(1) The extent to which the application sets forth objectives designed to meet the most critical needs identified, which objectives are specific, measurable, and realistically attainable within specified periods;

(2) The extent to which the application includes an adequate staffing plan, and the extent to which personnel who will carry out the proposed activities are proficient in a dominant language of children of limited English-speaking ability residing in the designated service area and possess demonstrated competence and experience in the development of the kinds of materials described in § 123.23(b);

(3) The extent to which the application contains provisions for the effective use of cultural and educational resources in the designated service area; and

(4) The extent to which the application contains provisions for effective coordination with the activities of other centers assisted under this subpart;

(c) *Administration.* (15 points) The extent to which the application sets forth:

(1) Effective methods of administration;

(2) Effective financial management procedures; and

(3) Evidence that efforts have been made to minimize funds requested for the purchase of equipment, travel, and other support costs; and

(d) *Evaluation.* (15 points) The extent to which the application sets forth procedures for evaluating, by objective and quantifiable means, the success of the proposed activities in achieving the applicant's objectives.

(20 U.S.C. 880b–7 (b)(2)(A), (c))

§ 123.27 Criteria for assistance—dissemination/assessment centers.

In evaluating applications for assistance under this subpart for dissemination/assessment centers, the Commissioner shall apply the following criteria:

(a) *Needs identification.* (20 points) The extent to which the applicant has identified, by reliable and objective means, the nature and magnitude of the needs for the activities described in § 123.23(c) in the designated service area;

(b) *Approach.* (50 points) The quality of the applicant's approach, as indicated by the following factors:

(1) The extent to which the application sets forth objectives designed to meet the needs identified, which objectives are specific, measurable, and realistically attainable within specified periods;

(2) The extent to which the application includes an adequate staffing plan, and the extent to which personnel who will carry out the proposed activities are proficient in a dominant language of children of limited English-speaking ability residing in the designated service area and possess demonstrated competence and experience in the authorized activities described in § 123.23(c); and

(3) The extent to which the application contains provisions for effective coordination with the activities of other centers assisted under this subpart;

(c) *Administration.* (15 points) The extent to which the application sets forth:

(1) Effective methods of administration;

(2) Effective financial management procedures; and

(3) Evidence that efforts have been made to minimize funds requested for the purchase of equipment, travel, and other support costs; and

(d) *Evaluation.* (15 points) The extent to which the application sets forth procedures for evaluating, by objective and quantifiable means, the success of the proposed activities in achieving the applicant's objectives.

(20 U.S.C. 880b–7 (b)(2)(A), (c))

§§ 123.28–123.30 [Reserved]

Subpart D—Training Programs

§ 123.31 Eligibility for assistance.

(a) An application for assistance under this subpart may be submitted by:

(1) One or more institutions of higher education (including a junior or community college) which apply after consultation with, of jointly with, one or more local educational agencies;

(2) One or more local educational agencies; or

(3) One or more State educational agencies.

(b) In the case of a joint application submitted pursuant to paragraph (a)(1) of this section, a single application with a single budget shall be submitted, and a single institution of higher education shall serve as the fiscal agent for all joint applicants.

(c) Not more than 15 percent of the funds obligated for training activities under this subpart and subparts B, C, and E of this Part in any fiscal year shall be made available to State educational agencies in that fiscal year.

(20 U.S.C. 880b–9 (a)(4), (b))

§ 123.32 Authorized activities.

The following activities are authorized to be carried out with financial assistance made available under this subpart where such activities are designed to carry out the purposes described in § 123.01:

(a) Training programs designed to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility. In the case of applications submitted by an institution of higher education after consultation with, or jointly with, one or more local educational agencies, these programs may include payment to the institution of higher education of costs associated with the enrollment and attendance of such persons in a program of study at the institution of higher education which will lead to a degree or credential in the field of bilingual education. In selecting recipients of traineeships under this paragraph, the applicant shall give priority to bilingual persons and to persons who have demonstrated a high degree of interest in pursuing a vocation in the field of bilingual education.

(b) Training programs for teachers, administrators, paraprofessionals, teacher aides, and parents associated with programs of bilingual education;

(c) Programs to train persons to teach and counsel those persons described in paragraph (b) of this section;

(d) Training programs designed to improve programs of bilingual education by meeting individual needs of persons associated with such programs;

(e) Training programs designed to encourage reform, innovation, and improvement in educational curricula (applicable to programs of bilingual education) in graduate education, in the structure of the academic profession, and in the recruitment and retention of higher education and graduate school faculties, as related to bilingual education. It is anticipated that no more than $100,000 will be awarded to any training program described in this paragraph;

(f) The operation of short term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs; and

(g) The payment of stipends, as defined in § 123.02, to personnel participating in training programs described in paragraphs (a)–(f) of this section except that stipends to persons who are enrolled in a full-time program of study at an institution of higher education under paragraph (a) of this section, and who are engaged in gainful employment on a full-time basis, shall include only the costs of tuition, books and fees and other costs directly related to the program of study and required by the institution of higher education.

(20 U.S.C. 880b–9(a) (1), (3))

§ 123.33 Applications.

(a) *General provisions.* An applicant desiring to receive assistance under this subpart shall submit to the Commissioner an application which shall include a description of the activities set forth in § 123.32 which the applicant desires to carry out. The Commissioner may require the information described in this section to be submitted either in a single application or sequentially, and may require additional information and assurances of selected applicants. Such application, together with all correspondence and other written materials relating thereto (including reports relating to performance and evaluation of approved

programs) shall be made readily available to members of the public by the applicant. The applicant shall make copies of such materials available at a cost not exceeding the actual cost of reproduction.

(20 U.S.C. 880b–9; 1231d)

(b) *Content of application.* Applications for assistance under this subpart shall contain the following assurances and information:

(1) *Administration by applicant.* Evidence that the activities for which assistance is sought under this subpart will be administered by or under the supervision of the applicant;

(2) *Methods of administration.* A description of such methods of administration as are necessary for the proper and efficient administration of the program;

(3) *Financial management.* A description of such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for Federal funds paid to the applicant under this subpart;

(4) *Budget and justification.* A statement detailing the costs of services and property in the budget for the proposed program;

(5) *Need for assistance.* A description of the nature and magnitude of the need for the proposed training activities, and the means by which the applicant has assessed such need;

(6) *Evaluation, reports, and records.*— (i) Evidence that the applicant will cooperate with the Commissioner (or a public or private agency designated by the Commissioner) in the evaluation of the extent to which funds made available under this subpart have been effective in achieving the purposes of this Part;

(ii) Evidence that the applicant will submit to the Commissioner such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out the functions under this Part, and will keep such records and afford such access thereto as the Commissioner may find necessary to verify such reports; and

(iii) A description of the evaluation design for the proposed program;

(7) A description of the professional qualifications of persons who will conduct the proposed training activities;

(8) *Coordination.* A description of procedures employed and to be employed by the applicant to coordinate its proposed program with any other programs training auxiliary educational personnel, including training activities assisted under subparts B, C, and E of this Part;

(9) *Consultation with local educational agencies.* In the case of an application submitted by an institution of higher education after consultation with one or more local educational agencies:

(i) The name of such agency or agencies;

(ii) A description of how the agency or agencies were consulted; and

(iii) A description of how the agency or agencies will be involved in the proposed program; and

(10) *Parent and community participation.* In the case of an application for a program described in § 123.32 (a), (d), or (f), the information and assurances required by § 123.17(a) (1) and (2).

(20 U.S.C. 880b–9 (a) (1), (5), (b); 1231d; 1232c (a) (1), (2), (b) (3))

§ 123.34 Criteria for assistance.

(a) *General criteria.* In evaluating applications for assistance under this subpart (except as provided in paragraph (b) of this section) the Commissioner shall apply the following criteria:

(1) (15 points) The nature and magnitude of the need for the proposed training activities;

(2) (10 points) The soundness of the proposed program, in terms of the extent to which the application sets forth objectives designed to meet the needs assessed, which objectives are interrelated, specific, measurable, and realistically attainable within specified periods;

(3) (20 points) The extent to which persons who will conduct the proposed training activities possess demonstrated competence and experience in the field of bilingual education;

(4) (10 points) The extent to which the proposed program affords promise of increasing the number of professional educational personnel capable of participating in programs of bilingual education;

(5) (10 points) The extent to which the proposed program will increase the applicant's capacity for training personnel in the field of bilingual education;

(6) (10 points) The extent to which the proposed program will incorporate the use of both English and a language other than English;

(7) (10 points) The extent to which the proposed program includes field experience with programs of bilingual education;

(8) (5 points) The extent to which the application sets forth procedures for a reliable and comprehensive evaluation of the impact of the proposed program;

(9) (5 points) The extent to which the application sets forth procedures for effective coordination of the proposed program with other programs training auxiliary educational personnel, including training activities assisted under subparts B, C, and E of this Part; and

(10) (5 points) The extent to which the application sets forth effective methods of administration and financial management procedures, and reasonable costs.

(b) *Continuation awards.* Applications for assistance to continue a program during the project period but subsequent to the initial fiscal year of assistance shall be evaluated in accordance with § 123.04(d).

(20 U.S.C. 880b(a); 880b–9(a) (1), (4))

§§ 123.35–123.40 [Reserved]

Subpart E—Fellowships for Preparation of Teacher Trainers

§ 123.41 General provisions.

(a) The Commissioner may award fellowships to individuals for the purpose of permitting such individuals to enroll in a full-time program of study in the field of training teachers for bilingual education.

(b) Fellowships shall be awarded to eligible individuals accepted for enrollment in a full-time program of study offered by an institution of higher education approved for participation under this subpart by the Commissioner.

(c) Allowable costs for the fellowships include stipends, as defined in § 123.02, except that stipends to recipients of fellowships who are engaged in gainful employment on a full-time basis shall include only the costs of tuition, books and fees, and other costs associated with the program of study and required by the institution of higher education.

(20 U.S.C. 880b–9(a) (2), (3))

§ 123.42 Participation by institutions of higher education.

(a) An institution of higher education which offers a program of study leading to a degree above the baccalaureate level in the field of training teachers for programs of bilingual education may submit to the Commissioner a request for participation under this subpart. Such request shall contain the following information:

(1) A description of the existing program of study in which recipients of fellowships under this subpart will be enrolled, including:

(i) The organizational location of such program;

(ii) The requirements for satisfactory progress in, and completion of, the program;

(iii) A description of the theoretical and methodological framework of the program, including any interdisciplinary aspects of the program;

(iv) A description of opportunities for field-based experience included in the program; and

(v) Evidence that the program has been or will be adopted as a permanent part of the graduate programs of study offered by the institution of higher education;

(2) A description of the professional qualifications of faculty members in the program of study, including their experience in teacher training and in bilingual education, their bilingual competence, and their knowledge of the history and culture of the United States and geographical areas associated with a language other than English;

(3) A description of the nature and extent of any consultation and coordination, both accomplished and planned, with local educational agencies and persons or organizations with expertise in teacher training or the educational problems of children of limited English-speaking ability, including a description of any arrangements made for the implementation of field-based aspects of the program;

(4) A description of the competencies, relating to training teachers for programs of bilingual education, which individuals completing the program of study may expect to acquire, including the ability to prepare teachers to:

(i) Teach various subjects or courses of study in elementary or secondary schools using English and a language other than English as the media of instruction;

(ii) Provide instruction in elementary or secondary schools in the history and culture of the United States and geographical areas associated with a language other than English;

(iii) Select and use appropriate instruments for measuring the educational performance of children of limited English-speaking ability; and

(iv) Involve parents and community organizations in programs of bilingual education, and incorporate into such programs the use of available cultural and educational resources, as described in § 123.14(b)(6);

(5) A statement of the costs to the recipient of the fellowship of enrollment in the program of study, including tuition, books and fees, and other costs required by the institution of higher education (but not including any indirect or operational costs of such institution);

(6) The name, position, address and professional qualifications of the individual who will have primary responsibility for administering the program of study for recipients of fellowships under this subpart;

(7) An estimate of the number of recipients of fellowships to be enrolled in the program of study; and

(8) A description of the criteria to be used in selecting nominees and alternates for fellowships under this subpart, including a discussion of how such criteria relate to the likelihood that such nominees and alternates will satisfactorily complete the program.

(b) In evaluating requests for participation by institutions of higher education, the Commissioner will consider the quality of the program of study described by the institution pursuant to paragraph (a) of this section, with particular reference to the following factors:

(1) The extent to which the program includes effective means of providing field-based experience;

(2) The extent to which the program has been adopted as a permanent part of the graduate programs of study offered by the institution;

(3) The qualifications of faculty members for the program, especially with regard to their bilingual competency;

(4) The extent to which the program affords promise of imparting each of the competencies described in paragraph (a)(4) of this section; and

(5) The extent to which the criteria for selection of nominees and alternates described in paragraph (a)(8) of this section give priority to bilingual persons and to persons who have demonstrated a high degree of interest in vocation in the field of bilingual education.

(20 U.S.C. 880b-9(a)(2))

§ 123.43 Awards of fellowships to individuals.

(a) An individual is eligible to receive a fellowship under this subpart where such individual:

(1) Is a citizen of the United States, is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands; and

(2) Has been accepted for enrollment in a full-time program of study offered by an institution of higher education approved for participation under this subpart.

(b) An individual desiring to receive a fellowship under this subpart may apply for such fellowship by submitting an application therefor through a participating institution of higher education. A list of such institutions may be obtained from the Commissioner upon request.

(c) In awarding fellowships under this subpart the Commissioner will be guided by the relative need of various language groups of limited English-speaking ability, and of various geographical areas, for teachers for program of bilingual education.

(d) A recipient of a fellowship under this subpart may continue to receive a stipend only for such period as he or she maintains satisfactory progress in the program of study described in § 123.42(a).

(20 U.S.C. 880b-7(c), 880b-9(a)(2), (3); Sen. Rep. No. 93-1026, at 151-52 (1974))

§§ 123.44-123.50 [Reserved]

Subpart F—Coordination of Technical Assistance by State Educational Agencies

§ 123.51 Eligibility for awards.

A State educational agency in a State where programs of bilingual education assisted under this Part were operated during the fiscal year preceding the fiscal year for which assistance is sought may submit an application for a contract for the purpose of coordination by such agency of technical assistance to programs of bilingual education.

(20 U.S.C. 880b-7(b)(3)(A))

§ 123.52 Authorized activities.

(a) Funds made available under this subpart shall be used for the coordination of technical assistance to programs of bilingual education assisted under this Part and operated by local educational agencies in the State of the applicant.

(b) The amount paid to any State educational agency under this subpart shall not exceed 5 per cent of the aggregate of the amounts paid under this Part to local educational agencies in the State of such agency in the fiscal year preceding the fiscal year for which assistance under this subpart is sought.

(20 U.S.C. 880b-7(b)(3)(A), (B); Sen. Rep. No. 93-1026, at 150-51 (1974))

§ 123.53 Program applications.

(a) A State educational agency desiring to enter into a contract pursuant to this subpart for any fiscal year shall submit to the Commissioner a program application for that fiscal year. Such application shall include the following information:

(1) A description of the programs of bilingual education assisted under this Part within the State during the fiscal year preceding the fiscal year for which assistance is sought, a description of the activities of the State educational agency in coordinating and providing technical assistance to such programs during such preceding fiscal year, a description of the organization of the State educational agency, and the names and professional qualifications of the principal staff members of such agency who have provided services to programs of bilingual education;

(2) A description of the need for coordination of technical assistance to programs of bilingual education assisted under this Part in the State during the fiscal year for which assistance is sought, in terms of factors indentified by the applicant;

(3) A description of the activities which the applicant desires to carry out to meet the needs which it has identified, including:

(i) A description of a plan for monitoring programs of bilingual education assisted under this Part within the State;

(ii) A description of a plan for evaluating the impact of such programs; and

(iii) A description of a plan for facilitating the exchange of information among such programs;

(4) A budget detailing the costs of activities for which assistance is sought; and

(5) Provisions for making available, at a cost not exceeding the actual cost of reproduction, sample copies of any materials resulting from the applicant's activities under this subpart to any local educational agency within the State which requests copies of such materials.

(b) The applicant shall also provide the following assurances:

(1) An assurance that funds made available under this subpart for any fiscal year will be so used as to supplement and to the extent practical increase the level of funds that would, in the absence of such funds, be made available by the State for the activities described in § 123.52(a) and in no case to supplant such funds.

(2) An assurance that the applicant will:

(i) Cooperate with the Commissioner (or a public or private agency designated by the Commissioner) in the evaluation of the extent to which funds made available under this subpart have been effective in improving programs of bilingual education funded under this Part; and

(ii) Submit to the Commissioner such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out the functions under this Part (including reports of evaluations of any approved program, to be submitted at least twice annually) and will keep such records and afford such access thereto as the Commissioner may find necessary to verify such reports.

(20 U.S.C. 880b–7(b)(3)(A); 1232c(a)(1), (2))

§ 123.54 Criteria for assistance.

In evaluating applications for assistance under this subpart, the Commissioner will consider the following factors:

(a) The extent to which the applicant coordinated and provided technical assistance to programs of bilingual education assisted under this Part within the State during the fiscal year preceding the fiscal year for which assistance is sought;

(b) The extent to which the services described in paragraph (a) of this section were effective in improving the quality of such programs of bilingual education;

(c) The extent to which the application includes an adequate staffing plan and provides for employing the services of persons qualified to coordinate the provision of technical assistance to programs of bilingual education assisted under this Part within the State;

(d) The extent of the need for assistance under this subpart as indicated by the number of programs of bilingual education assisted under this Part within the State during the fiscal year preceding the fiscal year for which assistance under this subpart is sought, and factors identified by the applicant;

(e) The extent to which the proposed activities afford promise of improving programs of bilingual education assisted under this Part within the State; and

(f) The extent to which the applicant sets forth:

(1) Effective methods of administration;

(2) Effective financial management procedures;

(3) Provisions for coordinating its activities with related activities supported by Federal and non-Federal funds; and

(4) Reasonable costs.

(20 U.S.C. 880b–7(b)(3))

§§ 123.55–123.60 [Reserved]

Subpart G—Research and Demonstration Projects

§ 123.61 Authorized activities.

The following activities are authorized to be carried out with funds made available under this subpart:

(a) Research in the field of bilingual education in order to enhance the effectiveness of:

(1) Programs assisted under this Part;

(2) The program authorized by section 708(c) of the Emergency School Aid Act (20 U.S.C. 1607(c));

(3) The programs carried out in coordination with the provisions of the Bilingual Education Act (20 U.S.C. 880b–b–13) pursuant to:

(i) Section 122(a)(4)(C) and part J of the Vocational Education Act of 1963 (20 U.S.C. 1262(a)(4)(C) and 20 U.S.C. 1393 *et seq.*); and

(ii) Section 306(a)(11) of the Adult Education Act (20 U.S.C. 1205(a)(11)); and

(4) Programs and projects serving areas with high concentrations of persons of limited English-speaking ability pursuant to section 6(b)(4) of the Library Services and Construction Act (20 U.S.C. 351d(b)(4));

(b) Testing the effectiveness of research findings by the National Institute of Education in the field of bilingual education;

(c) Demonstrating new or innovative practices, techniques, and methods for use in prgrams assisted under this Part;

(d) Undertaking studies to determine the basic educational needs and language acquisition characteristics of, and the most effective conditions for educating, children of limited English-speaking ability;

(e) Developing and disseminating instructional materials and equipment suitable for use in bilingual education programs; and

(f) Establishing and operating a national clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and programs related thereto.

(20 U.S.C. 880b–1(a)(8); 880b–13 (a), (b), (c); Sen. Rep. No. 93–1026, at 153–54 (1974))

§ 123.62 Administration; award procedures.

(a) Awards for the research activities described in § 123.61(a) shall be made by the National Institute of Education in accordance with the provisions of 20 U.S.C. 1221e.

(b) Awards for the activities described in § 123.61 (b)–(f) shall be made by the Director of the National Institute of Education or by the Commissioner of Education, or jointly by the Director and the Commissioner, to one or more public or private educational agencies, institutions, or organizations. The awards described in this paragraph (b) shall be in the form of competitive contracts, and shall be governed by the provisions of the Federal Procurement Regulations (41 Code of Federal Regulations, Chapters 1 and 3).

(20 U.S.C. 880b–13 (a), (b), (c))

§ 123.63 Consultation.

In carrying out their responsibilities under this subpart, the Commissioner of Education and the Director of the National Institute of Education will periodically consult with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

(20 U.S.C. 880b–13(d))

[FR Doc.76–16842 Filed 6–10–76;8:45 am]

federal register

FRIDAY, JUNE 11, 1976

PART IV:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Family Contribution Schedules

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Family Contribution Schedules

A notice of proposed rulemaking was published in the FEDERAL REGISTER on August 14, 1975 (40 FR 34331) to amend Subparts C and D of Part 190 of Title 45 of the Code of Federal Regulations, dealing with the Family Contribution Schedules for the Basic Educational Opportunity Grant Program. The amendments were designed to make the Family Contribution Schedules more equitable and were developed in response to concerns raised during the past year of program operations. These proposed amendments (a) increased the amount of the asset reserve, (b) provided special treatment for farm and business assets, (c) and increased the amount of the family size offsets to reflect inflation during 1975, as measured by the 1975 Consumer Price Index.

Interested parties were invited to submit written comments, suggestions, or objections with regard to the proposed amendments. In addition, as required by section 411(a)(3)(A)(ii) of the Higher Education Act of 1965, as amended (20 U.S.C. 1070(a)(3)(A)(ii)), the Schedules were submitted to the President of the Senate and the Speaker of the House and hearings on these Schedules were held by the Senate Subcommittee on Education on September 11, 1975 and by the House Subcommittee on Education on October 2, 1975.

Comments from the public, as well as Congressional comments, centered around two primary issues in the Schedules: The relationship of the Family Contribution Schedules to the "consensus" model for need analysis as proposed by the National Task Force on Student Aid Problems and the treatment of assets as it relates to applicants with farm and business assets.

During the past 18 months, considerable attention was given by the Financial Aid community and the Office of Education to simplify and coordinate the results of various need analysis systems and procedures and to standardize the data requirements necessary to obtain comparable need analysis results. In this context, the National Task Force on Student Aid Problems was established with the primary objective to develop a common need analysis system and a common data form which would be acceptable to all interested parties. The Task Force developed a series of proposals, including a single "consensus" model for need analysis and a common data form. Comments suggested that the Basic Grant Program adopt the "consensus" model for need analysis and the common data form. However, these proposals were not adopted.

The primary objections to the proposed common form are that it is designed to collect a significant amount of information which is not needed by the Basic Grant Program, thereby complicating the application form unnecessarily. In addition, collection of such additional information raises serious legal questions under the Privacy Act.

With regard to the proposed "consensus" model of need analysis, the results produced by the model yield consistently different results from those produced by the Basic Grant Family Contribution Schedules. Adoption of the "consensus" model, as presently proposed for the determination of Basic Grant eligibility, would significantly expand the population served and would, as a result, have major budget implications for the program. Considering the major impact of such a change, it was determined that adoption of the "consensus" model would be premature and that a full assessment of all possible consequences of such a major change would be required.

At the same time, the Office of Education strongly endorses the concept of a common need analysis system and a common student form. To this end, a number of steps were taken to move toward the achievement of these objectives. Specifically, based on the Office of Education's benchmark criteria for approval of need analysis systems, the consensus model has been approved as an acceptable system for determining financial need under the College Work-Study, Supplemental Educational Opportunity Grants, and National Direct Student Loan programs for the 1976–77 academic year. In addition, the Basic Grant application form for the 1976–77 academic year was expanded to include certain data elements actually needed to compute the family contribution amounts using the computation methods of the "consensus" model. Procedures have also been established to provide applicant data under special agreement with State Scholarship Commissions to permit the computation of the family contribution using the "consensus" model computational methods with data collected on the Basic Grant application form. This approach is expected to facilitate the coordination of financial aid resources and to reduce duplication of effort on the part of the applicant. These objectives are consistent with the purposes of the proposals advanced by the Task Force.

A second major concern was expressed regarding the treatment of farm and business assets. The proposed amendments provide for an asset reserve of $12,500 for applicants who do not report farm and business assets and $25,000 for applicants who do report farm and business assets. However, both Congressional and public concern was expressed that the automatic application of a $25,000 asset reserve to the total asset equity for any applicant reporting farm and business assets may provide an unfair advantage to applicants having high equity in non-farm and non-business assets and a low farm and business asset equity. For example, under the proposed amendments, a family reporting $24,000 in non-farm equity and $1,000 in farm assets would be entitled to a $25,000 offset, even though the majority of reported equity is in the form of personal assets.

In response to this concern, the proposed regulations have been further amended to include a provision which would limit the asset reserve against non-farm and non-business asset equity to $12,500 and provide a maximum asset reserve against the total preported asset equity, including farm and business assets, of $25,000. As such, the minimum asset reserve against farm and business asset equity is $12,500. The amount of this asset reserve would increase to the extent that the reserve for non-farm and non-business assets is not "used". For example, a business owner who reports $14,000 of home equity and a business equity of $10,000 would receive an asset reserve of $12,500 against the home value and an asset reserve of $10,000 against the business property. As such, $1,500 of the reported home equity would be included in the determination of that applicant's eligibility index. On the other hand, if a business or farm owner reports a home equity of $10,000 and busines or farm assets of $14,000, he would receive an asset reserve of $10,000 against the reported home value and an asset reserve of $14,000 against the reported farm or business equity. In this case, no assessment against assets will be made in the calculation of that applicant's reported assets. The limitation of the asset reserve against non-farm and non-business equity to $12,500 provides for identical treatment of such assets for all applicants. At the same time, the asset treatment also recognizes the special conditions of those families whose occupation requires a substantial asset position in order to achieve a relatively low level of income.

In addition to the above changes, the definition of "parent" has been modified in order to retain the concept of the parent's primary responsibility for financial support of their children's education, while dealing more equitably with situations in which persons, who, for any number of reasons, act in lieu of the student's parents. This modification was not published under the proposed rulemaking procedure. These amendments are to apply for the academic year 1976–77.

Present regulations require that any person who provided one half of the applicant's support during the base year be considered the student's "parent", even if that person no longer provides one half support during the year of application. That person's income was to be reported for purposes of calculating the eligibility index. Such an approach is unfair to a student whose reported resources on which financial aid is calculated are no longer available to him.

The amended regulations seek first to maintain the concept of the relationship between the applicant and his parents as the primary one for financial support. If, during the base year, the year of application, or the succeeding year, the student was claimed or will be

claimed as an exemption for Federal Income Tax purposes, lived or will live for more than two consecutive weeks in the parents' home, or received or will receive over $600 from his parents, that student is considered a dependent student for purposes of the Basic Grant Program.

If none of these conditions exist with the student's natural parents, the amended regulations provide that the student may still be considered to have a "parent" if he received over one half support from any person during the base year. However, such a student is considered to be independent if during the year of application he no longer receives one half support from that "parent" or from any other person. He is, of course, considered dependent if he receives one half support from any person during the year of application, regardless of the base year circumstances, and must report that "parent's" income on the application.

It should be further noted that in view of the pressing need to incorporate the provisions dealing with the definition of parent as part of the application process for the 1976–77 academic year, it has been determined in accordance with 5 U.S.C. 553(b) that to resort to proposed rulemaking procedures with respect to this provision would be impractical and contrary to public interest. Since the Family Contribution Schedules are required to be submitted annually for Congressional approval and public comments, there will be additional opportunity to make further modifications if subsequent program experience and public comments warrant such changes.

Other amendments and changes, as follows, are primarily of a technical nature. As stated in the notice of proposed rulemaking, the 10 percent figure for the rise in the cost of living was used as an estimate to determine the family size offsets with the expectation that it would need to be adjusted. In actuality, the Consumer Price Index rose only 7.6 percent and family size offsets have been altered to reflect that figure.

The Family Contribution Schedules as published also contained some technical inaccuracies and omissions. These inaccuracies and omissions have been corrected in this publication of the regulations.

In light of the foregoing, Part 190 of Title 45 of the Code of Federal Regulations is amended by the revision of Subpart C and D as set forth below.

Effective Date: Pursuant to section 431(d) of the General Education Provision Act, as amended, (20 U.S.C. 1232 (d)) these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section further provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance No. 13.539 Basic Educational Opportunity Grant Program.)

Dated: April 26, 1976.

T. H. BELL,
U.S. Commissioner of Education.

Approved: June 4, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Part 190 of Chapter I of Title 45 of the Code of Federal Regulations would be amended as follows:

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

1. Section 190.32 would be amended as follows:

Paragraph (d) through (h) becomes (e) through (j); paragraph (j) through (n) becomes (l) through (p); paragraph (o) is revised; and by adding new paragraphs (d) and (k) to read as follows:

§ 190.32 Special definitions.

* * * * *

(d) "Business Assets" means property that is used in the operation of a trade or business including real estate inventories, buildings, machinery and other equipment inventories, patents, franchise rights, and copy rights.

* * * * *

(k) "Farm Assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, but some income is derived from incidental sales.

* * * * *

(o) (1) For purposes of this Subpart and Subpart D, "parent" means the mother, father, or legal guardian of a student unless any other person, except the student's spouse, during the base year provided more than one-half of the student's support and claimed or was eligible to claim the student as an exemption for Federal income tax purposes.

(2) Notwithstanding the provisions of paragraph (o)(1) of this section, the student's mother or father or legal guardian will be considered the student's parent (i) if, for the calendar year(s) for which aid is received or the calendar year prior to the school year for which aid is requested, either claimed or will claim the student as an exemption for Federal income tax purposes, or contributed or will contribute more than $600 to the student in any of such years, or (ii) if the student has lived or will live for more than two consecutive weeks in their home during such years.

(3) If neither the student's mother, father, or legal guardian qualify, for purposes of this part, as the student's parent under paragraphs (o) (1) and (2) of this section, the person, other than the student's spouse, who provides or will provide more than one-half of the student's support for the first calendar year in which assistance is requested shall be considered the student's parent. If no person, except the student's spouse, provides more than one-half of the student's support in the first calendar year in which assistance is requested, the person other than the student's spouse who provided more than half of the student's support in the base year shall be considered the student's parent.

* * * * *

2. Section 190.33 would be amended by revising paragraph (c)(1) to read as follows:

§ 190.33 The expected family contribution for dependent students from parents' and student's effective income.

* * * * *

(c) * * *

(1) *Family size offset.* A family size offset is the amount specified in the folloding table. Family size includes the student, the student's parents and the student's parents' dependents. If the parents are divorced or separated, family size shall include the student and any parent whose income is taken into account for the purpose of computing the annual adjusted family income and that parent's dependents.

FAMILY SIZE OFFSETS

Family size	*Dollar amounts*
2	3,650
3	4,400
4	5,600
5	6,600
6	7,500
7	8,300
8	9,150
9	10,000
10	10,850
11	11,700
12	12,550

* * * * *

3. In § 190.35, paragraph (a)(2) would be revised to read as follows:

§ 190.35 Computation of standard expected contribution from parents' assets.

(a) * * *

(2) If the net assets determined in paragraph (a)(1) of this section include farm assets or business assets as defined in § 190.32(d) and (k), deduct an asset reserve of $25,000 from the net assets, except that an asset reserve of no more than $12,500 may be deducted from nonfarm and/or non-business assets owned by the parents. If the net assets determined in paragraph (a)(1) of this section do not include farm or business assets, deduct an asset reserve of $12,500 from the net assets.

* * * * *

4. Section 190.42 is amended by revising paragraph (a) to read as follows:

§ 190.42 Special definitions.

* * * * *

(a) (1) A student shall qualify as an independent student if his parent, pursuant to § 190.32(o), is his mother or father and if he:

(i) Has not and will not be claimed as an exemption for Federal income tax purposes by his parent for the calendar year(s) in which aid is received and the

calendar year prior to the academic year for which aid is requested.

(ii) Has not and will not receive financial assistance of more than $600 per year from his parent in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested, and

(iii) Has not lived or will not live for more than 2 consecutive weeks in the home of his parent during the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.

(2) A student shall qualify as an independent student if, pursuant to § 190.32 (o) the student's parent is the person, other than the student's spouse, who provided more than one-half of his support in the base year, and if that parent does not or will not provide one-half support during the first calendar year for which aid is requested.

(3) A student may not be considered an independent student if, pursuant to § 190.32(o), his parent is the person, other than the student's spouse, who provided or will provide more than half of his support for the first calendar year in which aid is requested.

5. Section 190.43 is amended by revising the paragraph (c)(1) to read as follows:

§ 190.43 The expected family contribution for independent students from annual adjusted family income.

* * * * *

(c) * * *

(1) *Family size offset.* A family size offset is the amount specified in the following table. Family size includes the student and his dependents. If the student is divorced or separated, family size shall include any person whose income is taken into account for the purpose of computing the annual adjusted family income and his or her dependents.

FAMILY SIZE OFFSETS

Family size	*Dollar amounts*
2	3,650
3	4,400
4	5,600
5	6,600
6	7,500
7	8,300
8	9,150
9	10,000
10	10,850
11	11,700
12	12,500

An offset of $1,000 shall be made for the single independent student.

[FR Doc.76-16840 Filed 6-10-76;8:45 am]

federal register

FRIDAY, JUNE 11, 1976

PART V:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

■

PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENT

Amendments to Departmental Handbook

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–76–182]

PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

Amendments to Departmental Handbook

On April 26, 1976 the Department of Housing and Urban Development published in the FEDERAL REGISTER (41 FR 17506) proposed amendments to the Departmental Handbook 1390.1, which was published July 18, 1973 (Docket No. N–73–182, 38 FR 19182) and amended November 4, 1974 (39 FR 38922) to change certain procedures with respect to protection and enhancement of environmental quality. The proposed changes were as follows:

1. Environmental Impact Statements have heretofore been required for subdivisions of over 500 units. Under these amendments, a new section will provide for prompt action on such subdivision applications in order to minimize delays, while, at the same time, complying with NEPA. Approval of a segment of a large scale development is proposed to be authorized under certain conditions while an EIS is under preparation for the larger development.

2. The Environmental Impact Statement required for 500-unit multifamily projects in high density areas has been subject to a waiver on a case-by-case basis by the Assistant Secretary for Community Planning and Development where typical densities in the immediate environs exceeds 50 units per acre. Under these amendments, this exemption is automatic, under certain conditions, if projects have already been constructed and the impact on the environment has therefore occurred.

3. Section 311(a) of the Housing and Community Development Act of 1974 added a new Subsection (f) to Section 223 of the National Housing Act. This new Subsection deals with the purchase and refinancing of existing multifamily structures. A project which has a mortgage insured under this provision will involve only minor repairs, if any; substantial rehabilitation is not allowed. Under these amendments, an environment assessment for a Section 223(f) application will be made by performing a Normal Environmental Clearance under Sections A, B, C, F, and I of Form ECO 2/3. In addition, the automatic size thresholds requiring a Special Environmental Clearance or an Environmental Impact Statement are not to be applied for this program. A Special Environmental Clearance will not be prepared for applications under this program since the Special Environmental Clearance deals with the impact of the project on the environment; under this program, however, the construction and the impact on the environment has already taken place. HUD's main area of environmental concern under this program would be to site suitability characteristics which are covered in the Normal Environmental Clearance. Under Paragraph 5.5, HUD Handbook 4565.1, proposed projects receiving unacceptable ratings in the environmental analysis of site suitability will not be approved.

4. As heretofore constituted, the environmental clearance threshold criteria for Property Disposition actions have been inconsistent with such criteria for Housing Production and Mortgage Credit actions. Under these amendments, environmental clearance threshold criteria for Property Disposition actions for Normal Environmental Clearance, Special Environmental Clearance and Environmental Impact Statements are being established which are consistent with those applicable to Housing Production and Mortgage Credit actions.

5. The environmental review requirements for actions in the New Communities program which have been in effect heretofore have become out of date, as the program, and the approved new community projects, have developed. The amendments for the New Communities program would delete existing environmental review requirements, and impose new requirements as follows: (a) Approvals of new projects would, consistent with prior provisions, require an Environmental Impact Statement, (b) Amendments to existing Development Plans which require the approval of the Secretary would require at least a Normal Environmental Clearance. Where such amendments include changes in project land use or total population, but the changes were less than 30 percent, then at least a Special Environmental Clearance would be required.

Where changes in project land use or total population are of a magnitude of 30 percent or more, an Environmental Impact Statement would be the minimum requirement. Change in project land use is defined as a change in amount, absorption, intensity, or location of a category of land use. Concerning the environmental Clearances at the Normal or Special level, if the conclusion of such a clearance were that a higher level of clearance was not required, that is, a Finding of Inapplicability of Section 102(2)(C) of NEPA, such finding would require the concurrence of the Assistant Secretary for Community Planning and Development; (c) Where the approval of the New Community Development Corporation Board of Directors is required for financial transactions in connection with an approved project, the Board approval would be preceded by at least a Normal Environmental Clearance. If Board approval of the financial transaction were predicated on a future change in project land use or total population which would require the approval of the Secretary, then that approval by the Board would require at least a Special Environmental Clearance. As would be the case regarding less than Environmental Impact Statement review of Development Plan changes, the Finding of Inapplicability would require a concurrence as in (b) above.

Interested persons were given until May 27, 1976 to submit written comments and all comments received were given careful consideration. The comments were to the folowing effect, with HUD responses stated immediately after each comment:

1. The proposed special procedures for first segment of large scale subdivisions requiring an Environmental Impact Statement, added as paragraph 5.a.(10), would limit and compel future HUD decisions and is contrary to the National Environmental Policy Act of 1969 (NEPA).

These special procedures are optional and not required. HUD has carefully provided criteria requiring each such segment to be both financially and functionally separate and complete, independent of any additionally proposed development, in order to avoid any such limitation and to comply with NEPA. In addition, HUD has provided for a Special Environmental Clearance in order to assure that the segment itself has no significant impact upon the environment.

2. Paragraph 5.2.(10) limits the "early start" provisions to large scale subdivisions, which would include only projects involving insurance of individual home mortgages and sale of lots in residential subdivisions, but would exclude all multi-family housing projects; it should also include such multi-family projects.

The reason HUD has limited these special procedures to subdivisions is that in the case of subdivisions the total development is usually, in the normal course of events, presented to HUD in a segmented manner and separate filings and approvals are made in segments of the total development. Later developments or segments of a given subdivision may or may not be submitted to HUD, depending upon whether the developer elects to seek HUD financing or conventional financing. Multi-family developments, on the other hand, are normally submitted to HUD and approved as a single project, even though staged or segmented development occurs. HUD intends to study the feasibility of extending the "early start" concept to multifamily projects, during the 12 month trial period specified in these amendments.

3. The "early start" provisions of paragraph 5.2.(10) specifies a level of "less than 200 units." The level of units should not be fixed in the handbook, but should be left for determination on a case-by-case basis.

This amendment is an experimental program and while determining the level of units on a case-by-case basis might be otherwise desirable, HUD has determined there should be strict limits and conditions for this option during the trial period, in the interests of control and uniformity.

4. HUD Handbook 1390.1 should not establish a threshold requiring an Environmental Impact Statement (EIS) for subdivisions of 500 units or more. Instead, the determination of whether or not an EIS is required should be made on a case-by-case basis.

The three level environmental review and clearance process outlined in HUD Handbook 1390.1 does have the effect of determining, on a case-by-case basis, whether or not an EIS is required. The fact that thresholds are specified does not mean an EIS would not be required for a project below the threshold. However, HUD believes that magnitude can be determinative of environmental impact and has, in deference to the spirit of NEPA, determined that projects meeting the stated thresholds should be the subject of an EIS. HUD is currently reexamining the stated thresholds and is studying the feasibility of variable or sliding-scale thresholds, based upon density, pace of development and other factors. However, pending completing of such studies, HUD believes that presently fixed thresholds should remain applicable.

5. There should be no requirement for environmental review in the case of Property Dispositions, since the mere

transfer of property has no effect upon the environment.

HUD has determined that the Department is obligated under existing case law to apply NEPA to its Property Disposition activities.

6. Instead of conducting its own environmental reviews, HUD should accept environmental reviews carried out under local and state laws.

The environmental responsibilities under NEPA are imposed upon the "responsible Federal official." Absent specific authority in the law, HUD is obligated to carry out its own environmental reviews.

7. Several commenters suggested substitute language for the purpose of clarifying portions of the amendments and the clarifying changes which have been incorporated in the final notice are based upon suggestions received from the public. These are: (1) Clarification of the language at paragraph 5.a.(10)(ii) making it clear that the Special Environmental Clearance will include the analysis of the condition and use of the surrounding land if the remainder of the large scale subdivision were not to be developed; and (ii) provision at paragraph 5.a.(10)(iii) that the letter from HUD will pertain to the same project that is the subject of the EIS.

The Department anticipates processing a significant number of mortgage insurance applications during the next 30 days, the efficiency of which processing would be substantially improved by proceeding under the changes made by these amendments. Accordingly, the Secretary has determined that the public interest would best be served by making these amendments effective immediately and, good cause appearing therefore, deferral of the effective date under 5 U.S.C. 553 (d) is waived and they shall become effective upon publication.

A Finding of Inapplicability of Section 102(2)(C) of the National Environmental Policy Act of 1969 has been made respecting these amendments in accordance with Department procedures set forth in HUD Handbook 1390.1. A copy of the finding is available for inspection in the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C.

Accordingly, HUD Handbook 1390.1 is hereby amended as follows:

1. Paragraph 5.a.(10) is added to read:

(10) Special Procedures for First Segment of Large Scale Subdivisions Requiring An Environmental Impact Statement:

(a) Where Appendix A–2 requires an Environmental Impact Statement on a large scale subdivision, processing of the first segment of the large scale subdivision may begin and be completed prior to the completion of the Environmental Impact Statement processing if the first segment would form a subdivision which would be financially and functionally separate and complete, without regard to whether the total large scale subdivision is developed, and the following criteria are also satisfied for such first segment:

(i) It is not located such that it would have an environmental impact on an area designated under Federal, State or local law as park, outdoor recreation, wildlife, historic, archeological, scenic, or aesthetic preservation or conservation district or area;

(ii) It is not located in a pristine natural area;

(iii) It has received a Special Environmental Clearance as further set forth in subparagraph (b) below, and it has been found to have no significant environmental impacts;

(iv) It is less than 200 units;

(v) It is in an existing urbanized area with a population density of 1,000 or more persons per square mile or within 2 miles of such areas;

(vi) It can currently be served with existing roads, sewer and water, and other utilities located off-site;

(b) Documentation must be provided which clearly demonstrates the first segment of a large scale subdivision proposed for approval to be in compliance with the criteria of paragraph (a) above. The documentation is subject to the following further conditions:

(i) A Special Environmental Clearance (ECO 2/3) shall be completed and concurred in by the Area/Insuring Office Environmental Clearance Officer (ECO) on the proposed segment, thus making the determination that the project has no significant impact on the natural or man-made environment in terms of NEPA, Council on Environmental Quality guidelines, and HUD environmental policies;

(ii) The Special Environmental Clearance shall include information on the entire development plan and its consistency with areawide planning. In addition, it shall include an analysis of the condition and use of the surrounding land if the remainder of the large scale subdivision were not to be developed;

(iii) A letter from HUD will inform the developer that there will be no further application approvals for applications which pertain to the same project that is the subject of the EIS, until that EIS has been satisfactorily completed, and any actions taken by the developer as to that project that would foreclose future options to be explored in that EIS may jeopardize approval of the larger project;

(iv) The segment must not have received any substantive, unresolved adverse comment on environmental grounds by any State, regional or any local agencies commenting on the proposal;

(v) A statement requesting early start permission and setting forth conditions requiring the early start will be prepared by the subdivision appraiser and concurred in by the Area/Insuring Office ECO and Director;

(vi) A Notice of Intent to File an EIS with respect to the entire large scale subdivision shall be published in a newspaper of general circulation in the area of the proposed large scale subdivision.

(c) A copy of the early start request and supporting documentation will be sent to the Regional Environmental Clearance Officer (Attention: ESO) and sent to the Departmental Environmental Clearance Officer, CPD, Central Office.

The Special procedures contained in this paragraph are limited to a period of one year from the date of this amendment.

2. The footnote at the end of Appendix A2, as amended by the November 4, 1974 amendment to the Regulations (39 FR 38992) is numbered "1" and is further amended after "* * * Assistant Secretary," as follows: "The automatic EIS threshold for multifamily housing projects does not apply (and a waiver is not required) for projects already constructed where the HUD action is solely approval of subsidies when the following conditions are satisfied:

(a) The Housing project is located in a previously cleared HUD assisted urban renewal project area and HUD has approved residential reuse on the parcels;

(b) A Special Environmental Clearance for the housing project has been completed and indicates no unresolved environmental problems;

(c) Regarding the urban renewal project, the remaining options subject to the Federal review have no significant environmental impact;

(d) There is no known opposition on environmental grounds; and

(e) The project exceeds the 50 unit per acre density requirement for a waiver described above."

3. Add to Appendix A–2 the following:

Program	Decision point	Requirement
Section 223(f):		
Purchase	Issuance of conditional commitment.	Normal environmental clearance.[1]
Refinancing	Issuance of firm commitment	Do.[1]

[1] Special clearances or environmental impact statements will not be prepared, since properties with undesirable environmental features will not be accepted. (Par. 5–5, HUD Handbook 4565.1.)

4. Change Appendix A–1 "Project Level Actions Subject to Threshold Criteria" (38 FR 19188), under the column headed "Thresholds" relative to Property Disposition to read: 200 contiguous or non-contiguous one-to-four family properties or vacant lots, 200 unit multifamily project (including scattered sites), 200 student project—college housing, 200 unit mobile home park, 200 bed nursing home, 200 bed hospital.

Group practice facility with site acreage of 50,000 sq. ft., or gross floor area of 30,000 sq. ft.

5. Add to Appendix A–2 the following, as indicated:

Action	Decision point	Requirement
Property disposition	Approved disposition program for 500 or more 1- to 4-family properties, vacant lots, mobile home park units, or 500-bed hospital or 500-unit multifamily project, or any combination thereof.	Environmental impact statement.

6. In Appendix A–2, the two New Communities items under each of the three column headings are deleted, and the following New Communities items are added to Appendix A–2, as indicated:

New Communities

Action	Decision point	Requirement
NONAPPROVED PROJECTS		
Debt guarantee, or certification of eligibility, or interest loan.	Authorization by NCDC board of offer of commitment, or certification of eligibility, or approval of interest loan.	Environmental impact statement.
APPROVED PROJECTS		
Amendment to development plan resulting in a change in project land use,[1] or total population, by 30 pct or more.	Approval by secretary	Do.
Amendment to development plan which requires the prior approval of the secretary and which concerns a change in project land use,[1] or total population, by less than 30 pct.	do	Special environmental clearance.[2]
Any amendment to development plan (other than those described above) which requires the prior approval of the secretary.	do	Normal environmental clearance.[2]
Additional guarantee, or other financial arrangement including investment (other than a change in management and/or ownership alone):		
Predicated on a future change in project land use,[1] or total population, which would require the approval of the secretary.	Approval by New Community Development Corp.	Special environmental clearance.[2]
Not predicated on a future change in project land use,[1] or total population, which would require the approval of the secretary.	do	Normal environmental clearance.[2]

[1] A change in project land use means a change in amount, absorption, intensity, or location of a category of land use.

[2] Findings of inapplicability following these levels of environmental review shall not be effective without the concurrence of the assistant secretary for community planning and development.

(Section 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)).)

Effective Date: This amendment shall be effective on June 11, 1976.

(It is hereby certified that the economic and inflationary impact of these amendments have been carefully evaluated in accordance with OMB Circular 107)

JOHN B. RHINELANDER,
Acting Secretary of Housing and Urban Development.

[FR Doc.76–17049 Filed 6–10–76;8:45 am]

federal register

FRIDAY, JUNE 11, 1976

PART VI:

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determination 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 determinations 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, Procedures for Predetermination of Wages Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR76–4003; AR76–4004	Jan. 16, 1976.
California:	
CA76–5019; CA76–5020	Mar. 5, 1976.
Florida:	
FL75–1080	Sept. 5, 1975.
FL76–1021	Jan. 30, 1976.
FL76–1059	May 14, 1976.
Indiana:	
IN75–2133	Dec. 19, 1975.
IN76–2056	Apr. 16, 1976.
Kentucky:	
KY75–1101	Oct. 17, 1975.
KY76–1028	Feb. 20, 1976.
Minnesota:	
MN76–2003	Jan. 23, 1976.
Nevada:	
NV76–5046	May 21, 1976.
Oklahoma:	
OK76–4020	Feb. 6, 1976.
South Carolina:	
SC76–1067	May 28, 1976.

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 decision being superseded.

Kansas:	
KS75–4193 (KS76–4096)	Nov. 21, 1975.
KS75–4191 (KS76–4098); KS 75–4194 (KS76–4095); KS 75–4199 (KS76–4097).	Dec. 5, 1975.
Nebraska:	
NE76–4075 (NE76–4205)	Apr. 30, 1976.
Nevada:	
NV76–5005 (NV76–5053)	Jan. 16, 1976.
Ohio:	
AR–3035 (OH76–2069)	Aug. 23, 1974.
AR–3169 (OH76–2074)	Nov. 15, 1974.
AR–3172 (OH76–2075)	Nov. 22, 1974.
Pennsylvania:	
PA75–3025 (PA76–3180)	Mar. 21, 1975.
PA75–3054 (PA76–3177)	July 3, 1975.
PA75–3055 (PA76–3178)	June 27, 1975.
South Dakota:	
SD75–5153 (SD76–5054)	Jan. 9, 1976.
SD76–5014 (SD76–5055)	Jan. 30, 1976.
Tennessee:	
TN75–1110 (TN76–1071)	Nov. 28, 1975.

Signed at Washington, D.C., this 4th day of June 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

DECISION NO. AR76-4003 - Mod. #2
(41 FR 2541 - January 16, 1976)
Conway, Faulkner and Perry Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION:					
Lineman	$10.00		1%		3/8%
Cable splicers	10.25		1%		3/8%
Operator	10.00		1%		3/8%
PLUMBERS & PIPEFITTERS:					
Within 10 mile radius of Pulaski County Courthouse	9.70	.30	.55		.02
Over 10 mile from Pulaski County Courthouse	10.00	.30	.55		.02
BOILERMAKERS	9.00	.50	1.00		.02
CARPENTERS:					
Faulkner County and the Eastern half of Conway and Perry Counties:					
Carpenters	7.93	.45	.30		.04
Millwrights & Piledrivermen	8.33	.45	.30		.04

DECISION NO. AR76-4004 - Mod. #3
(41 FR 2543 - January 16, 1976)
Pulaski County, Arkansas

CHANGE:					
LINE CONSTRUCTION:					
Lineman	$10.00		1%		3/8%
Cable splicers	10.125		1%		3/8%
Operator	10.00		1%		3/8%
PLUMBERS & PIPEFITTERS:					
Within 10 mile radius of Pulaski County Courthouse	9.70	.30	.55		.02
Over 10 miles from Pulaski County Courthouse	10.00	.30	.55		.02
BOILERMAKERS	9.00	.50	1.00		.02
CARPENTERS:					
Carpenters	7.93	.45	.30		.04
Millwrights & piledrivermen	8.33	.45	.30		.04

DECISION NO. CA76-5019 - Mod. #3
(41 FR 9725 - March 5, 1976)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Marble Setters	$10.64	$ 1.00	.83	$ 1.03	
Plaster Tenders (Monterey Co.)	9.65	.80	1.40		
Plumbers; Steamfitters; Marin, Mendocino, San Francisco and Sonoma Cos.	11.75	1.905	1.50	1.17	.15
Add:					
Glaziers (Remainder of Counties)	9.745	.37	1.20		
Painters:					
Butte, Colusa, Glenn, Lassen (excluding the extreme SE corner), Modoc, Plumas, Shasta, Siskiyou, Sutter, Tehama, Trinity and Yuba Counties:					
Brush; Pot Tenders; Rollers	8.00	.60	.25		
Spray; Sandblaster; Structural Steel; Swing Stage; Tapers	8.25	.60	.25		

DECISION NO. CA76-5020 - Mod. #3
(41 FR 9742 - March 5, 1976)
Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Plaster Tender:					
Monterey County	$ 9.65	.80	$ 1.40		
Plumbers; Steamfitters:					
Marin, San Francisco and Sonoma Counties	11.75	1.905	1.50	1.17	.15
Add:					
Glaziers (Remainder of Counties)	9.745	.37	1.20		
Painters:					
Shasta, Sutter, Tehama and Yuba Counties:					
Brush; Pot Tenders; Rollers	8.00	.60	.25		
Spray; Sandblaster; Structural Steel; Swing Stage; Tapers	8.25	.60	.25		

DECISION # FL76-1021 - Mod. #1
(41 FR-4749 - January 30, 1976
Bay, Escambia, Gulf, Okaloosa, Santa Rosa, and Walton Counties, Florida.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Delete:					
Ironworkers:					
Rodman	2.30				
Truck drivers:					
Low boy	2.85				
Single rear axle	2.61				
Heavy duty	2.70				
Multi rear axle	2.50				
POWER EQUIPMENT OPERATORS:					
Loaders-Front End:					
1 cu. yd or less	3.00				
Over 1 cu. yd.	2.83				
Rollers	2.25				
Finisher	2.93				
Self-propelled rubbertired	2.68				
Add:					
Truck drivers	2.56				
POWER EQUIPMENT OPERATORS:					
Front end loader	2.90				
Roller	2.69				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #FL75-1080 - Mod. # 1 (40FR-41358 - September 5, 1975) Alachua, Bradford, Calhoun, Citrus, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lake, Lafayette, Leon, Levy, Liberty, Madison, Marion, Pasco, Putnam, Sumter, Suwanee, Taylor, Union, Wakulla, and Washington Counties, Florida.					
Delete:					
Ironworkers:					
Rodman	2.85				
POWER EQUIPMENT OPERATORS:					
Loaders:					
Front end	3.04				
Over 1 cubic yard	3.50				
1 cubic yard or less	3.00				
Add:					
Front end loader	3.10				
DECISION # FL76-1059 - Mod. # 1 (41 FR-20130 - May 14, 1976) Bay County, Florida					
Change:					
Electricians:					
Industrial	9.37	.40			.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IN76-2056 - Mod. #4 (41 FR 16374 - April 16, 1976) Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana					
Omit:					
Line Construction:					
Grant County					
Add:					
Grant County					
LINE CONSTRUCTION					
EXCLUSIVE OF CALUMET AREA					
Linemen; Technicians	$9.03	.35	1%		.5%
Heavy equipment operator "A"	8.58	.35	1%		.5%
Heavy equipment operator "B"	7.08	.35	1%		.5%
Powder man & equipment mechanic	6.91	.35	1%		.5%
Senior groundman truck driver w/w	5.92	.35	1%		.5%
Groundman truck driver with winch	5.69	.35	1%		.5%
Groundman truck driver w/o winch	4.99	.35	1%		.5%
Senior groundman after 5 years	5.68	.35	1%		.5%
Senior groundman after 12 months	5.52	.35	1%		.5%
Groundman 0-12 months	4.69	.35	1%		.5%
CALUMET AREA					
Linemen; Technicians	9.33	.35	1%		.5%
Heavy equipment operator "A"	8.65	.35	1%		.5%
Heavy equipment operator "B"	7.14	.35	1%		.5%
Powder man & equipment mechanic	6.97	.35	1%		.5%
Senior groundman truck driver w/w	6.03	.35	1%		.5%
Groundman truck driver with winch	5.76	.35	1%		.5%
Groundman truck driver w/o winch	5.06	.35	1%		.5%
Senior groundman after 5 years	5.80	.35	1%		.5%
Senior groundman after 12 months	5.64	.35	1%		.5%
Groundman 0-12 months	4.79	.35	1%		.5%

DECISION NO. IN75-2133 - Mod. #5
(40 FR 59155 - December 19, 1975

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Statewide, except Lake, LaPorte, Porter, & St. Joseph Counties, Indiana					
Omit:					
Line construction schedules: Statewide, except Clinton, DuBois, Fountain, Gibson, Grant, Howard, Miami, Perry, Pike, Posey, Spencer, Tipton, Vanderburgh, Vermillion, Wabash, Warren, & Warrick Counties					
Clinton, Grant, Howard, Miami, Tipton, Wabash Counties					
Add:					
Line Construction Schedules:					

Statewide, except Crawford, DuBois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh, Warrick, Fountain, Vermillion, Warren, Miami (Peru & Grissom AFB), & Clinton (Frankfort)

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
EXCLUSIVE OF CALUMET AREA					
Linemen; Technicians	$9.03	.35	1%		.5%
Heavy equipment operator "A"	8.58	.35	1%		.5%
Heavy equipment operator "B"	7.08	.35	1%		.5%
Powder man & equipment mechanic	6.91	.35	1%		.5%
Senior groundman truck driver w/w	5.92	.35	1%		.5%
Groundman truck driver with winch	5.69	.35	1%		.5%
Groundman truck driver w/o winch	4.99	.35	1%		.5%
Senior groundman after 5 years	5.68	.35	1%		.5%
Senior groundman after 12 months	5.52	.35	1%		.5%
Groundman 0-12 months	4.69	.35	1%		.5%
CALUMET AREA					
Linemen; Technicians	9.33	.35	1%		.5%
Heavy equipment operator "A"	8.65	.35	1%		.5%
Heavy equipment operator "B"	7.14	.35	1%		.5%
Powder man & equipment mechanic	6.97	.35	1%		.5%
Senior groundman truck driver w/w	6.03	.35	1%		.5%
Groundman truck driver with winch	5.76	.35	1%		.5%
Groundman truck driver w/o winch	5.06	.35	1%		.5%
Senior groundman after 5 years	5.80	.35	1%		.5%
Senior groundman after 12 months	5.64	.35	1%		.5%
Groundman 0-12 months	4.79	.35	1%		.5%

DECISION NO. IN75-2133 Cont'd

Clinton County (Frankfort only) & Miami County (Peru & Grissom AFB)

IND-LC-AREA IV

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINEMEN; Heavy equipment operators "A"	$9.43	.35	1%		½ of 1%
CABLE SPLICERS	10.23	.35	1%		½ of 1%
HEAVY EQUIPMENT OPERATORS "B"	7.61	.35	1%		½ of 1%
POWDERMAN; Equipment mechanic	7.44	.35	1%		½ of 1%
SENIOR GROUNDMAN - truck driver with winch	6.25	.35	1%		½ of 1%
GROUNDMAN - truck driver with winch	5.98	.35	1%		½ of 1%
SENIOR GROUNDMAN AFTER 5 YEARS	5.96	.35	1%		½ of 1%
SENIOR GROUNDMAN AFTER 12 MONTHS	5.78	.35	1%		½ of 1%
GROUNDMAN - truck driver without winch	5.35	.35	1%		½ of 1%
GROUNDMAN 0 to 12 MONTHS	4.96	.35	1%		½ of 1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY76-1028 - Mod. # 3 (41 FR-7905 - February 20, 1976) Franklin County, Kentucky					
Change:					
Electricians	10.65	.40	1%+.50		¼ of 1%
DECISION #KY75-1101 - Mod. #4 (40 FR-48857 - October 17, 1975) Fayette County, Kentucky					
Change:					
Bricklayers	9.25	.25	.50		
Electricians	10.65	.40	1%+.50		¼ of 1%

DECISION #MN76-2003 - Mod. #1 (41 FR 3610 - January 23, 1976) Stearns County, Minnesota	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & Stonemasons	$10.10		.25		
Carpenters & Piledrivermen	9.43		.75		
Cement Masons:					
Building					
Cement Masons & Plasterers	9.30		.25		
Site Preparation, Excavation & Incidential Paving					
Cement Masons	9.30		.25		
Glaziers	8.73	.40			
Ironworkers	10.35	.55	.55		.02
Laborers - Building					
General Laborers; Demolition & Wrecking; Concrete Joint Saw Operators; Signal Men	7.80	.20	.15		
Power Buggy Operators	7.85	.20	.15		
Mortar Mixers; Plasterer Tender	7.90	.20	.15		
Jackhammer Men	7.95	.20	.15		
Underground; Caisson; Cofferdam; Tunnel Work	8.05	.20	.15		
Dynamite Men	8.10	.20	.15		
Laborers - Site Preparation, Excavation & Incidential Paving					
Class 1	7.25	.40	.35	.40	
Class 2	7.30	.40	.35	.40	
Class 3	7.35	.40	.35	.40	
Class 4	7.40	.40	.35	.40	
Class 5	7.60	.40	.35	.40	
Class 6	7.65	.40	.35	.40	
Class 7	7.70	.40	.35	.40	
Class 8	7.75	.40	.35	.40	
Marble Setters	9.875	.555	.33		
Sheet Metal Workers	10.13	.42	.20		.02
Sprinkler Fitters	11.23	.60	.90		.08
Truck Drivers - Building	7.80				
Truck Drivers - Site Preparation, Excavation & Incidential Paving:					
Group 1	7.72	.40	.45		
Group 2	7.42	.40	.45		
Group 3	7.32	.40	.45		
Group 4	7.12	.40	.45		

DECISION #NV76-2003 (Cont'd)

Power Equipment Operators:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Building					
Class 1	$13.45	.45	.40		
Class 2	11.05	.45	.40		
Class 3	10.70	.45	.40		
Class 4	10.60	.45	.40		
Class 5	10.50	.45	.40		
Class 6	10.25	.45	.40		
Class 7	10.13	.45	.40		
Class 8	10.05	.45	.40		
Class 9	9.78	.45	.40		
Class 10	9.50	.45	.40		
Class 11	9.05	.45	.40		
Site Preparation, Excavating & Incidential Paving-East of the Western Right-of-Way of U.S. Hwy #15					
Group I	13.30	.45	.35		
Group II	10.01	.45	.35		
Group III	9.75	.45	.35		
Group IV	9.63	.45	.35		
Group V	9.53	.45	.35		
Group VI	8.85	.45	.35		
Group VII	8.55	.45	.35		
Site Preparation, Excavating & Incidential Paving - Remainder of the County					
Group I	13.05	.45	.35		
Group II	8.87	.45	.35		
Group III	8.62	.45	.35		
Group IV	8.48	.45	.35		
Group V	8.40	.45	.35		
Group VI	7.87	.45	.35		
Group VII	7.47	.45	.35		

DECISION NO. NV76-5046 - Mod. #1
(41 FR 21108 - May 21, 1976)

Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Glaziers:					
Clark, Esmeralda, Lincoln and south half of Nye Counties	$11.57	.35		4%	.05
Plumbers (Utility):					
Statewide except Clark, Esmeralda, Lincoln and South half of Nye Counties	10.64	.73	.80	1.95	.10
Plumber Helper (Utility)	5.60	.73	.10	.50	.10
Power Equipment Operators: (Except Piledriving and Steel Erection)					
Remaining Counties					
Group 1:					
Area 1	8.35	.87	1.98	.82	.20
Area 2	9.50	.87	1.98	.82	.20
Group 2:					
Area 1	8.72	.87	1.98	.82	.20
Area 2	9.87	.87	1.98	.82	.20
Group 3:					
Area 1	8.92	.87	1.98	.82	.20
Area 2	10.07	.87	1.98	.82	.20
Group 4:					
Area 1	9.44	.87	1.98	.82	.20
Area 2	10.59	.87	1.98	.82	.20
Group 5:					
Area 1	9.65	.87	1.98	.82	.20
Area 2	10.80	.87	1.98	.82	.20
Group 6:					
Area 1	9.77	.87	1.98	.82	.20
Area 2	10.92	.87	1.98	.82	.20
Group 7:					
Area 1	9.94	.87	1.98	.82	.20
Area 2	11.09	.87	1.98	.82	.20
Group 8:					
Area 1	10.32	.87	1.98	.82	.20
Area 2	11.47	.87	1.98	.82	.20

DECISION NO. NV76-5046 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 9:					
Area 1	$10.54	.87	1.98	.82	.20
Area 2	11.69	.87	1.98	.82	.20
Group 10:					
Area 1	10.77	.87	1.98	.82	.20
Area 2	11.92	.87	1.98	.82	.20
Group 10-A:					
Area 1	10.89	.87	1.98	.82	.20
Area 2	12.04	.87	1.98	.82	.20
Group 11:					
Area 1	11.06	.87	1.98	.82	.20
Area 2	12.21	.87	1.98	.82	.20
Group 11-A:					
Area 1	12.14	.87	1.98	.82	.20
Area 2	13.29	.87	1.98	.82	.20
Laborers:					
Remaining Counties					
Group 1	$7.15	.50	.65		.10
Group 2	7.25	.50	.65		.10
Group 3	7.40	.50	.65		.10
Group 4	7.65	.50	.65		.10
Group 5	7.95	.50	.65		.10
Group 6-A	7.95	.50	.65		.10
Group 6-B	7.65	.50	.65		.10
Group 6-C	7.30	.50	.65		.10

DECISION NO. OK76-4020 - Mod. #2
(41 FR 5555 - February 6, 1976)
Garfield County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
ZONE I	$8.80	.50	1%+.50		1/2%
ZONE II	9.05	.50	1⅞+.50		1/2%
ZONE III	9.30	.50	1⅞+.50		1/2%
CABLE SPLICERS:					
ZONE I	9.05	.50	1%+.50		1/2%
ZONE II	9.30	.50	1%+.50		1/2%
ZONE III	9.55	.50	1%+.50		1/2%
BRICKLAYERS-Stonemasons	8.05				
CARPENTERS:					
Carpenters	7.75				
Millwrights-Piledrivermen	8.30				

DECISION # SC76-1067 - Mod. # 1
(41 FR-22024 - May 28, 1976)
Charleston, Berkeley and Dorchester County, South Carolina

Change:
Roofers 5.00

SUPERSEDEAS DECISION

STATE: Kansas
COUNTY: Shawnee
DECISION NO.: KS76-4095
DATE: Date of Publication
Supersedes Decision No. KS75-4194, dated December 5, 1975 in 40 FR 57093
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.72	.50	.80		.02
BOILERMAKERS	9.45	.70	1.00		.02
BRICKLAYERS: Stonemasons	9.44	.40	.25		
CARPENTERS:					
Carpenters	8.55	.40	.25		.05
Millwrights; Piledrivermen	8.925	.40	.25		.05
CEMENT MASONS:					
Cement masons	8.45	.40	.35		
Machine operators	8.575	.40	.35		
Composition color or chloride additives	8.65	.40	.35		
ELECTRICIANS	5.95	.40	17+.20		.05
IRONWORKERS	9.60	.70	1.00	1.00	.05
LABORERS (Building Construction)					
General laborer	7.25	.40	.35		.10
Power tool operators, compactors, concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated, georgia buggy	7.45	.40	.35		.05
Mason tenders, plaster tenders, mortar mixers for plaster masons and cement finishers, all stocking scaffold, clean up for masons (building and wrecking)	7.55	.40	.35		.05
Sand and concrete gun nozzleman and powderman	7.65	.40	.35		.05
LABORERS (Site Preparation and Grading):					
Group 1	6.40	.40	.35		.05
Group 2	6.55	.40	.35		.05
Group 3	6.65	.40	.35		.05
Group 4	6.80	.40	.35		.05
Group 5	6.90	.40	.35		.05

DECISION NO. KS76-4095

CLASSIFICATION DEFINITIONS

LABORERS(Site Preparation and Grading):

Group 1 - Board mat weavers and cable tiers; Georgia buggy (manually operated); mixerman - no skip; lift; nailers, salamander tenders; track men; tractor swamper; truck dumper, wire mesh setter, water pump up to 4 inches; and all other general laborer including flagman

Group 2 - Air tool operators, cement handlers (bulk), chain saw, georgia buggy (mechanically operated); grade man, hot mastic kettlemen, crusher feeder, joint man, jute man; mason tender; material batch hopper and scale man; mixer man; pier hole man working 10 ft. deep; pipelayer-drainage (concrete and/or corrugated metal); signal man (crane), truck dumper-dry batch; vibrator operator; wagon and churn drill operator

Group 3 - Asphalt raker, barco tamper; concrete saw; creosote material-handling and applying; nozzle burner (cutting torch and burning bar)

Group 4 - Conduit pipe; tile and duct line setter; form setter and liner on concrete paving; powderman; sandblasting and gunite nozzleman; sanitary sewer pipe layer; steel plate structure erectors; water and gas distribution lines

Group 5 - Leadman or pusher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	9.25		.20		
PAINTERS:					
Brush, drywall, sanding and taping, roller	8.90	.35			.02
Painting of structures over 50' (all types); spray	9.40	.35			.02
PLASTERERS	8.30				
PLUMBERS: Pipefitters	10.10	.40	.55		.02
POWER EQUIPMENT OPERATORS: (Building Construction):					
Group 1	9.60	.50	1.00	.50	.10
Group 2	9.20	.50	1.00	.50	.10
Group 3:					
(a)	8.15	.50	1.00	.50	.10
(b)	8.40	.50	1.00	.50	.10
Group 4:					
(a)	7.85	.50	1.00	.50	.10
(b)	8.10	.50	1.00	.50	.10
Group 5	10.10	.50	1.00	.50	.10
Group 6	9.85	.50	1.00	.50	.10
Group 7	10.10	.50	1.00	.50	.10
Group 8	10.60	.50	1.00	.50	.10
Group 9	11.60	.50	1.00	.50	.10

DECISION NO. KS76-4095

POWER EQUIPMENT OPERATORS (Building Construction)

CLASSIFICATION DEFINITIONS

Group 1 - Boilers (2); boom cat, boring machine, ditching machine, concrete ready-mix plant; crane, truck crane, clamshell, dragline, dozer, scraper, all types, patrol, firemen (when operating steam or air valve); gradall, hi-loaders (over 1 yd); hoist, two; locomotive; mechanic or welder; mixer-mobile; paver, or any other machine with power swing; piledriver operator; power shovel; pump, concrete or other material

Group 2 - A-frame truck; barber greene loader or similar type; bob cat hi-loaders (1 yd. and under); boiler (1); ditching machine-small; elevator operator; firemen; fork lift; greaser, equipment; hoist, one active drum; hydra hammer; jeep ditcher; mixer, other than paver; power broom, pump, 4" or larger, small machine engineer; welding machine (1)

Group 3 - (a) Farm tractor (without attachments)
(b) Farm tractor (with attachments)

Group 4 - (a) Oiler
(b) Motor crane oiler

Group 5 - Tower cranes and derricks; franki-type piledriving machines; (4) drum hoist

Group 6 - Crane & shovels 100 ft of boom or over (including jib) or 2 yds capacity or over or 30 tons or over; (3) drum hoist

Group 7 - Crane & shovels booms 200 ft and over

Group 8 - Cranes with lifting ring

Group 9 - Master mechanic

Hoist each additional drum over two - an additional .25¢

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Site Preparation and Grading					
Group 1	7.85	.50	1.00	.50	.10
Group 2	7.60	.50	1.00	.50	.10
Group 3	7.35	.50	1.00	.50	.10
Group 4	7.00	.50	1.00	.50	.10
Group 5	7.10	.50	1.00	.50	.10
Group 6	8.10	.50	1.00	.50	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (Site Preparation and Grading):

Group 1 - Asphalt paver and spreader, backhoe; boring machine, blades, all types; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, pitman crane, hydro crane, or any machine with power swing; derrick or derrick trucks; dragline operator; dredge operator; dozer; ditching machine; euclid loader; hoist -2 active drums; loader, all types, mechanic or welder; mixer-mobile; multi-unit scraper; pile driver operator; power shovel operator; quad track; scoop operator, all types; side boom cat-cherry picker; skimmer scoop operator; pushcat operator

Group 2 - Asphalt plant operator; elevating grader operator

Group 3 - A-frame truck; asphalt roller operator; ashalt plant boiler fireman; backfiller operator; barber greene loader; boiler - other than asphalt; bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concrete pump operator; crusher operator, distributor operator; finish machine operator - concrete; fireman other than asphalt; flex plane opeator, fork lift; form grader operator; greaser; hoist 1 drum; jeep ditching machine; pavement breakers, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and wash plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphon and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operators; vibrating machine operator, not hand

Group 4 - Concrete gang saw, self-propelled (con-cut); conveyor operator; Harrow, disc seeder; oiler; tractor operator, 50 h.p. or less without attachments

Group 5 - Oiler, motor crane

Group 6 - Master mechanic

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers flat, slate and tile, dampproofers and waterproofers	8.86	.30	.60		
Roofers working in pitch, tar or creosote, coal	9.71	.30	.60		
SHEET METAL WORKERS	8.53	.35	1.10	.78	.04
SOFT FLOOR LAYERS	7.39	.40	.45	10%	.04
SPRINKLER FITTERS	11.23	.60	.90		.08
TILE SETTERS	8.50				

DECISION NO. KS76-4095

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (Building Construction)					
Light, pickups, stations wagons	7.475	.40	.35		
Medium flat beds and dumps, 5 tons or less; warehousemen and partsmen	7.575	.40	.35		
Truck over 5 tons and semi-trailers	7.825	.40	.35		
TRUCK DRIVERS (Site Preparation and Grading)					
Group 1	6.50	.40	.35		
Group 2	6.60	.40	.35		
Group 3	6.75	.40	.35		

CLASSIFICATION DEFINISTIONS

TRUCK DRIVERS:

Group 1 - Pickups; panel trucks; station wagons; flat beds; dump and batch trucks (single axle)

Group 2 - Tandem trucks, warehousemen or partsmen; mechanic helpers and servicemen

Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; euclid, end and bottom dump; tournarockers; atheys; dumptors and similar off-road equipment and mechanics on such equipment

WELDERS: Receive rates prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Shawnee
DECISION NO.: KS76-4096 DATE: Date of Publication
Supersedes Decision No. KS75-4193 dated November 21, 1975 in 40 FR 54405
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.72	.50	.80		.02
BOILERMAKERS	9.45	.70	1.00		.02
BRICKLAYERS; Stonemasons	9.44	.40	.25		
CARPENTERS:					
Carpenters	8.55	.40	.25		.05
Millwrights; Piledrivermen	8.925	.40	.25		.05
CEMENT MASONS:					
Cement masons	8.45	.40	.35		
Machine operators	8.575	.40	.35		
Composition color or chloride additives	8.65	.40	.35		
ELECTRICIANS:					
Electricians	10.40	.45	1%+.50		.05
Cable splicers	11.44	.45	1%+.50		.05
ELEVATOR CONSTRUCTORS	8.74	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS HELPERS	70%JR	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	50%JR				

FOOTNOTES: - a-Employer contributes 4% of basic hourly rate for over 5 years of service and 2% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. b-1st 6 months-none; 6 months-5 years 2%; over 5 years 4% of basic hourly rate; also 6 paid holidays.

GLAZIERS	8.79	.55	.40	13.29%	.03
IRONWORKERS	9.60	.70	1.00	1.00	.05
LABORERS (Building Construction);					
General laborers	7.25	.40	.35		.05
Power tool operators, compactors, concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy	7.45	.40	.35		.05
Mason tenders, plaster tenders, mortar mixers for masons and cement finishers, all stocking scaffold, clean up for masons (building and wrecking)	7.55	.40	.35		.05
Sand and concrete gun nozzleman and powderman	7.65	.40	.35		.05

DECISION NO. KS76-4096

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Site Preparation and Grading)					
Group 1	6.40	.40	.35		.05
Group 2	6.55	.40	.35		.05
Group 3	6.65	.40	.35		.05
Group 4	6.80	.40	.35		.05
Group 5	6.90	.40	.35		.05

CLASSIFICATION DEFINITIONS

LABORERS:
Group 1 - Board mat weavers and cable tiers; Georgia buggy (manually operated); mixerman - no skip; lift; nailers, salamander tenders; track men; tractor swamper; truck dumper, wire mesh setter, water pump up to 4 inches; and all other general laborer including flagman

Group 2 - Air tool operators, cement handlers (bulk), chain saw, georgia buggy (mechanically operated); grade man, hot mastic kettlemen, crusher feeder, joint man, jute man; mason tender; material batch hopper and scale man; mixer man; pier hole man working 10 ft. deep; pipelayer-drainage (concrete and/or corrugated metal); signal man (crane), truck dumper-dry batch; vibrator operator; wagon and churn drill operator

Group 3 - Asphalt raker, barco tamper; concrete saw; creosote material-handling and applying; nozzle burner (cutting torch and burning bar)

Group 4 - Conduit pipe; tile and duct line setter; form setter and liner on concrete paving; powderman; sandblasting and gunite nozzleman; sanitary sewer pipe layer; steel plate structure erectors; water and gas distribution lines
Group 5 - Leadman or pusher

DECISION NO. KS76-4096

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	9.25		.20		
LINE CONSTRUCTION:					
Lineman	8.62	.35	1%		½%
Cable splicers	9.05	.35	1%		½%
Groundman, over 1 year	5.39	.35	1%		½%
Groundman, 1st year	4.11	.35	1%		½%
Powderman	7.16	.35	1%		½%
Line Truck and Equipment Operators:					
1st year	5.52	.35	1%		½%
2nd year	6.59	.35	1%		½%
Over 2 years' experience	7.16	.35	1%		½%
PAINTERS:					
Brush, drywall, sanding and taping	8.90	.35			.02
Painting of structures over 50' (all types); spray	9.40	.35			.02
PLASTERERS	8.30				
PIPEFITTERS; Plumbers	10.10	.40	.55		.02
POWER EQUIPMENT OPERATORS (Building Construction):					
Group 1	9.60	.50	1.00	.50	.10
Group 2	9.20	.50	1.00	.50	.10
Group 3:					
(a)	8.15	.50	1.00	.50	.10
(b)	8.40	.50	1.00	.50	.10
Group 4:					
(a)	7.85	.50	1.00	.50	.10
(b)	8.10	.50	1.00	.50	.10
Group 5	10.10	.50	1.00	.50	.10
Group 6	9.85	.50	1.00	.50	.10
Group 7	10.10	.50	1.00	.50	.10
Group 8	10.60	.50	1.00	.50	.10
Group 9	11.60	.50	1.00	.50	.10

DECISION NO. KS76-4096

POWER EQUIPMENT OPERATORS (Building Construction)

CLASSIFICATION DEFINITIONS

Group 1 - Boilers (2); boom cat, boring machine, ditching machine, concrete ready-mix plant; crane, truck crane, clamshell, dragline, dozer, scraper, all types, patrol, firemen (when operating steam or air valve); gradall hi-loaders (over 1 yd); hoist, two; locomotive; mechanic or welder; mixer-mobile; paver, or any other machine with power swing; piledriver operator; power shovel; pump, concrete or other material

Group 2 - A-frame truck; barber greene loader or similar type; bob cat h-loaders (1 yd. and under); boiler (1); ditching machine-small; elevator operator; firemen; fork lift; greaser, equipment;hoist, one active drum; hydra hammer; jeep ditcher; mixer, other than paver; power broom, pump, 4" or larger, small machine engineer; welding machine (1)

Group 3 - (a) Farm tractor (without attachments)
(b) Farm tractor (with attachments)

Group 4 - (a) Oiler
(b) Motor crane oiler

Group 5 - Tower cranes and derricks; franki-type piledriving machines; (4) drum hoist

Group 6 - Crane & shovels 100 ft of boom or over (including jib) or 2 yds capacity or over or 30 tons or over; (3) drum hoist

Group 7 - Crane & shovels booms 200 ft and over

Group 8 - Cranes with lifting ring

Group 9 - Master mechanic

Hoist each additional drum over two - an additional .25¢

DECISION NO. KS76-4096

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Site Preparation and Grading)					
Group 1	7.85	.50	1.00	.50	.10
Group 2	7.60	.50	1.00	.50	.10
Group 3	7.35	.50	1.00	.50	.10
Group 4	7.00	.50	1.00	.50	.10
Group 5	7.10	.50	1.00	.50	.10
Group 6	8.10	.50	1.00	.50	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Asphalt paver and spreader, backhoe; boring machine, blades, all types; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, pitman crane, hydro crane, or any machine with power swing; derrick or derrick trucks; dragline operator; dredge operator; dozer; ditching machine; euclid loader; hoist -2 active drums; loader, all types, mechanic or welder; mixer-mobile; multi-unit scraper; pile driver operator; power shovel operator; quad track; scoop operator, all types; side boom cat-cherry picker; skimmer scoop operator; pushcat operator

Group 2 - Asphalt plant operator; elevating grader operator

Group 3 - A-frame truck; asphalt roller operator; ashalt plant boiler fireman; backfiller operator; barber greene loader; boiler - ther than asphalt; bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concrete pump operator; crusher operator, distributor operator; finish machine operator - concrete; fireman other than asphalt; flex plane opeator, fork lift; form grader operator; greaser;hoist 1 drum; jeep ditching machine; pavement breakers, self-propelled (of the hydra hammer of similar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and wash plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphon and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operators; vibrating machine operator, not hand

Group 4 - Concrete gang saw, self-propelled (con-cut); conveyor operator; Harrow, disc seeder; oiler; tractor operator, 50 h.p. or less without attachments

Group 5 - Oiler, motor crane

Group 6 - Master mechanic

DECISION NO. KS76-4096

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS, FLAT, SLATE & TILE DAMPROOFERS AND WATERPROOFERS	8.86	.30	.60		
ROOFERS WORKING IN PITCH, TAR OR CREOSOTE, COAL	9.71	.30	.60		
SHEET METAL WORKERS	8.53	.35	1.10	.78	.04
SOFT FLOOR LAYERS	7.39	.40	.45	10%	.04
SPRINKLER FITTERS	11.23	.60	.90	.	.08
TILE SETTERS	8.50				
TRUCK DRIVERS (Building Construction):					
Light, pickups, Station wagons	7.475	.40	.35		
Medium flat beds and dumps, 5 tons or less; warehousemen and partsmen	7.575	.40	.35		
Truck over 5 tons and semi-trailers	7.825	.40	.35		
TRUCK DRIVERS (Site preparation and grading):					
Group 1	6.50	.40	.35		
Group 2	6.60	.40	.35		
Group 3	6.75	.40	.35		

CLASSIFICATION DEFINISTIONS

TRUCK DRIVERS:

Group 1 - Pickups; panel trucks; station wagons; flat beds; dump and batch trucks (single axle)

Group 2 - Tandem trucks, warehousemen or partsmen; mechanic helpers and servicemen

Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; euclid, end and bottom dump; tournarockers; atheys; dumptors and similar off-road equipment and mechanics on such equipment

WELDERS: Receive rates prescribed for craft performing operation to which welding is incidental.

STATE: Kansas COUNTY: Sedgwick
DECISION NO: KS76-4097 DATE: Date of Publication
Supersedes Decision No. KS75-4199, dated December 5, 1975 in 40 FR 57100
DESCRIPTION OF WORK: Building Construction (excluding single gamily homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$9.90	.46	.125		.02
BOILERMAKERS	9.45	.70	1.00		.02
BRICKLAYERS; STONEMASONS	9.58	.50	.25		.02
CARPENTERS:					
Carpenters	9.15	.50			.05
Millwrights, piledrivermen	9.45	.50			.05
CEMENT MASONS:					
Cement masons	9.35				
Troweling machine operator	9.60				
ELECTRICIANS	9.70	.35	1%		1%
ELEVATOR CONSTRUCTORS	8.74	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
FOOTNOTES: a-Employer contributes 4% of basic hourly rate for over 5 years service, and 2% of basic hourly rate for 6 mos. to 5 years as vacation Pay Credit. b-1st 6 months none; 6 months - 5 years 2%; over 5 years 4% of basic hourly rate; also 6 paid holidays.					
IRONWORKERS	9.88		.25	.53	.02
LABORERS (BUILDING CONSTRUCTION):					
GROUP 1 - Common laborers	6.85	.45	.25		.05
GROUP 2 - Power tool operators, compactors, concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy, mason tenders, plaster tenders, mortar mixers for plasterers, mason and cement finishers, all stocking scaffold, clean up for masons (building & wrecking), sand and concrete gun nozzleman, powderman	7.00	.45	.25		.05
LABORERS (SITE PREPARATION & GRADING)					
GROUP 1	4.90	.45	.35		.05
GROUP 2	5.05	.45	.35		.05
GROUP 3	5.15	.45	.35		.05
GROUP 4	5.30	.45	.35		.05
GROUP 5	5.40	.45	.35		.05

DECISION NO. KS76-4097

CLASSIFICATION DEFINITIONS

LABORERS:
GROUP 1 - Board mat weavers & cable tiers, georgia buggy (manually operated), mixerman-no skip, lift, nailers, salamander tenders, track men, tractor swamper, truck dumper, wire mesh setter, water pump up to 4 inches, & all other general laborer including flagmen
GROUP 2 - Air tool operators, cement handlers (bulk) chain saw, georgia buggy (mechanically operated), grade man, hot mastic kettlemen, crusher feeder, joint man, jute man, mason tender, material batch hopper & scale man, mixer man, pier hole man working 10 ft. deep, pipelayer-drainage (concrete and/or corrugated metal), signal man (crane), truck dumper-dry batch, vibrator operator, wagon and churn drill operator
GROUP 3 - Asphalt raker, barco tamper, concrete saw, creosote material handling & applying, nozzle burner (cutting torch and burning bar)
GROUP 4 - Conduit pipe, tile & duct line setter, form setter & liner on concrete paving, powderman, sandblasting & gunnite nozzleman, sanitary sewer pipe layer, steel plate structure erectors, water and gas distribution lines
GROUP 5 - Leadmen or pusher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 8.40		.15		.01
LINE CONSTRUCTION:					
Linemen	8.62	.35	1%		½%
Cable splicers	9.05	.35	1%		½%
Groundman, over 1 year	5.39	.35	1%		½%
Groundman, 1st year	4.11	.35	1%		½%
Powderman	7.16	.35	1%		½%
Line truck & equipment operators:					
1st year	5.52	.35	1%		½%
2nd year	6.59	.35	1%		½%
Over 2 years experience	7.16	.35	1%		½%
PAINTERS:					
GROUP 1 - Brush, sheetrock taping and finishing	8.47		.20		.01
GROUP 2 - Stage chair and window jack work to and including five stories high	8.82		.20		.01
GROUP 3 - Stage chair and window jack work over five stories high; elevated tanks, towers, & stack over 75 ft. high; sandblasting & water blasting work from picks; stage chairs or platforms over 24 ft. in height	9.07		.20		.01
GROUP 4 - Structural steel not done from scaffolding	9.22		.20		.01
PLASTERERS	8.50				
PIPEFITTERS, PLUMBERS	10.78	.64	.80		.04

DECISION NO. KS76-4097

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):					
GROUP 1	9.60	.50	1.00	.50	.10
GROUP 2	9.20	.50	1.00	.50	.10
GROUP 3:					
(a)	8.15	.50	1.00	.50	.10
(b)	8.40	.50	1.00	.50	.10
GROUP 4:					
(a)	7.85	.50	1.00	.50	.10
(b)	8.10	.50	1.00	.50	.10
GROUP 5	10.10	.50	1.00	.50	.10
GROUP 6	9.85	.50	1.00	.50	.10
GROUP 7	10.10	.50	1.00	.50	.10
GROUP 8	11.60	.50	1.00	.50	.10
GROUP 9	10.60	.50	1.00	.50	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

GROUP 1 - boilers (2), boom cat, boring machine, ditching machine, concrete ready-mix plant, crane, truck crane, clamshell, dragline, dozer, scraper, all types, patrol, firemen (when operating steam or air valve), gradall, hi-loaders (over 1 yd), hoist, two drums, locomotive,mechanic or welder, mixermobile, paver, or any other machine with power swing, piledriver operator, power shovel, pump, concrete or other material

GROUP 2 - A-frame truck, barber-greene loader or similar type, bob cat hi loaders (1 yd and under), boiler (1), ditching machine-small, elevator operator, firemen, fork lift, greaser, equipment, hoist, one active drum, hydra hammer, jeep ditcher, mixer, other than paver, power broom, pump, 4" or larger, small machine engineer, welding machine (1)

GROUP 3 - (a) farm tractor (without attachments), (b)Farm tractor (with attachments)

GROUP 4 - (a)Oiler, (b)motor crane oiler

GROUP 5 - Tower cranes and derricks, frankie-type pile driving machines

GROUP 6 - Cranes and shovels 100 ft. of boom or over (including jib) or 2 yds. capacity or over or 30 tons or over (3) drum hoist

GROUP 7 - Cranes and shovels booms 200 ft. and over; (4) drum hoist

GROUP 8 - Master mechanic

GROUP 9 - Cranes with lifting ring

DECISION NO. KS76-4097

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (SITE PREPARATION & GRADING):					
GROUP 1	7.85	.50	1.00	.50	.10
GROUP 2	7.60	.50	1.00	.50	.10
GROUP 3	7.35	.50	1.00	.50	.10
GROUP 4	7.00	.50	1.00	.50	.10
GROUP 5	7.10	.50	1.00	.50	.10
GROUP 6	8.10	.50	1.00	.50	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Asphalt paver & spreader, back hoe, boring machine, blades, all types, clamshell, concrete mixer paver operator, concrete central plant operator, (automatic), crane, truck crane, pitman crane hydro crane or any machine with power swing, derrick or derrick trucks, dragline operator, dredge operator, dozer, ditching machine, euclid loader, hoist-2active drums, loader, all types, mechanic or welder, mixer-mobile, multi-unit scraper, piledriver operator, power shovel operator, quad track, scoop operator, all types, side boom cat-cherry picker, skimmer scoop operator, pushcat operator

Group 2 - Asphalt plant operator, elevating grader operator

Group 3 - A-frame truck, asphalt roller operator, asphalt plant boiler fireman, backfiller operator, barber-greene loader, boiler-other than asphalt, bull float operator , churn drill operator, compressor operator (1), concrete central plant operator, concrete mixer operator skip, concrete pump operator, crusher operator, distributor operator, finish machine operator-concrete, fireman other than asphalt, flex plane operator, fork lift, form grader operator, greaser, hoist 1 drum, jeep ditching machine, pavement breaker, self-propelled (of the hydra hammer or similar type), pump operator, 4" or over, two, pump operator other than dredge, screening & wash plant operator, small machine operator spreader box operator-self-propelled tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt, siphon & jets, subgrading machine operator, tank or car heater operator, combination booster & boiler, towboat operator, vibrating machine operator, not hand

Group 4 - Concrete gang saw, self-propelled (con-cut), conveyor operator harrow disc seeder, oiler, tractor operator, 50 h.p. or less without attachments

Group 5 - Oiler, motor crane

Group 6 - Master mechanic

DECISION NO. KS76-4097

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers, Kettlemen	7.80	.28	.20		.02
Pitch	8.55	.28	.30		.02
Helpers	3.50	.28	.20		.02
SHEET METAL WORKERS	9.915	.55	.40		.06
SPRINKLER FITTERS	11.23	.60	.90		.08
TRUCK DRIVERS (BUILDING CONSTRUCTION):					
GROUP 1 - Pickups, station wagons, flat beds-12,000# & under GVW lincense capacity	7.30	.45	.35		
GROUP 2 - Flat beds-16,000# GVW lincense capacity	7.375	.45	.35		
GROUP 3 - Flat beds-20,000# over GVW lincense capacity, dump, batch & water trucks, single axle	7.45	.45	.35		
GROUP 4 - Lowboys, semi-trailers dumpstors, a-frame tandems winch truck when used as such & transit mix	7.05	.45	.35		
TRUCK DRIVERS PREPARATION & GRADING):					
GROUP 1	6.40	.50	.35		
GROUP 2	6.50	.50	.35		
GROUP 3	6.65	.50	.35		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - Pickups, panel trucks, station wagons, flat beds, dump and batch trucks (single axle)
Group 2 - Tandem trucks, warehousemen or partsmen, mechanic helpers and servicemen
Group 3 - Lowboys, semi-trailers, all transit mixer trucks (single or tandem axle), a-frame and winch trucks when used as such, euclid, end and bottom dump, tournarockers, atheys, dumptors and similar off-road equipment and mechanics on such equipment

WELDERS: Receive rates prescribed for craft performing operation to which welding is incidental.

STATE: Kansas COUNTY: Leavenworth
DECISION NO.: KS76-4098 DATE: Date of Publication
Supersedes Decision No. KS75-4191, dated December 5, 1975 in 40 FR 57096
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.72	.50	.80		.02
BOILERMAKERS	9.45	.70	1.00		.02
BRICKLAYERS; Stonemasons	9.725	.55	.35	1.00	
CARPENTERS; Millwrights and Pile-drivermen	10.20	.50	.30		.05
CEMENT MASONS	9.475	.40	.50	.50	
ELECTRICIANS:					
Zone 1 - Delaware, Kickapoo, High Prairie and Leavenworth Townships)	10.62	.29	1%+.31	.80	.06
Zone 2 - Remainder of County	10.40	.45	1%+.50		.05
ELEVATOR CONSTRUCTORS	10.56	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.50	.55	.51	15.416%	.03
IRONWORKERS	9.60	.70	1.00	1.00	.05
LABORERS:					
General laborer	7.00	.30	.30		.05
Power tool operators, compactors, concrete breakers, chipping tools, drilling tools concrete saws, mechanically operated georgia buggy, rubbing concrete, form setters and liners, concrete paving, mason tenders, plaster tenders, mortar mixers for plasterers, masons & cement finishers, all stocking scaffold, clean up for masons (building & wrecking), sand & concrete gun nozzleman, powderman	7.25	.30	.30		.05

FOOTNOTES: a-Employer contributes 4% of basic hourly rate for over 5 years service, and 2% of basic hourly rate for 6 mos. to 5 years as vacation Pay Credit. b-1st 6 months - none; 6 months - 5 years-2%; over 5 years-4% of the basic hourly rate; also 6 paid holidays.

DECISION NO. KS76-4098

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Site Preparation and Grading):					
Group 1	6.50	.30	.35		.05
Group 2	6.65	.30	.35		.05
Group 3	6.75	.30	.35		.05
Group 4	6.90	.30	.35		.05
Group 5	7.00	.30	.35		.05

CLASSIFICATION DEFINITIONS

Group 1 - Board mat weavers and cable tiers, georgia buggy (manually operated), mixerman-no skip lift, nailers, salamander tenders, track men, tractor swamper, truck dumper, wire mesh setter, water pump up to 4 inches, and all other general laborer including flagman

Group 2 - Air tool operators, cement handlers (bulk), chain saw, georgia buggy (mechanically operated) grade man, hot mastic kettlemen, crusher feeder, joint man, jute man, mason tender, material batch hopper and scale man, mixer man, pier hole man working 10 ft. deep, pipelayer-drainage (concrete and/or corrugated metal), signal man (crane), truck dumper - dry batch, vibrator operator, wagon and churn drill operator

Group 3 - Asphalt raker, barco tamper, concrete saw, creosote material - handling and applying, nozzle burner (cutting torch and burning bar)

Group 4 - Conduit pipe, tile and duct line setter, form setter and liner on concrete paving, powderman, sandblasting and gunnite nozzleman, sanitary sewer pipe layer; steel plate structure erectors; water and gas distribution lines

Group 5 - Leadmen or pusher

DECISION NO. KS76-4098

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LATHERS	$ 9.70	.50			
LINE CONSTRUCTION:					
Zone 1 - Southwest 2/3 of Leavenworth County					
Lineman	8.62	.35	1%		½%
Cable splicers	9.05	.35	1%		½%
Groundman, over 1 year	5.39	.35	1%		½%
Groundman, 1st year	4.11	.35	1%		½%
Powderman	7.16	.35	1%		½%
Line Truck & Equipment Operators:					
1st year	5.52	.35	1%		½%
2nd year	6.59	.35	1%		½%
Over 2 years' experience	7.16	.35	1%		½%
Zone 2 - Remainder of Leavenworth County					
Lineman	10.56	.38	1%+.15		½%
Heavy Equipment Operator	9.83	.38	1%+.15		½%
Groundman powderman	7.34	.38	1%+.15		½%
Groundman	6.97	.38	1%+.15		½%
Groundman (1st year)	5.99	.38	1%+.15		½%
MARBLE AND TILE SETTERS	10.26	3.65%	3.25%		
MARBLE AND TILE SETTERS' HELPERS	8.48				
PAINTERS:					
Zone 1 - Northern 2/3 of County					
Brush, roller, tapers	8.10	.55	.70		
Spray	9.10	.55	.70		
Zone 2 - Remainder of County					
Brush, roller, tapers	8.70	.30	.35		
Spray	9.70	.30	.35		
PLASTERERS	10.25	.30			
PIPEFITTERS	10.42	.52	1.05		1%
PLUMBERS	10.69	.60	.70		.10
POWER EQUIPMENT OPERATORS (Building Construction):					
Group 1	10.10	.50	1.00	.75	.10
Group 2	9.85	.50	1.00	.75	.10
Group 3	8.60	.50	1.00	.75	.10
Group 4	9.10	.50	1.00	.75	.10
Group 5	9.10	.50	1.00	.75	.10
Group 6	9.35	.50	1.00	.75	.10
Group 7	10.35	.50	1.00	.75	.10

DECISION NO. KS76-4098

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) CONT'D:					
Group 8	10.60	.50	1.00	.75	.10
Group 9	10.10	.50	1.00	.75	.10
Group 10	11.10	.50	1.00	.75	.10
Group 11	10.60	.50	1.00	.75	.10
Group 12:					
(a)	9.85	.50	1.00	.75	.10
(b)	9.60	.50	1.00	.75	.10
(c)	9.60	.50	1.00	.75	.10
(d)	8.85	.50	1.00	.75	.10

POWER EQUIPMENT OPERATORS (Building Construction)

CLASSIFICATION DEFINITIONS

Group 1 - Asphalt paver and spreader, asphalt plant mixer operator, asphalt plant operator, back fillers, backhoe, all types, barber-greene loader (similar type), blade-power, all types, boats-power, boilers (2), boring machines (all types), cableways, cherry pickers (all types), chip spreader, clamshells, combination concrete hoist and mixer such as mixermobile (with tower, 50¢ per hour additional), compressors (2) 105 ft. or over not more than 20' apart, compressors tandem (any sizes), compressors single, truck mounted, concrete ready-mixed plant. portable (job site); concrete mixer paver, crane-overhead, crusher, rock, derricks and derrick cars (power operated), ditching machines, dozers, draglines, dredges - any type power, grade-all - similar types, hoist, endless chain - power operated with power travel, loaders - all types, locomotives all types, mechanic and welder, mucking machine, orange peels, piledrivers - all types;pumps - material all types, push cats, scoops all types, self-propelled rotary drill, shovel, power, side boom, skimmer scoop, testhole machine, throttle man

Group 2 - A-frame trucks, boilers (1), brooms-power operated (all types), chip spreader (front man), clef plane operator, compressors (1) 105' or over, concrete saws, (self-propelled), conveyor operator, crab-power operated, curb finishing machine, firemen on rigs, flex plane, floating machine, form grader, fork lift - all types and sizes (except masonry), greaser, hoist, hoist, endless chain-power operated, hopper-power operated, hydra hammer (all types), lad-a-vator - similar type, mixers with side loaders, jennies, sub-grader, tractors over 50 h.p., pumps (with well points); pump; rollers - all types, siphons, jets

Group 3 - Oiler

Group 4 - Fork lift-masonry

Group 5 - Oiler driver all types

DECISION NO. KS76-4098

POWER EQUIPMENT OPERATORS CLASSIFICATIONS CONTD:

Group 6 - Tractors (except when hauling material) less than 50 h.p.

Group 7 - Clamshells, 80 ft. of boom or over (including jib), crane or rigs, 80 ft. of boom or over (including jib), draglines, 80 ft. of boom or over (including jib), piledrivers, 80 ft. of boom or over (including jib)

Group 8 - Cranes or rigs, over 200 ft of boom

Group 9 - Hoists each additional drum over 1 drum

Group 10 - Master mechanic

Group 11 - Crane - tower or climbing

Group 12 - Ready mixed concrete plants; (a) crane operator, (b) loader operator, (c) plant man, (d) conveyor operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONT'D)					
Site Preparation and Grading					
Group 1	10.10	.50	1.00	.75	.10
Group 2	9.85	.50	1.00	.75	.10
Group 3	9.60	.50	1.00	.75	.10
Group 4	8.60	.50	1.00	.75	.10
Group 5	9.10	.50	1.00	.75	.10
Group 6	10.35	.50	1.00	.75	.10
Group 7	10.60	.50	1.00	.75	.10
Group 8	10.10	.50	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Asphalt paver and spreader, asphalt plant console operator, auto grader, backhoe, blade operator, all types, boilers - 2; booster pump or dredge, boring machine (truck or crane mounted), bulldozer operator, clamshell operator, compressor maintenance operator - 2; concrete plant operator, central mix, concrete mixer paver, crane operator, derrick or derrick trucks, ditching machine, dragline operator, dredge engineman, dredge operator, drill cat with compressor mounted on cat, drilling or boring machine, rotary, self-propelled, high loader-fork lift, hoisting engine - 2 active drums, locomotive operator, standard gauge, mechanics and welders, field or shop, maintenance operator, mucking machine, pile driver operator, pitman crane operator, pump-2, quad-trac, scoop operator all types; scoops in tandem, self-propelled rotary drill (Leroy or equal - not air trac); shovel operator, side discharge spreader, sideboom cats, skimmer scoop operator, slip-form paver (CMI, REX, or equal), throttle man, truck crane welding machine maintenance operator - 2

DECISION NO. KS76-4098

POWER EQUIPMENT OPERATORS (CONTD):
Site Preparation and Grading

Group 2 - A-frame truck, asphalt hot mix silo, asphalt plant fireman, drum or boiler, asphalt plant mixer operator, asphalt plant man, asphalt roller operator, backfiller operator, chip spreader, concrete batch plant, dry power operator, concrete mixer operator, skip loader, concrete pump operator, crusher operator, elevating grader operator, greaser, hoisting engine-1 drum, latourneau rooter, multiple compactor, pavement breaker, self-propelled, of the hydra-hammer or similar type, power shield, pug mill operator, stump cutting machine, towboat operator, tractor operator over 50 h.p.

Group 3 - Boilers - 1, chip spreader (front man), churn drill operator, compressor maintenance operator - 1, concrete saws, self-propelled, conveyor operator, distributor operator, finishing machine operator, fireman, rig, float operator, form grader operator, pump, pump maintenance operator, other than dredge, roller operator, other than high type asphalt, screening and washing plant operator, self-propelled street broom or sweeper, siphons and jets, sub-grading machine operator, tank car heater operator operators - combination boiler and booster, tractor, 50 h.p. or less, without attachments, vibrating machine operator, not hand, welding machine maintenance operator-1

Group 4 - Mechanic's helpers, oiler

Group 5 - Oiler,driver, all types

Group 6 - Clamshells, 3 yds. capacity or over, crane or rigs, 80 ft. of boom or over (including jib), draglines, 3 yds. capacity or over, piledrivers, 80 ft. of boom or over (including jib), shovels, 3 yds capacity or over

Group 7 - Cranes or rigs, over 200 ft. of boom (including jib)

Group 8 - Hoists (each additional drum over 1 drum)

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	9.30	.30	.60		.04
Helpers:					
1st 6 mos.	5.58	.30	.60		.04
2nd 6 mos.	6.05	.30	.60		.04
3rd 6 mos.	6.51	.30	.60		.04
4th 6 mos.	6.98	.30	.60		.04
5th 6 mos.	7.44	.30	.60		.04
6th 6 mos.	7.91	.30	.60		.04
7th 6 mos.	8.37	.30	.60		.04
SHEET METAL WORKERS	10.705	.35	.50		.05
SPRINKLER FITTERS	11.23	.60	.90		.08
TERRAZZO WORKERS	9.93	3.65%	3.25%		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Building Construction:					
Group 1	8.525	.50	1.00		
Group 2	8.575	.50	1.00		
Group 3	8.65	.50	1.00		
Group 4	8.775	.50	1.00		
Group 5	8.675	.50	1.00		
Group 6	8.875	.50	1.00		
Group 7	8.725	.50	1.00		
Group 8	8.625	.50	1.00		

TRUCK DRIVERS (Building Construction) (Cont'd)

CLASSIFICATION DEFINITIONS

Group 1 - Warehousemen and stock man

Group 2 - Flat beds, pick-ups, dump trucks, under 10 yds.

Group 3 - Dump trucks, 10 yds. and over, steel trucks, semi truck drivers

Group 4 - Straddle trucks, wheel tractors (when used for towing), hydro lift trucks, hydraulically operated serial lifts, heavy hauling, a-frame winch and fork lifts, heavy excavating (dumpter, euclid, etc.), double bottom units (20 tons cap. and over)

Group 5 - Distributor truck drivers and operators, oilers, greasers and mechanics' helpers

Group 6 - Mechanics

Group 7 - Transit mix, 5 yds. and over

Group 8 - Transit mix, under 5 yds.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Site preparation and Grading					
Group 1	8.59	.50	1.00	.75	
Group 2	8.79	.50	1.00	.75	
Group 3	9.10	.50	1.00	.75	
Group 4	9.25	.50	1.00	.75	
Group 5	8.365	.50	1.00	.75	

TRUCK DRIVERS
CLASSIRICATION DEFINITIONS

Group 1 - One team, station wagons, pickup trucks, material trucks, single axle, tank wagon drivers, single axle

Group 2 - Material trucks, tandem, two teams, semi-trailers, winch trucks-fork trucks, distributors drivers and operators, agitator and transit mix, tank wagon drivers, single axle, tank wagon drivers tandem or semi-trailers, Insley wagon, dump trucks, excavating, 5 cu. yds. and over, dumpsters, half-tracks, speedace, euclids and other similar excavating equipment

Group 3 - A-frame, lowboy, and boom truck driver

Group 4 - Mechanics and welders

Group 5 - Mechanics' helpers, oilers and greasers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Nebraska COUNTY: Lancaster
DECISION NO.: NE76-4205 DATE: Date of Publication
Supersedes Decision No.: NE76-4075 dated April 30, 1976, in 41 FR 18270
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.91	.40	.51	4%	.03
BOILERMAKERS	8.90	.70	1.00		.02
BRICKLAYERS: Stonemasons	8.875	.45	.30		
CARPENTERS:					
Carpenters	7.25	.20	.20		
Piledrivermen	7.50	.20	.20		
CEMENT MASONS:					
Cement masons	7.725	.45	.30		
Swing Stage	7.975	.45	.30		
ELECTRICIANS:					
Electricians:					
Zone A	10.31	.42	1%		.04
Zone B	10.61	.42	1%		.04
Zone C	10.91	.42	1%		.04
Zone D	11.31	.42	1%		.04
Cable Splicers:					
Zone A	10.56	.42	1%		.04
Zone B	10.86	.42	1%		.04
Zone C	11.16	.42	1%		.04
Zone D	11.56	.42	1%		.04

ELECTRICIANS - CABLE SPLICERS' ZONE DEFINITION

Electricians-Cable Splicers from the main Post Office in Lincoln, Nebraska:

ZONE A - 0 to 15 miles
ZONE B - 15 to 30 miles
ZONE C - 30 to 75 miles
ZONE D - Over 75 miles

ELEVATOR CONSTRUCTORS	10.41	.495	.32	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.45	.40	.35		.01
IRONWORKERS	8.10	.30	.20	.50	
LABORERS:					
Common Laborers	6.465	.45	.30		
Machine and air tool operators; Mason tenders	6.615	.45	.30		
Plasterers tenders	6.69	.45	.30		
LATHERS	7.80	.50	1.00		.01
MARBLE MASONS	7.65		.25		

DECISION NO. NE76-4205

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	$6.775	.30	.20		
Spray, Steel , Swing stage	7.275	.30	.20		
Paperhangers, Taper	7.025	.30	.20		
PLASTERERS	7.475	.30	.20		
PLUMBERS: Pipefitters	9.11	.58	.60		.10
ROOFERS:					
Composition	7.45		.10		
Slate and Tile	7.85		.10		
SHEET METAL WORKERS	7.96	.35	.20		
SOFT FLOOR LAYERS	8.00				.03
SPRINKLER FITTERS	10.55	.50	.80		.08
TERRAZZO WORKERS & TILE SETTERS	8.10		.25		
TRUCK DRIVERS:					
Single Axle	5.825	.20	.25		
Tandem Axle	5.95	.20	.25		
Trailers and Lowboys	6.075	.20	.25		
Lumber Carriers	6.25	.20	.25		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Employer contributes 2% of the basic hourly rate for 6 months to 5 years' service and 4% of the basic hourly rate for over 5 years' service as Vacation Pay Credit.

b. The following paid holidays: A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

DECISION NO. NE76-4205

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION:					
Linemen	$ 8.86	.35	1%		1/2%
Cable Splicers	9.26	.35	1%		1/2%
Truck Driver	6.42	.35	1%		1/2%
Equipment Operator	8.33	.35	1%		1/2%
GROUNDMEN:					
(Inexperienced) 1st 6 months	3.01	.35	1%		1/2%
(Inexperienced) 2nd 6 months	4.40	.35	1%		1/2%
Thereafter	5.81	.35	1%		1/2%
POWER EQUIPMENT OPERATORS:					
Group 1	6.575	.45	.30		
Group 2	6.70	.45	.30		
Group 3	7.25	.45	.30		
Group 4	7.425	.45	.30		
Group 5	7.05	.45	.30		
Group 6	7.775	.45	.30		
Group 7	7.70	.45	.30		
Group 8	7.75	.45	.30		
Group 9	7.85	.45	.30		
Group 10	8.10	.45	.30		

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATOR'S CLASSIFICATION DEFINITION

GROUP 1: Firemen Oilers; Greasers; Mechanic's Helpers; Industrial type tractor without attachments
GROUP 2: Pumps - 4 inches and over
GROUP 3: Industrial type tractor with attachments
GROUP 4: Forklift or similar type equipment
GROUP 5: Compressors - 300 cu. ft. or over, or a series of compressors equalling 300 cu. ft. or over
GROUP 6: Economobile
GROUP 7: Single drum trucks or boom hoists; winch trucks; concrete pumps
GROUP 8: One drum hoists; air tugger; mixer with capacity or 1 yard or more; Blade Graders; Bulldozers; front end loaders; hydraulic backhoe on industrial type tractor
GROUP 9: Rubber tired earth moving equipment; hydrocrane
GROUP 10: Two drum hoists; Mechanics; Cranes; Piledrivers; Shovels; Draglines; Clamshells; Orange Peel; Backhoe; All shovel type equipment; All derricks and cranes

DECISION NO. NE76-4205

SITE PREPARATION, EXCAVATING AND INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Carpenter	$5.25				
Carpenter helper	4.00				
Cement finisher	4.80				
Concrete saw operator	4.60				
Form setter (road)	4.55				
Form setter (structures)	3.75				
Laborer	3.45				
Manhole builder	4.25				
Painter	3.60				
Piledriver leadsman	3.60				
POWER EQUIPMENT OPERATORS:					
All purpose spreader	4.10				
Asphalt distributor	4.00				
Asphalt distributor helper	3.75				
Asphalt heaterman	3.80				
Asphalt paving machine	4.75				
Asphalt paving machine screedman	4.25				
Stationary Pl. (base of stabilization)	4.60				
Stationary Pl. (asphalt or concrete)	4.90				
Beginner Operator	4.25				
Bulldozer:					
Less than 115 drawbar H.P.	4.65				
115 drawbar H.P. and over	5.25				
Cement handler	3.50				
Clamshell, dragline, backhoe, crane, pile driver or shovel	5.35				
Concrete mixer	3.60				
Concrete paver	4.45				
Slip form paver	5.25				
Conveyor	3.60				
Crusher (including those with integral screening plant)	4.65				
Dredge pump under 10"	4.00				
Dredge pump 10" and over	4.45				

DECISION NO. NE76-4205

SITE PREPARATION, EXCAVATING AND INCIDENTAL PAVING (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (Cont'd)					
Fireman (boiler)	$3.80				
Front End Loader:					
3½ cu. yds. or less	4.55				
over 3½ cu. yds.	4.65				
Mechanic	5.35				
Mechanic helper	4.60				
Motor grader	5.15				
Oiler or greaser	4.50				
Roller, self-propelled (hot mix)	4.50				
Roller or compactor, self-propelled (other)	4.50				
Scraper under 16 cu. yds.	4.75				
Scraper 16 cu. yds. and over	5.25				
Power grade machine (trimmer)	5.25				
TRACTOR:					
Farm type (towing)	3.65				
Farm type (with attachments)	3.95				
Less than 115 drawbar H.P.	4.65				
115 drawbar H.P. and over	5.00				
Traveling plant (stabilization)	4.60				
Traveling plant helper (stabilization)	3.90				
Concrete finishing machine and spreader	4.80				
TRUCK DRIVERS:					
Single Axle	3.65				
Tandem Axle	3.75				
Semi-Trailer	3.85				
Transit Mix	3.85				
Lowboy	4.25				

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Nevada Test Site including Tonopah Test Range in Clark and Nye Counties

DECISION NUMBER: NV76-5053

DATE: Date of Publication

Supersedes Decision No. NV76-5005 dated January 16, 1975, in 41 FR 2601

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.36	.78	1.02		
BRICKLAYERS	10.87	.45	.50		.06
BRICK TENDERS	7.77	.36	1.25	1.00	
CARPENTERS (Nevada Test Site);					
Carpenters	8.24	.55	.90	.80	.03
Floor layers	8.265	.55	.90	.80	.03
Millwrights	8.54	.55	.90	.80	.03
CARPENTERS (Tonopah Test Range):					
Carpenters; Power actuated tools	6.86	.55		2.10	
Floorlayers; Shinglers	6.885	.55		2.10	
Power Saw Operator (overhead)	7.005	.55		2.10	
CEMENT MASONS:					
Cement Masons	7.55	1.00	.20	2.00	.08
Floor Finishing Machine	7.90	1.00	.20	2.00	.08
ELECTRICIANS:					
Electricians; Equipment Operators; Linemen	10.62	.63	1%+.40		.05
Cable Splicers	10.95	.63	1%+.40		.05
Groundman	8.42	.63	1%+.40		.05
IRONWORKERS:					
Reinforcing; Ornamental; Structural	10.53	1.03	1.65	1.10	.03
PAINTERS:					
Brush; Roller	8.27	.75	.35	1.50	.05
Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers	8.62	.75	.35	1.50	.05
Buffing; Sandblasters, Steel	8.88	.75	.35	1.50	.05
PLUMBERS; Steamfitters	10.75	.70	1.70	1.60	.08
ROOFERS	10.53	.65			
SHEET METAL WORKERS	9.93	.83	1.60	1.00	.05+.02
SPRINKLER FITTERS	14.80	.60	.90		.08

DECISION NO. NV76-5053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Group 1	$7.23	.36	.95	1.00	
Group 2	7.28	.36	.95	1.00	
Group 3	7.31	.36	.95	1.00	
Group 4	7.33	.36	.95	1.00	
Group 5	7.35	.36	.95	1.00	
Group 6	7.36	.36	.95	1.00	
Group 7	7.38	.36	.95	1.00	
Group 8	7.41	.36	.95	1.00	
Group 9	7.42	.36	.95	1.00	
Group 10	7.44	.36	.95	1.00	
Group 11	7.49	.36	.95	1.00	
Group 12	7.52	.36	.95	1.00	
Group 13	7.54	.36	.95	1.00	
Group 14	7.57	.36	.95	1.00	
Group 15	7.59	.36	.95	1.00	
Group 16	7.655	.36	.95	1.00	
Group 17	7.68	.36	.95	1.00	
Group 18	7.75	.36	.95	1.00	
POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)					
Group 1	8.43	.95	1.75	.30	.04
Group 2	8.67	.95	1.75	.30	.04
Group 3	8.91	.95	1.75	.30	.04
Group 4	9.02	.95	1.75	.30	.04
Group 5	9.21	.95	1.75	.30	.04
Group 6	9.31	.95	1.75	.30	.04
Group 7	8.31	.75	1.75	.30	
Group 7-A	8.02	.75	1.75	.30	
Group 7-B	7.91	.75	1.75	.30	
Group 7-C	7.67	.75	1.75	.30	
TRUCK DRIVERS					
Group 1	8.065	.223	.65		
Group 2	8.12	.223	.65		
Group 3	8.17	.223	.65		
Group 4	8.33	.223	.65		
Group 5	8.515	.223	.65		

DECISION NO. NV76-5053

LABORERS

Group 1: Laborers - General or Construction; Demolition (cleaning of brick, lumber, etc.); Dry packing of concrete and filling of formbolt holes; Gas and Oil Pipeline; Laborer - temporary water lines (portable type); Window Cleaner

Group 2: Cutting Torch Operator (demolition); Tarman and Mortar Man; Kettleman; Potman and man applying asphalt, Lay-kold Creosote, Lime, and similar type materials

Group 3: Guinea Chaser

Group 4: Fine Grader, highway and street paving, airport, runways and similar type heavy construction; Landscape Gardener and Nursery-man

Group 5: Laborers - packing rod steel and pans

Group 6: Underground Laborer including Caisson Bellowers

Group 7: Chucktender (except tunnels); Scaler; Tank Scaler and Cleaner

Group 8: Cesspool Digger and Installer

Group 9: Concrete Curer-impervious Membrane and Oiler of all materials; Riprap Stonepaver; Sandblaster (pot tender); Making and Caulking of all non-metallic Pipe Joints

Group 10: Operators and Tenders of Pneumatic and Electric Tools, Vibrating Machines, hand-propelled Trenching Machines, Impact Wrench Multi-plate and similar mechanical tools not separately classified herein; Asphalt Raker, Ironer, Spreader, Luteman; Buggymobile Man; Cement Dumper (on one yard or larger mixers and handling bulk cement); Concrete Saw Man excluding Tractor type, cutting, scoring old or new concrete; Concrete Core Cutter; Gas and Oil Pipeline Wrapper-pot Tender and Form Man; Operator of Cement Grinding Machine; Roto-scraper; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type brush shredders

Group 11: Rock Slinger; Scaler (using Bos'n Chair or Safety Belt or Power Tools)

Group 12: Driller and/or Pavement Breaker

Group 13: Oversize Concrete Vibrator Operator, 70 lbs. and over; Laying of all non-metallic pipe, including sewer pipe, drain pipe and underground tile

Group 14: Gas and Oil Pipeline Wrapper - 6 inch pipe and over

DECISION NO. NV76-5053

LABORERS (Cont'd)

Group 15: Cribber or Shorer, Lagging, Sheeting, Trench Bracing, hand guided Lagging Hammer; Powerman-blaster - all work of loading holes, placing and blasting of all powder and explosives of whatever type regardless of method used for such loading and placing

Group 16: Steel Headboardman

Group 17: Sandblaster (Nozzleman); Driller (Core, Diamond, or Wagon, Joy Driller Model TW-M-2A, Gardner-Denver Model DH 163 and similar type drills)

Group 18: Head Rock Slinger

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Air Compressor, Pump or Generator; Engineer Oiler and Signal Man; Heavy Duty Repairman's Helper; Switchman or Brakeman

Group 2: Concrete Mixer, Skip type; Conveyor and Beltman; Fireman; Generator, Pump or Compressor (2-5 units inclusive, over 5 units, $0.10 per hour for each additional unit up to 10 units, portable units); Generator, Pump or Compressor Plant; Rotary Drill Helper (oilfield type); Skiploader, Wheeltype, Ford, Ferguson, Jeep or similar type, 3/4 yard or less (w/o dragtype attachments); Temporary Heating Plant; Truck Crane Oiler; Hydrostatic Pump

Group 3: A-Frame or Winch Truck; Dinky Locomotive or Tunnel Motor; Elevator Hoist; Equipment Greaser; Ford, Ferguson or similar type (with drag-type attachments); Hydra-hammer or similar type equipment; Power Concrete Curing Machine; Power Concrete Saw; Power Driven Jumbo Form Setter; Rodman and Chainman; Ross Carrier; Self-propelled Tar Pipelining Machine; Stationary Pipe Wrapping and Cleaning Machine; Towblade Operator

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixer Box (concrete or asphalt plant); Derrickman (oilfield type); Drilling Machine (including water wells); Highline Cableway Signalman; Instrumentman; Locomotive Engineer; Power Sweeper; Roller, compacting; Screed; Trenching Machine (up to 6 feet depth)

Group 5: Asphalt or Concrete Spreading, Mechanical Tamping or Finishing Machine - Roller (all types and sizes), Soil, Cement, Asphalt - Finish; Asphalt Plant Engineer; Deck Engine; Grade Checker; Heavy Duty Welder; Machine Tool; Pavement Breaker; Pneumatic Heading Shield - Tunnel; Road Oil Mixing Machine; Forklift, under five tons; Rubber-tired, heavy duty equipment (Oshkosh, DW, Euclid, LeTourneau, LaPlant-Choate, or similar type equipment with any type attachments); Skiploader, Wheeltype, over 3/4 yards, up to and including 1½ yds.; Slip Form Pump (power driven hydraulic lifting device for concrete forms); Tractor drag type shovel, Bulldozer, Tamper, Scraper and Push Tractor

DECISION NO. NV76-5053

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 6: Combination Heavy Duty Repairman and Welder; Concrete Mixer - Paving; Concrete Mobile Mixer; Concrete Pump or Pumpcrete Gun; Crushing Plant Engineer; Elevating Grader; Heavy Duty Repairman; Highline Cableway; Hoist (Chicago Boom and Mine); Kolman Belt Loader and similar type; Lift Slab Machine; Loader-Athey, Euclid, Hancock, Sierra or similar type; Motor Patrol (any type or size); Multiple Engine-earth moving machinery; Party Chief; Pneumatic Concrete Placing Machine - Hackley-Presswell or similar type; Rotary Drill, excluding Caisson type; Skiploader, Wheeltype, over 1½ yards; Surface Heater and Planer; Tractor Loader - crawler type - all types and sizes; Tractor, with boom attachments; Traveling Pipe Wrapping, Cleaning and Bending Machine; Trenching Machine (over 6 feet depth); Universal equipment (Shovel, Backhoe, Dragline, Clamshell, Derrick, Derrick Barge, Crane, Piledriver and Mucking Machine); Forklift, over 5 tons

Group 7: Driller Operator; Fishing Tool Engineer

Group 7-A: Derrickman

Group 7-B: Motorman

Group 7-C: Drillers Helpers

TRUCK DRIVERS

Group 1: Light Duty Driver; Warehouseman

Group 2: Bootman; Truck Greaser; Light Vehicle Dispatcher

Group 3: Tireman; Warehouse Clerk

Group 4: Heavy Duty Driver; Forklift Driver; Equipment Parts; Stockroom Clerk

Group 5: Extra Heavy Duty Driver

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NO: OH76-2069
COUNTIES: Cuyahoga and Lake
DATE: Date of Publication
Supersdes Decision No. AR-3035, dated August 23, 1974 in 39 FR 30778
DESCRIPTION OF WORK: Building Construction, including Residential Construction

DECISION NO OH76-2069

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.23				
BOILERMAKERS	10.88	.50	.85		.01
BRICKLAYERS & STONEMASONS	10.60	.85	.90		.01
CARPENTERS AND SOFT FLOOR LAYERS	11.00	.57	.85		.03
Millwrig..ts and Piledrivermen	10.85	.57	1.00		.03
CEMENT MASONS	12.03				
ELECTRICIANS: Cuyahoga County	11.91	.50	.42+1%		.02
Lake County	11.83	.50	1%+.50		.3%
ELEVATOR CONSTRUCTORS	11.23	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.86	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)					
GLAZIERS	9.73	.40	.65		.01
IRONWORKERS: Structural and Ornamental and Reinforcing	10.92	.60	.80		.03
LABORERS:					
Laborers, construction	8.97	1.07	.70		
Gunite Operator	9.29	1.07	.70		
Blasters and Shooters	9.29	1.07	.70		
Caisson, well cylinders, mine workers without air, coffer-dams	9.29	1.07	.70		
Jackhammer, acetylene burners, vibrator	9.17	1.07	.70		
Sewer & Utility laborers	9.12	1.07	.70		
Swinging scaffolds	9.22	1.07	.70		
Topman on free standing radial stack	9.47	1.07	.70		
Powerdriven tools and vibrator	9.12	1.07	.70		
LINEMEN: Cuyahoga County	9.11	.35	1%		.25%
Lake County	11.83	.50	1%+.50		.5%
LATHERS	11.58		.75		.01
LEADBURNERS	10.50	.35			
MARBLE SETTERS	10.60	.85	.90		
MARBLE SETTERS' HELPERS	10.46				
PAINTERS:					
Brush, Paperhangers & Rollers	10.27	.48	.59		.03
Structural Steel & Bridge	10.97	.48	.59		.03
Swing Stage & Bos'n Chair	10.57	.48	.59		.03
PIPEFITTERS & SPRINKLER FITTERS	$10.67	.95	.80		.05
PLASTERERS	12.08				.01
PLUMBERS	10.73	.60	1.00		.02
ROOFERS	11.48	.25	.50		.005
SHEET METAL WORKERS	11.13	.25	80		.02
TERRAZZO WORKERS	10.60	.85	.90		
TERRAZZO WORKERS' HELPERS	10.87		.40		
TILE SETTERS	10.495		1.36		
TILE SETTERS' HELPERS	10.99		.25		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C- Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F

b. Employer contributes 4% of regular hourly rate to Vacation pay credit for employee who has worked in business more than 5 years. Employer conbtributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately proceding and following the holiday.

DEICISION NO OH76-2069

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.02	.46	.80		.11
GROUP B	10.87	.46	.80		.11
GROUP C	10.52	.46	.80		.11
GROUP D	9.74	.46	.80		.11
GROUP E	9.42	.46	.80		.11
GROUP F	8.34	.46	.80		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher rollers, welder operator

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over ½" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

STATE: Ohio COUNTY: Ashtabula
DECISION NUMBER: OH76-2074 DATE: Date of Publication
Supersedes Decision NO. AR-3169, dated November 15, 1974 in 39 FR 40401
DESCRIPTION OF WORK: Building, including Residential Construction

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS (Cities of Ashtabula & Geneva)	$12.23				
Remainder of County	10.28	.30	.30		.02
BOILERMAKERS	10.88	.50	.85		.01
BRICKLAYERS AND STONEMASONS	9.12	.50	.45	1.00	
CARPENTERS & SOFT FLOOR LAYERS	11.00	.57	.85		.03
Millwirghts and Piledrivermen	10.85	.57	1.00		.03
CEMENT MASONS	9.12	.50	.45	1.00	
ELECTRICIANS: (Colebrook, Wayne, Williamsfield, Orwell & Windsor Townships)	10.93	.60	5%		.1%
ELECTRICIANS AND LINEMEN (Remainder of County)	11.40	.65	1%+.75		.2%
ELEVATOR CONSTRUCTORS	9.95	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	6.965	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	4.975				
GLAZIERS	9.73	.40	.65		.01
LATHERS	11.58		.75		.01
MARBLE SETTERS	9.12	.50	.45	1.00	
PAINTERS:					
Commercial & Residential Brush	10.27	.48	.59		.03
Spray; Sandblast & Waterblast	10.67	.48	.59		.03
PIPEFITTERS & SPRINKLER FITTERS	10.67	.95	.80		.05
PLASTERERS	9.12	.50	.45	1.00	
PLUMBERS	10.73	.60	1.00		.02
ROOFERS	11.48	.25	.50		
SHEET METAL WORKERS	11.13		.80		.02
TERRAZZO WORKERS	9.12	.50	.45	1.00	
TILE SETTERS	9.12	.50	.45	1.00	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO OH76-2074

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid Holidays: A through F

b. Employer contributes 4% of regular hourly rate to Vacation Pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation pay credit for employee who has worked in business less than 5 years.

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Colebrook, Orwell, Wayne, Williamsfield, & Windsor Townships:					
Linemen, Cablesplicer Operator, pole digging equipment operator	$11.49	.35	1%		
Groundman - over 18 mos.	10.50	.35	1%		
Groundman - 3rd 6 mos.	10.45	.35	1%		
Groundman - 2nd 6 mos.	10.39	.35	1%		
Groundman - 1st 6 mos.	10.34	.35	1%		
Remainder of Ashtabula County:					
Linemen, Equipment operator, Cable splicer, line truck driver	11.40	.65	1%+.75		.2%
Groundman over 12 mos.	8.55	.65	1%+.75		.2%
Groundman 6-12 mos.	7.40	.65	1%+.75		.2%
Groundman 0-6 mos.	6.30	.65	1%+.75		.2%

DECISION NO OH76-2074

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Blasters	$ 9.40				
Gunnite Operators	9.35				
Tunnel laborers	9.25				
Stackmen, swinging scaffold men	9.15				
Air & machine driven tool op., sewer pipe layers, bottom men (6ft. & over), power driven wheelbarrows & sweepers, brick batter & droppers	9.05				
Spreader box men (asphalt), stone masons' assistant plasterers or motor mixers squeeze man	9.00				
Sheeting & shoring men, asphalt rakers and tampers, dumpmen (Batch truck), signalmen, concrete workers, building wreckers, tool checkers, carpenters' tneders, construction laborers, all work not mentioned in above classifications to be paid at the rate of Construction Laborers	8.85				

DEICISION NO OH76-2074

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.02	.46	.80		.11
GROUP B	10.87	.46	.80		.11
GROUP C	10.52	.46	.80		.11
GROUP D	9.74	.46	.80		.11
GROUP E	9.42	.46	.80		.11
GROUP F	8.34	.46	.80		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trencher rollers,welder operator

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over ½" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

SUPERSEDEAS DECISION

STATE: Ohio

COUNTIES: Erie, Huron, Ottawa & Sandusky

DECISION NUMBER: OH76-2075

DATE: Date of Publication

Supersedes Decision No. AR-3172, dated November 22, 1974 in 39 FR 41102

DESCRIPTION OF WORK: Building Construction (escluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
Sandusky, Ottawa Counties and Western half of Erie County	$11.23	.35	.75		.02
Huron and Eastern half of Erie County	12.23				
BOILERMAKERS	11.90	.50	.60		.01
BRICKLAYERS: Cement masons, Plasterers and Marble Masons	10.00	.50	.35		.01
CARPENTERS: Soft Floor Layers	10.36	.50	.80		.04
ELECTRICIANS:					
Sandusky and Ottawa Counties	11.65	.40	1%+.55		.1%
Erie County and northern half of Huron County	11.05	.48	1%		.1%
Southern half of Huron County (Townships of Richmond, New Haven, Ripley & Greenwich)	10.30	.33	1%+.25		.1%
ELEVATOR CONSTRUCTORS:					
Erie and Huron Counties:					
Elevator Constructors	11.23	.495	.32	4%+a+b	.02
Elevator Constructors' Helpers	7.86	.495	.32	4%+a+b	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Ottawa & Sandusky Counties:					
Elevator Constructors	11.27	.495	.32	4%+a+b	.02
Elevator Constructors' Helpers	7.89	.495	.32	4%+a+b	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
GLAZIERS					
Erie & Huron Counties	9.73	.40	.65		.01
Ottawa & Sandusky Counties	9.975	.50	.45		.01
IRONWORKERS:					
Erie and Huron Counties	10.92	.60	.80	1.00	.03
Ottawa and Sandusky Counties	11.05	.60	8%		.04
LATHERS	10.95	.60	.10		.01
LEADBURNERS	10.50	.35			.01
MILLWRIGHTS:					
Huron and Erie Counties, east of B & O tracks	10.36	.50	.80		.03
Erie County, West of B & O Tracks and Ottawa, and Sandusky Counties	11.10	.60	.50		.04

DECISION NO OH76-2075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Erie, Huron and Sandusky Counties:					
Brush, roller, Washing & Cleaning dry wall	$ 8.30	.40	.50		
Work between 40 ft. and 60 ft. above ground level	8.55	.40	.50		
60 ft. above ground or floor level	9.40	.40	.50		
Ottawa County:					
Brush; paperhangers; drywall tampers & finishers	9.74	.60	.50		
Open strucutral steel-brush	9.99	.60	.50		
Spray, sandblasting & pressure cleaning	10.29	.60	.50		
PILEDRIVERMEN:					
Huron County and Erie County east of B & O RR Tracks	10.36	.50	.80		.03
Ottawa & Sandusky Cos. and Erie Co. West of B&O RR Tracks	11.10	.60	.50		.03
PLUMBERS & STEAMFITTERS:					
Erie and Huron Counties	10.905	.45	.80		.025
Ottawa and Sandusky Counties	10.635	.45	.75		.06
ROOFERS	11.48	.25	.50		
SHEET METAL WORKERS:					
Erie, Huron & Sandusky Counties	11.13		.80		.02
Ottawa County	11.075	.60	.80		.045
SPRINKLER FITTERS	12.05	.60	.90		.08
TERRAZZO WORKERS: Tile Setters:					
Erie County	10.00	.50	.35		.01
TRUCK DRIVERS:					
Single axle, Tandem, axle, Semi	7.56	64.25d	14.00e		
Heavy Duty Trucks, 5 axles or over Winch trucks; Carry alls;					
Low Boys	7.79	64.25d	14.00e		

DECISION NO OH76-2075

PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Six paid holidays; A through F providing employee worked the Day preceding and the regularly scheduled day next forllowing such holiday (except excused absences).

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Two paid holidays: Memorial Day and Labor Day

d. Per month per employee.

e. Per week per emp-oyee.

DECISION NO OH76-2075

LABORERS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A					
Building & construction laborers, signalman, flagman, tool cribman, carpenter tenders, Finisher tender, concrete handler, utility construction laborer, guardrail erectors	$ 8.53	.55	.30		.02
GROUP B					
Bottom men, scaffold, tunnel laborers, pipelayers, air & power driven tools burner on demolition work, swinging scaffold, mucker, caisson workers, cofferdam worker, power men and dynamite blasterers, cresote workers, mortar mixer, form setter, mason tender, plaster tender, hod carrier, laser beam set up man	8.73	.55	.40		.05
GROUP C					
Gunnite Operator	9.13	.55	.30		.02
LINE CONSTRUCTION					
Sandusky & Ottawa Counties:					
Linemen; Welders; Technicians	10.65	.30	1%	a	.25%
Cable Splicers	10.90	.30	1%	a	.25%
Erie and northern half of Huron Counties:					
Linemen; Technicians; Equipment Operators	11.05	.48	1%		.1%
Southern half of Huron County:					
Linemen; Equipment Operators	10.30	.33	1%+.25		.25%
Line Truck Driver	6.70	.33	1%+.25		.25%
Groundman	6.18	.33	1%+.25		.25%

FOOTNOTE:

a. Six Paid holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

ZONE #1 Ottawa and Sandusky Counties

DEICISION NO OH76-2075

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.74	.46	.80		.11
GROUP B	10.58	.46	.80		.11
GROUP C	10.23	.46	.80		.11
GROUP D	9.42	.46	.80		.11
GROUP E	9.09	.46	.80		.11
GROUP F	7.98	.46	.80		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trencher rollers,welder operator

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over ½" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

ZONE #2 Erie and Huron Counties

DEICISION NO OH76-2075

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.02	.46	.80		.11
GROUP B	10.87	.46	.80		.11
GROUP C	10.52	.46	.80		.11
GROUP D	9.74	.46	.80		.11
GROUP E	9.42	.46	.80		.11
GROUP F	8.34	.46	.80		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trencher rollers,welder operator

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over ½" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO;: PA76-3177
COUNTY: Erie
DATE: Date of Publication
Supersedeas Decision No. PA75-3054, dated July 3, 1975, in 40 FR 28355.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	10.84	.35	.70		.02
BOILERMAKERS	10.03	.50	.85		.01
BRICKLAYERS	11.11	.30	.40		
CARPENTERS	9.60	.30	.30		.02
CEMENT MASONS	9.92	.30	.25		.015
ELECTRICIANS	10.20	3%	3%		1/2 of 1%
ELEVATOR CONSTRUCTORS	9.95	.495	.32	4 %+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4 %+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.41	.30	.20		
IRONWORKERS:					
Structural	10.00	1.11	1.01		.10
Ornamental	10.00	1.11	1.01		.10
Reinforcing	10.00	1.11	1.01		.10
LATHERS	10.48	.30	.10		.02
LABORERS:					
Building & common, carpenter tender, heaters & salamanders, power sweepers, power vacuum sweepers, pumps including 1-1/2", signal man concrete bucket, wrecking & demolition, window washing	7.80	.40	.50		.01
Bricklayer & mason tenders, electric operated conveyor, electric operated hoist, fork lift up to 9 ft., plumber & sewer laborers, scaffold builders, float grinder & sander	7.90	.40	.50		.01
Burners, concrete saw operator, hod carriers, mortar mixers, plaster tankers, powered wheelbarrows & buggies	8.00	.40	.50		.01
Dual vibrator roller (walk behind type) Berfix cutting tool, blasters helpers, drill operator helper, jackhammer & air tool operators, mechanical tampers & air tampers, vibrator - air or otherwise	8.05	.40	.50		.01

PA76-3177

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Mixing mortar for more than 3 masons by hand	$ 8.10	.40	.50		.01
Blasters, drill operators, gunite nozzle man & machine man	8.20	.40	.50		.01
Plaster mixing machine & pump	8.25	.40	.50		.01
LINE CONSTRUCTION:					
Linemen, Heavy equipment Operator	10.00	.20	1%		3/8 of 1%
Winch - Truck driver	7.10	.20	1%		3/8 of 1%
Groundmen	6.80	.20	1%		3/8 of 1%
MARBLE SETTERS	9.25	.30	.40		
MILLWRIGHTS	9.75	.30	.30		
PAINTERS:					
Brush	8.03	.37	.40		.03
Structural steel	8.63	.37	.40		.03
Spray	8.43	.37	.40		.03
PILEDRIVERMEN	9.75	.30	.30		.02
PLASTERERS	9.36	.30			.015
PLUMBERS	10.81	.41	.50		.04
ROOFERS:					
Composition	9.44	.30	.30		
SHEET METAL WORKERS	9.58	.75	.80		.055
SOFT FLOOR LAYERS	9.60	.30	.30		.02
SPRINKLER FITTERS	11.61	.60	.90		.08
STEAMFITTERS	10.81	.41	.50		.04
STONEMASONS	11.11	.30	.40		
TERRAZZO WORKERS	9.25	.30	.40		
TILE SETTERS	9.25	.30	.40		
TRUCK DRIVERS:					
Truck drivers	5.75	d	e	a	
WELDER: Receive rate prescribed for craft performing operation to which welding is incidental					

PA76-3177

POWER EQUIPMENT OPERATORS (Building Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class 1	10.55	.65	.60		.10
Class 1-A	10.82	.65	.60		.10
Class 1-B	11.08	.65	.60		.10
Class 1-C	11.35	.65	.60		.10
Class 2	10.10	.65	.60		.10
Class 3	9.95	.65	.60		.10
Class 4	9.16	.65	.60		.10
Class 5	8.62	.65	.60		.10
Class 6	8.36	.65	.60		.10
Class 6-A	8.62	.65	.60		.10
Class 6-B	9.05	.65	.60		.10

PA76-3177

POWER EQUIPMENT OPERATORS

Class 1: Auger (truck or tractor mounted), Austin Western or similar type, Austin Western or similar type up to 25 tons (25 tons or over requires an oiler), Backhoe, Backhoe (under 5/8 yd.), Batch Plant - Automatic, Boom - side, Cableways, Conveyors Belts - up to 4 floors, Conveyor Belts - over 4 units, Crane - Tower (climbing type), Derrick (all types), Derrick - Traveler, Dragline, Drill - Caisson, Electro Matic or similar, Gradall (remote control or otherwise), Helicopter, Helicopter - hoisting operating, Hi-lift (3 yards or over), Hoist - on 50 ft. stack or over, Hoist on slip form job, Hoist - hod (single cage), Hoist - hod (2 cages up to 10 floors), Hop-to or similar type with 360 degree swing, Hop-to or similar type with 360 degree swing under 5/8 yd., Koehring Scooper, Kocal or similar type, Leverman, Mix Mobile or similar type, Micer - concrete paving, Mixer - paving (self-propelled), Multiple Bowl Machines or Multi-engine, Pile Driver - Franki or similar type, Pile Driver (when assistance is required it will be an operating engineer), Placer - belt (concrete), Plant - Central Mix, Quad Nine, Shovels (all types), Shovels under 5/8 yd.) Tractors - boom mounted (all types), Tugboat, Whirlers, Boat - job work (inboard or out-board), Bulldozer, Carrier Ross or similar type, Compactor - (with blade attached), Curb Builder - self-propelled, Drill - Core, Drill - Well and Core (truck mounted), Engineer - maintenance (daily rated) Grader, Grader - Elevating, Greaser - equipment, Hi-lift (less than 3 yards), Hoist 2 drums in one unit, Hop-to or similar type with 180 degree swing, Tractors (all types with hydraulic backhoe attached), Cranes, Tower, Metro Chip Harvester (or similar type), Mixer - paving mixer - mortar - over 10 cu. ft., Plant - crushing and screening, Pumpcrete - mobile or similar type, Road Builder - Automatic, Scoop - self-powered and Tractor drawn (single bowl), Spray Cure Machine (power driven), Spreader, Steam Jenny (or similar type), Syphon (steam or air) Tractors (all types with hydraulic backhoe attached)

Class 1-A: Austin Western or similar type with jib + 25¢, Austin Western or similar type 25 tons or over with jib + 25¢, Cranes (excluding over head cranes), Crane -placed on building structure, Hoist single cage with Chicago Boom attached + 25¢, Engineer - lead, Hoist hod (2 cages over 10 floors), Cranes - 100 feet to 150 feet

Class 1-B: Cranes - 150 feet to 200 feet

Class 1-C: Cranes - 200 feet and over

POWER EQUIPMENT OPERATORS (Cont'd)

Class 2: Backfilling Machine, Boat - material or personnel, Compressor and air pump, Compressor and air tugger, Compressor and gunite machine (combination), Compressors and sandblasting unit (combination), Compressors (two), crane - overhead, Fork lift - elevating - lull or similar type generators - two, Grade - sub, Jumbo - power, Layer - cable, Layer - pipe - no joint, Lift Slab Machine, Locomotive, Machines - other minor, machines - small (two), Mucking Machine, Mobile Tower, Pipe - bending Machine (pipeline only), Pipe - cleaning machine, Pipe - wrapping machine, Plant - asphalt operator, Plant - portable crushing and screening, Plant - refrigeration pump - grout, Spreader-concrete, Asphalt and Stone, Well point systems (Section IC), Winch Truck (handling steel), Wire wrapping machine - pre-stress, Drill - Davey or similar, Drill - truck mounted and/or core drill for testing, Elevator (new buildings and major remodeling of old), Hoist one drum, Paver - asphalt, Post Driver - guard rail (other than truck mounted), Post Driver - guard rail (truck mounted), Pumpcrete - or similar type (not self-propelled), Tire Repairman, Trencher Machine, Welder, Welding Machines (up to and including 4)

Class 3: Boiler, Breaker - pavement (self-propelled or ridden), Compactor (ridden or self-propelled), Crane - carry, Crusher - stone, Drill - well (horizontal), Drill (self-propelled and self contained), Elevator (alterations of old buildings), Finisher - broom (C.M.I. or similar type), Finishing Machine and Spreader (concrete), Forklifts (ridden or self-propelled), Form Line Machine, Minor equipment (all other), Motorman, Pipe Dream, Roller, Saw - concrete (ridden or self-propelled), Soil Stabilizer, Tractors (when used for snaking and hauling), Truck - winch, Tugger

Class 4: Compressor (single (over 65 cu. ft. regardless of power used, Hoist - monorail (regardless of power used), Pump (over 1½ inch discharge regardless of power used), Oiler - truck crane (50 tons or over and Fireman)

Class 5: Blaster - water, Boring Machine, Broom - power, Compressor - 65 cu. ft. or under (regardless of power used) (2 gun painters), Conveyor - 1 story (regardless of power used), Conveyor (over 1 and up to 3 units regardless of power used), Generator (4 KW or over), Hauck Machine or similar type, Heaters - up to and including four), Jack and Pump - motor hydraulic, Jenny - steam (or similar type), Ladavator, Mixer - concrete (regardless of power used), Mixer - mortar (over 10 cu. ft. regardless of power used), Mobile - track (or similar type), Mulching Machine, Pin Puller, Pulverizer, Pump - 1½ inch discharge or less, Regulator - Ballast, Seeding Machine, Shoulder, Spray Cure Machine, Syphon - (steam or air), Tie Tamper (multiple heads), Tractor - farm (when used for landscaping), Welding machine - single (300 amp. or over), Oiler, Truck Crane.

Class 6: Brake man, Deck hand, Helicopter signalman, Oiler, Mechanic helper

Class 6-A: Oiler, Truck crane

Class 6-B: Oiler, Truck crane (50 tons or over)

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. One week vacation after 1 year's work; two week's vacation after five years of service.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F.

d. Employee agree to contribute $54.94 per month.

e. Employer agree to contributes $12.00 per week.

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO. PA76-3178
COUNTY: Berks
DATE: Date of Publication
Supersedes Decision No. PA75-3055, dated June 27, 1975 in 40 FR 2737.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$ 9.31	.52	.50		.01
Boilermakers	11.05	.65	1.00		.02
Bricklayers	9.20	.45	.50		
Carpenters	9.18	.52	.45		
Cement masons	9.69		.50		
Electricians:					
Herford, Longswamp & Washington Twps. portion of Maxatawney, Twp. east of Sacony Creek	10.35	.30	.104		.02
Marion, Tulpehocken & Bethel twps.	9.00	.45	1%		½ of 1%
Remainder of County	9.99	.53	1%		.03
Elevator Constructors	10.45	.495	.32	4% +b+c	.02
Elevator constructors' helpers	7.315	.495	.32	4 %+b+c	.02
Elevator constructors' helpers (prob.)	5.225				
Glaziers	9.14	.35	.10		.01
Ironworkers, structural & ornamental, bridge	10.20	.79	1.11		.02
Ironworkers, reinforcing	10.20	.79	1.11		.02
Laborers:					
Unskilled Laborers	7.30	.25	.25		
Operators of Jackhammer	7.53	.25	.25		
Cofferdam	7.58	.25	.25		
Handling & Using Torches and plasterer Tenders	7.69	.25	.25		
Mason Tenders	7.73	.25	.25		
Blasters	7.75	.25	.25		
Lathers	9.83		.15		.01
Lead Burners	9.25	.35		a	.01
Line Construction:					
Cable splicers	10.25	.25	1%		3/4 of 1%
Groundman	6.15	.25	1%		3/4 of 1%
Linemen	10.25	.25	1%		3/4 of 1%
Winch truck operator	7.18	.25	1%		3/4 of 1%
Millwrights	9.70	.52	.45		
Painters:					
Brush	8.40	.60	.45		
Bridge, tower, stacks & tanks	9.85	.60	.45		
Spray and steel	9.45	.60	.45		
Piledrivermen	10.42	1.88	1.30	k	.12
Plasterers	9.71		.53		.01
Plumbers	11.56	.57	1.00		.11

PA76-3178

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Roofers:					
Albany, Maxstany and Windsor Composition adn slate	10.40	.40	.35		
Remainder of County	10.60				
Composition, damp & waterproof	10.60	.45	.25	d	
Precast slab	11.40	.45	.25	d	
Slate, tile & asbestos	11.15	.45	.25	d	
Sheet metal workers	9.18	.83	.50		.01
Soft floor layers	9.18	.52	.45		
Sprinkler fitters	11.61	.60	.90		.08
Steam fitter	11.56	.57	1.00		.11
Stone masons	9.20	.45	.50		
Truck drivers:					
Truck drivers	6.23	f	g		
Truck drivers; helpers	6.18	f	g		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PA76-3178

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 9 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F

d. Paid holiday: Election Day and Labor Day

f. Employer contributes $58.37 per month to a Health and Welfare.

g. Employer contributes $43.34 per month to a Pension Fund.

PA76-3178

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$11.60	5.5%	9.5%	a	1.2%
GROUP 2	11.31	5.5%	9.5%	a	1.2%
GROUP 3	10.44	5.5%	9.5%	a	1.2%
GROUP 4	9.67	5.5%	9.5%	a	1.2%
GROUP 5	9.20	5.5%	9.5%	a	1.2%
GROUP 6	8.29	5.5%	9.5%	a	1.2%
GROUP 7	11.85	5.5%	9.5%	a	1.2%
GROUP 7-A	12.10	5.5%	9.5%	a	1.2%
GROUP 7-B	12.34	5.5%	9.5%	a	1.2%

PA76-3178

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, 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 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

FOOTNOTE:

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.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Luzerne
DECISION NO.: PA76-3180 DATE: Date of Publication
Supersedeas Decision No. PA75-3025, dated March 21, 1975, in 40 FR 12982.
DESCRIPTION OF WORK: Building construction, including single family homes and garden type apartments up to and including 4 stories.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$ 9.55	.50	.35		.01
Boilermakers	11.05	.65	1.00		.02
Bricklayers and Stonemasons					
Avoca, Exeter, & Pittston	8.30	.20		c	
Hazleton, Berwick & Freeland:					
Commercial	9.70	.35	.50		
Nescopeek, Hollenback & Salem Twps.	9.35	.40	.50		
Remainder of County	10.30	.50	.50		
Carpenters:					
Hazleton, Freeland, Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Nescopeck, Sugarloaf and lower part of Salem Twps.	9.50	.35	.40		.03
Remainder of County	9.36	.30	.35		.03
Cement Masons:					
Pittston, Yatesville, Laflin, Exeter Wyoming, Duryea & Avoca	9.15	.40	.40		
Hazleton and Freeland	8.075				
Remainder of County	10.50				
Electricians (Hazleton)					
Commercial	9.82	.35	1%+.25	f	k
Remainder of County	10.29	.30	1%+.65		.03
Elevator Constructors	10.00	.495	.32	4%+a+b	.02
Elevator Constructors' helpers	7.00	.495	.32	4%+a+b	.02
Elevator Constructors' helpers (Prob)	5.00				
Glaziers	8.25	.35	.40		
Ironworkers:					
Structural and Ornamental	10.55	d			.10
Reinforcing	10.45	d			.10
Laborers (Hazleton)	7.11	.25	.55		
Mason Tenders including Scaffold Builders	7.51	.25	.55		
Pneumatic, electrical & mechanical tool operators, 2" pumps-non metallic pipelaying and making joint clay, terra cotta, ironstone vitrified concrete, handling of burning torches asphalt or other hot materials, cement finishers and blasters helpers, power buggies, walk along hoist	7.21	.25	.55		

DECISION NO. PA76-3180 Cont'd. P. 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Plasterers tenders, blasters, and wagon drill operators	7.36	.25	.55		
Laborers: Remainder of County					
Unskilled laborers	8.27	.25	.65		
Semi skilled laborers, Pneumatic and other mechanical tool ops; 2" pump or under, handling and mixing of all material used by masons from stock pile to mason, Non-metallic pipelayer and making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches asphalt or other hot material, cement finishers and blasters helpers	8.47	.25	.65		
Plasterers tenders, blaster, wagon drill ops.	8.59	.25	.65		
Mason tenders & scaffold builders	8.67	.25	.65		
Lathers:					
Pittston, Avoca, Dupont & Duryea	9.54		.10		.01
Remainder of County	9.08		.15		.01
Leadburners	9.25	.35		e	.01
Line Construction:					
Linemen, Dynamiteman, Heavy equipment operator	10.00	.20	1%		
Groundman	6.80	.20	1%		
Winch truck driver	7.10	.20	1%		
Marble setters:					
Pittston	8.15	.20			
Hazleton	7.80	.35	.50		
Remainder of County	8.82				
Millwrights	10.61	.35	.40		.03
Painters:					
Pittston:					
Commercial Brush	6.20		.25		
Industrial Brush	6.99		.25		
Remainder of County					
Brush	7.90	.40	.30		.05
Tapers	8.16	.40	.30		.05
Hazardous	9.16	.40	.30		.05
Piledrivermen	10.42	1.88	1.30	g	.12

DECISION NO. PA76-3180 Cont'd. P. 3

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Plasterers:					
Hazleton	9.08				
Pittston, Yatesville, Laflin, Exeter, Wyoming, Duryea and Avoca	7.85	.40	.40		
Remainder of County	9.83				
Plumbers:					
Pittston	7.77	.35	.75		.06
Hazleton:					
Commercial	9.35	.30	.25		
Wilkes Barre	10.74	.40	.75		.04
Roofers, composition & Kettlemen	9.30	.65	.70		
Sheet metal workers	10.37	.71	.40		.02
Soft floor layers	8.63	.35	.40		.03
Sprinkler fitters	11.61	.60	.90		.08
Steamfitters:					
Wilkes Barre	10.75	.39	.75		.04
Pittston	7.77	.35	.70		.06
Hazleton	9.35	.30	.25		
Truck Drivers; Pittston:					
Truck Drivers:					
Class I					
Helper, Stake Body Truck (single axle Dumpster)	7.92				
Class II					
Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, Ready Mix and Dumpcrete Type Vehicles Asphalt Distributors, Farm Tractor when used for transportation, Stake Body Truck (Tandem)	7.99				
Class III					
Euclid Type, Off-Highway Equipment - Back or Belly Dump Trucks and Double-Hitched Equipment, Straddle (Ross) Carrier, Low-Bed Trailers	8.48				
Remainder of County:					
Pickups service dump and flat incl. z license	8.07	h	j		

DECISION NO. PA76-3180 Cont'd. P. 4

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Truck Drivers (CONT'D)					
All trucks over z license	$ 8.12	h	j		
Fork lifts, tow motors, front and pneumatic tired loaders	8.08	h	j		
Welder receive rate for craft					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day- F- Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six paid holidays: A through F.

c. Paid Holiday: July 4th.

d. Employer contributes $1.90 per hour to health and welfare and pension fund.

e. Eight(8) paid holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

f. Paid Holidays: July 4th and Labor Day, Thanksgiving Day.

g. Paid Holidays: Washington's Birthday, Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans' Day; and Thanksgiving Day.

h. $41.00 per month for employees who have worked 60 hours or more during the month.

j. $25.00 per month to employee employed for over 13 weeks.

k. Employer shall contribute .12 per day per employee.

DECISION NO. PA76-3180 Cont'd. P. 5

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$11.60	5.5%	9.5%	a	1.2%
GROUP 2	11.31	5.5%	9.5%	a	1.2%
GROUP 3	10.44	5.5%	9.5%	a	1.2%
GROUP 4	9.67	5.5%	9.5%	a	1.2%
GROUP 5	9.20	5.5%	9.5%	a	1.2%
GROUP 6	8.29	5.5%	9.5%	a	1.2%
GROUP 7	11.85	5.5%	9.5%	a	1.2%
GROUP 7-A	12.10	5.5%	9.5%	a	1.2%
GROUP 7-B	12.34	5.5%	9.5%	a	1.2%

DECISION No. PA76-3180 Cont'd. P. 6

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, 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 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

FOOTNOTE:
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.

SUPERSEDEAS DECISION

STATE: South Dakota COUNTY: Minnehaha
DECISION NUMBER: SD76-5054 DATE: Date of Publication
Supersedes Decision No. SD75-5153 dated January 9, 1976, in 41 FR 1700
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.49	.35	.40		
BOILERMAKERS	9.45	.60	1.00		.02
BRICKLAYERS; Stonemasons	9.15	.35	.30		
CARPENTERS:					
Carpenters, Piledrivermen	8.83		.20		.05
Millwrights	9.79		.20		.05
CEMENT MASONS	8.40				
ELECTRICIANS:					
0 miles through 30 miles from Sioux Falls Post Office					
Electricians	8.77	.40	1%	6%	1-1/2%
Cable Splicers	9.66	.40	1%	6%	1-1/2%
Over 30 miles from Sioux Falls Post Office					
Electricians	9.77	.40	1%	6%	1-1/2%
Cable Splicers	10.66	.40	1%	6%	1-1/2%
GLAZIERS	6.54				
LABORERS:					
Laborers	4.35				
Mortar Mixers, Paving Breakers, Jack Hammer Operator	4.45				
Nozzleman (gunnite, sandblast and shotcrete)	4.60				
LATHERS	8.50				.01
PAINTERS:					
Brush	6.79				
Spray	7.29				
Tapers	7.04				
PLASTERERS	7.53				.01
PLUMBERS; Steamfitters	8.46	.32	.15	.17	.03
SHEET METAL WORKERS	8.62		.15	.35	
SPRINKLER FITTERS	9.45	.60	.90		.08
WELDER: Receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: South Dakota COUNTIES: Meade and Pennington
DECISION NUMBER: SD76-5055 DATE: Date of Publication
Supersedes Decision No. SD76-5014 dated January 30, 1976, in 41 FR 4797
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

DECISION NO. SD76-5055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$9.49	.35	.40		
BOILERMAKERS	9.45	.60	1.00		.02
BRICKLAYERS; Stonemasons	8.60		.15		
CARPENTERS:					
Carpenters, Acoustical and Drywall Applicators	8.51		.30		.05
Piledrivermen	8.76		.30		.05
Millwrights	9.01		.30		.05
CEMENT MASONS	7.85	.35	.40		
ELECTRICIANS:					
Within 15 miles radius of Rapid City Post Office					
Electricians	8.45	.30	1%	6%	1½%
Cable Splicers	9.00	.30	1%	6%	1½%
Outside of 15 miles radius of Rapid City Post Office					
Electricians	8.85	.30	1%	6%	1½%
Cable Splicers	9.40	.30	1%	6%	1½%
IRONWORKERS:					
Fence Erectors; Ornamental; Reinforcing; Sheeter; Structural	9.15	.55	.85		.25
LABORERS:					
Laborers; Power Tool Operator or all Mechanical Air, Gas, Electrical Tools, including self-propelled Buggies, Wagon and Air Track Drills; Pipe Layer (non-metallic); Sandblasting; Mortar Mixer; Mason Tender; Plaster Tender	5.40	.35	.05		
Gunnite Nozzlemen; Powdermen; Miner; Timberman	5.90	.35	.05		
PAINTERS:					
Brush	5.25				.005
Drywall Finishers and Tapers	5.40				.005
All painting over 30 ft.; Paint Mitt; Sandblasting; Spray Steel (structural); Swing Stage; Windowjack	5.75				.005
PLASTERERS	$6.55				
PLUMBERS; Steamfitters	8.53	.30	.20		.03
SHEET METAL WORKERS	8.65				.005
SPRINKLER FITTERS	9.45	.60	.90		.08
RIGGERS; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.					

STATE: Tennessee COUNTY: Hamilton
DECISION NO.: TN76-1071 DATE: Date of Publication
Supersedes Decision No.: TN75-1110 dated November 28, 1975, in 40 FR-55630
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy Construction

BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	8.73	.45	.20		.01
Boilermakers	8.80	.60	1.00		.02
Bricklayers: Concrete block layers, Marble setters, Stonemasons, Terrazzo workers, tile setters	9.10	.30	.30		
Carpenters:					
Carpenters, soft floor layers	7.88	.40	.35		.03
Piledrivermen	8.005	.40	.35		.03
Millwrights	8.33	.40	.35		.02
Cement masons:					
Cement masons	7.80				
Power machine operator, Swinging scaffold & bos'n chair	8.00				
Electricians:					
Electricians	8.45	.50	1%+.20		1%
Cable splicers	8.70	.50	1%+.20		1%
Elevator constructors	8.66	.495	.32	4%+a+b	.02
Elevator constructors' helpers	70%JR	.495	.32	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	6.83			c	
Ironworkers	8.11	.40	.35		1%
Lathers	8.05				.01
Leadburners	10.25	.35		d	.01
Painters:					
Commercial	7.00		.25		
Industrial	7.25		.25		
Sandblasting	7.50		.25		
Plasterers	8.15				
Plumbers, Steamfitters	9.20	.35	.40	.20+f	.08
Roofers:					
Composition, damp & waterproofers	8.20		.10		
Slate and tile	8.40		.10		
Kettlemen	7.80		.10		
Sheet metal workers	8.91	.35	.50		.04
Sprinkler fitters	10.10	.60	.90		.08
Truck Drivers:					
Up to 3 tons	5.96	g	e		
3 to 5 tons	6.11	g	e		
5 to 7 tons	6.26	g	e		

TN76-1071 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers (Cont'd)					
Helpers and warehousemen	5.91	g	e		
Special equipment	6.46	g	e		
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Employee who has worked more than 1, but less than 5 years, 2% of gross wages. Employee who has worked 5 years or more, 4% of gross wages.

d. Holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

e. $12.00 per week for each employee.

f. Paid Holiday D provided employee has been on payroll for (2) two weeks prior to the holiday and works the regular scheduled work days immediately preceding & following the holiday.

g. $14.00 per week for each employee.

BUILDING AND HEAVY CONSTRUCTION

LABORERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	5.45	.20	.20		
GROUP B	5.55	.20	.20		
GROUP C	5.65	.20	.20		
GROUP D	5.75	.20	20		
GROUP E	5.80	.20	.20		
GROUP F	6.10	.20	.20		
GROUP G	6.15	.20	.20		
GROUP H	5.85	.20	.20		
GROUP I	6.00	.20	.20		
GROUP J	6.00	.20	.20		
GROUP K	6.25	.20	.20		

GROUP A: Concrete laborers, general laborers, carpenter tenders, window and floor cleaners, and flagman on road and street crossings, form strippers, handling of rope to clam bucket, grout men, laborers working on demolition work, handling, cleaning and pulling of nails from materials

GROUP B: Powder man helpers, vibrator operators, tenders to all trowel trades and terrazzo work, carrying re-inforced steel, operating motorized wheel barrows, doping and painting of pipe, railroad track laborers, air spade operators, snake men on pipe work

GROUP C: Sanitary and storm pipe layers or any other pipe outside of foundation, grade checker, yarner and pot man, steel form setters, mortar mixers by hand or machine, power saw operators, jackhammer operator, pavement breaker operator, air tool operators, regular air tamp operators, wacker tamp operator chipping hammer operator, hand operated ditching machine operator, concrete grinder, floor sweeping machine operator, concrete buffer and grinder power operator, concrete pumping machine operator

GROUP D: Asphalt raker, wagon drill operator, sand blasting, track drill operator, concrete saw operator, using cutting torch or burner on demolition work, flagging of rigs

GROUP E: Barco tamp operator and specially designed tamp operator, black top or concrete curbing machine operator

GROUP F: Powderman, motorized post hole digger operator and terrazzo machine grinder

GROUP G: Pneumatic concrete gun operator and nozzleman

FREE AIR SHAFTS AND TUNNELS

GROUP H: Tunnel Laborer

GROUP I: Chuck Tender

GROUP J: Top Lander on Shaft Work

GROUP K: Tunnel miner, including men required to go down in pier holes drilled by machine

TN76-1071 - (Cont'd)

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	7.65	.25	.35		
GROUP B	6.85	.25	.25		
GROUP C	6.25	.25	.25		
GROUP D	5.95	.25	.25		

GROUP A: Backhoes, Cableways, Ross carrier, Clamshells, Cranes, Derricks, Draglines, Turnapulls, Pans, Scrapers, Scoops, Etc., Head tower machines, Endloaders, Locomotives (over 20 tons), Shovels, Dozers, Fork-lifts with over 8' lift, Core drills, Foundation drills, Graders, Mechanics, Welders, Winch truck with A Frame, Skimmer scoops, Locomotive cranes, Overhead cranes, Skid rigs, Pile drivers, Side boom tractors, Euclid loaders, Derrick boat, Dredge boats, Hoist (any size handling steel or stone), Engines used in connection with hoist material with an attached device on tower or engine, Mucking-machines, Hi-lifts or end loaders, Finish graders on bluetop, Trenching machines, Cherrypickers, Tower crane, Skylift, Gradall

GROUP B: Tractors, Farm type tractors with attachments, Central compressor plants, Elevators used for hoisting building materials, Central mixing plants, Hoist, Pump crete machine, Concrete pumps, Backfillers (other than cranes), Tracmobile, Crushing plant operators, Elevating graders, Earth augers, Forklifts, Paving machines (Blacktop), Paving machines (Concrete), Boat operator or engineer (30 tons or over), Blacktop rollers, Switchman, Locomotive under 20 tons and maintainers

GROUP C: Asphalt plant operators, Barber green type loaders, Engine tender other than steam, Mixers (over 2 bags, not to include central plants), Pumps (2 not more than 3, Scarifiers, Spreader box (Bituminous), Asphalt mixers, Portable compressors (2 not more than 3), Rollers, Sub-grader machine, Tractors (Farm-type without attachments), Cable head tower engineman, Dredge booster pump operator, Boat operator or engineers (under 30 tons), Finishing machine, Fireman & Oiler (Combination), Motor crane oiler & driver, Welding machine (2 not more than 3), Heaters, Stationary or portable (to 5), Compressors (Portable, 2 not more than 3), Greaser or fuel trucks

GROUP D: Air compressor (1 portable), Fireman, Portable crushers, Welding machine (1), Conveyors, Pumps (1), Oiler, Heater (1)

[FR Doc.76-16637 Filed 6-10-76;8:45 am]

Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are now available:

HERBERT HOOVER

1929 ..... $13.30

HARRY S. TRUMAN

1945 ..... $11.75
1946 ..... $10.80
1947 ..... $11.15
1948 ..... $15.95
1949 ..... $11.80
1950 ..... $13.85
1951 ..... $12.65
1952–53 ..... $18.45

DWIGHT D. EISENHOWER

1953 ..... $14.60
1954 ..... $17.20
1955 ..... $14.50
1956 ..... $17.30
1957 ..... $14.50
1958 ..... $14.70
1959 ..... $14.95
1960–61 ..... $16.85

JOHN F. KENNEDY

1961 ..... $14.35
1962 ..... $15.55
1963 ..... $15.35

LYNDON B. JOHNSON

1963–64 (Book I) $15.00
1963–64 (Book II) $15.25
1965 (Book I) $12.25
1965 (Book II) $12.35
1966 (Book I) $13.30
1966 (Book II) $14.35
1967 (Book I) $12.85
1967 (Book II) $11.60
1968–69 (Book I) $14.05
1968–69 (Book II) $12.80

RICHARD NIXON

1969 ..... $17.15
1970 ..... $18.30
1971 ..... $18.85
1972 ..... $18.55
1973 ..... $16.50
1974 ..... $12.30

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402