AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol.42—No.38
2–25–77

PAGES
10959–11230

federal register

FRIDAY, FEBRUARY 25, 1977



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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

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
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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.

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rules and regulations

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

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

Title 9—Animals and Animal Products

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

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

Supplemental Rules of Practice

• *Purpose:* The purpose of this document is to revoke any Rules of Practice superseded by the new Uniform Rules of Practice (Subpart H, Part 1, Subtitle A, Title 7, Code of Federal Regulations, in Vol. 42—No. 2 of the FEDERAL REGISTER at page 743, January 4, 1977) and to promulgate additional Supplemental Rules of Practice relating to particular circumstances arising in connection with proceedings under the statutes and regulations administered by the Animal and Plant Health Inspection Service. •

Statement of Considerations: The Department of Agriculture promulgated Uniform Rules of Practice at Subpart H, Part 1, Subtitle A, Title 7, Code of Federal Regulations, in Vol. 42—No. 2 of the FEDERAL REGISTER on January 4, 1977 (42 FR 743–749). These rules are applicable to formal adjudicatory, administrative proceedings under the following statutory provisions and regulations administered by the Animal and Plant Health Inspection Service of the Department of Agriculture, as those provisions have been or may be amended:

Animal Welfare Act, Section 19 (7 U.S.C. 2149).

Federal Meat Inspection Act, Sections 4, 6, 7(e), 8, and 401 (21 U.S.C. 604, 606, 607(e), 608 and 671).

Horse Protection Act of 1970, Sections 4 and 6(a) (15 U.S.C. 1823 and 1825(a)).

Poultry Products Inspection Act, Sections 6, 7, 8(d) and 18 (21 U.S.C. 455, 456, 457(d) and 467).

Virus-Serum-Toxin Act (21 U.S.C. 156).

Proceedings under the regulations in 9 CFR Parts 156, 350, 351, 354, 355, and 362 promulgated under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.), for the denial or withdrawal of inspection or certification service.

Proceedings under the regulations promulgated under the Animal Quarantine and Related Laws (21 U.S.C. 111 et seq.) for the suspension or revocation of accreditation of veterinarians (9 CFR Parts 160 and 161).

All rules of practice now in existence which are in conflict with the new Rules were superseded. The Administrators of the agencies administering the programs involved are required to publish documents specifically revoking any rules of practice superseded by the new Rules and to promulgate additional Supplemental Rules of Practice relating to particular circumstances arising in connection with proceedings under the statutes and regulations administered by them. The rules and regulations concerning the denial or withdrawal of inspection or certification service under the Agricultural Marketing Act of 1946, as amended, will be amended to conform with the Uniform Rules of Practice in a separate document.

Accordingly, the Rules of Practice in 9 CFR Parts 4, 12, 123, 162, and 335 are rescinded and the following Rules of Practice are promulgated.

1. Part 4 of Chapter I, Title 9 of the Code of Federal Regulations is hereby revised to read as follows:

PART 4—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE ANIMAL WELFARE ACT

Subpart A—General

Sec.
4.1 Scope and applicability of rules of practice.

Subpart B—Supplemental Rules of Practice

4.10 Summary action.
4.11 Stipulations.

AUTHORITY: 80 Stat. 353; 7 U.S.C. 2151.

Subpart A—General

§ 4.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under section 19 of the Animal Welfare Act (7 U.S.C. 2149). In addition, the Supplemental Rules of Practice set forth in Subpart B of this Part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§ 4.10 Summary action.

(a) In any situation where the Administrator has reason to believe that any person licensed under the Act has violated or is violating any provision of the Act, or the regulations or standards issued thereunder, and he deems it warranted under the circumstances, the Administrator may suspend such person's license temporarily, for a period not to exceed 21 days, effective, except as provided in § 4.10(b), upon written notification given to such person of the suspension of his license pursuant to § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) In any case of actual or threatened physical harm to animals in violation of the Act, or the regulations or standards issued thereunder, by a person licensed under the Act, the Administrator may suspend such person's license temporarily, for a period not to exceed 21 days, effective upon oral or written notification, whichever is earlier. In the event of oral notification, a written confirmation thereof shall be given to such person pursuant to § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)) as promptly as circumstances permit.

(c) The temporary suspension of a license shall be in addition to any sanction which may be imposed against said person by the Secretary pursuant to the Act after notice and opportunity for hearing.

§ 4.11 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under the Act, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administrator gives notice of an apparent violation of the Act, or the regulations or standards issued thereunder, by such person and affords such person an opportunity for a hearing regarding the matter as provided by the Act;

(2) Such person expressly waives hearing and agrees to pay a specified penalty within a designated time; and

(3) The Administrator agrees to accept the specified penalty in settlement of the particular matter involved if it is paid within the designated time.

(b) If the specified penalty is not paid within the time designated in such a stipulation, the amount of the stipulated penalty shall not be relevant in any respect to the penalty which may be assessed after issuance of a complaint.

2. Part 12 of Chapter I, Title 9 of the Code of Federal Regulations is hereby revised to read as follows:

PART 12—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE HORSE PROTECTION ACT

Subpart A—General

Sec.
12.1 Scope and applicability of rules of practice.

Subpart B—Supplemental Rules of Practice

12.10 Stipulations.

AUTHORITY: 84 Stat. 1406; 15 U.S.C. 1828.

Subpart A—General

§ 12.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under section 6(a) of the Horse Protection Act of 1970 (15 U.S.C. 1825(a)) and sections 6 (b) and (c) of the Horse Protection Act

(15 U.S.C. 1825 (b) and (c)). In addition, the Supplemental Rules of Practice set forth in Subpart B of this Part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§ 12.10 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under the Act, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administration gives notice of an apparent violation of the Act or the regulations issued thereunder by such person and affords such person an opportunity for a hearing regarding the matter as provided by the Act;

(2) Such person expressly waives hearing and agrees to a specified order including an agreement to pay a specified civil penalty within a designated time; and

(3) The Administrator agrees to accept the specified order including a civil penalty in settlement of the particular matter involved if it is paid within the designated time.

(b) If the specified penalty is not paid within the time designated in such a stipulation, the amount of the stipulated penalty shall not be relevant in any respect to the penalty which may be assessed after issuance of a complaint.

3. Part 123 of Chapter I, Title 9, of the Code of Federal Regulations is hereby revised to read as follows:

PART 123—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE VIRUS-SERUM-TOXIN ACT

§ 123.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under the Virus-Serum-Toxin Act.

(Sec. 2, 32 Stat. 792, 37 Stat. 832–833 (21 U.S.C. 111, 151–158))

4. Part 162 of Chapter I, Title 9 of the Code of Federal Regulations is hereby revised to read as follows:

PART 162—RULES OF PRACTICE GOVERNING REVOCATION OR SUSPENSION OF VETERINARIANS' ACCREDITATION

Subpart A—General

Sec.

162.1 Scope and applicability of rules of practice.

Subpart B—Supplemental Rules of Practice

162.10 Summary suspension of accreditation of veterinarians.
162.11 Notification.
162.12 Informal conference.
162.13 Formal complaint.

AUTHORITY: 23 Stat. 32, as amended; 26 Stat. 417; 32 Stat. 791.792, as amended; 33 Stat. 1265, as amended; 41 Stat. 699; 58 Stat. 734; 65 Stat. 693; 84 Stat. 1406 (15 U.S.C. 1828; 21 U.S.C. 105, 111, 114a–1, 115, 116, 120, 121, 125, and 134f).

Subpart A—General

§ 162.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings for the revocation or suspension of accreditation of veterinarians (9 CFR Parts 160 and 161). In addition, the Supplemental Rules of Practice set forth in Subpart B of this Part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§ 162.10 Summary suspension of accreditation of veterinarian.

In any situation where the Administrator has reason to believe that any veterinarian accredited under the provisions of 9 CFR Parts 160 and 161 has not complied with the "Standards for Accredited Veterinarians" set forth in 9 CFR 161.2, and he deems such action necessary in order to adequately protect the public health, interest, or safety, the Administrator may suspend the accreditation of such veterinarian pending final determination in the proceeding, effective upon oral or written notification, whichever is earlier. In the event of oral notification, a written confirmation thereof shall be given to such veterinarian pursuant to § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)) as promptly as circumstances permit. Such suspension shall have no relevance with respect to the final determination in the proceeding.

§ 162.11 Notification.

The Veterinarian in Charge shall notify the accredited veterinarian when there is reason to believe that he has not complied with the "Standards for Accredited Veterinarians" as contained in 9 CFR 161.2. The notification shall be in writing and shall include a statement of the basis for the belief that the accredited veterinarian has failed to comply with the standards and shall notify the accredited veterinarian of the desire of the Veterinarian in Charge to arrange an informal conference to discuss the matter.

§ 162.12 Informal conference.

(a) The Veterinarian in Charge, with the concurrence of the State Animal Health Official and the accredited veterinarian, shall designate the time and place for the holding of an informal conference to review the matter.

(b) If during, or at the conclusion of, the informal conference, the Veterinarian in Charge determines that a warning will be adequate to attain compliance with the standards, he may issue such warning in writing to the accredited veterinarian without further procedure.

(c) If prior to, during, or at the conclusion of, the informal conference, the accredited veterinarian consents, in writing, to the issuance of an order revoking or suspending his accreditation for a specified period of time, in lieu of further procedure, the Veterinarian in Charge may issue such an order without further procedure.

§ 162.13 Formal complaint.

If a consent order has not been issued, or if, after an informal conference, the Veterinarian in Charge has not issued a warning to the accredited veterinarian, a complaint in writing shall be issued by the Administrator in accordance with § 1.135 of the Uniform Rules of Practice (7 CFR 1.135).

5. Part 335 of Chapter III, Title 9 of the Code of Federal Regulations is hereby revised to read as follows:

PART 335—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE FEDERAL MEAT INSPECTION ACT

Subpart A—General

Sec.

335.1 Scope and applicability of rules of practice.

Subpart B—Supplemental Rules of Practice

335.10 Refusal or withdrawal of inspection service under section 401 of the Act.
335.11 Withdrawal of inspection service for failure of an establishment to destroy any condemned carcass or part thereof or any condemned meat or meat food products.
335.12 Withholding use of marking, labeling, or containers from use under section 7 of the Federal Meat Inspection Act.
335.13 Refusal or withdrawal of inspection service under the Federal Meat Inspection Act for failure to maintain sanitary conditions.

Subpart C—Rules Applicable to Suspension of Assignment of Inspectors for Threats to Forcibly Assault or Forcible Assault, Intimidation or Interference With Any Inspection Service Employee

335.20 Notification to operator of establishment of incident.
335.21 Procedure upon failure of operator of establishment to take action required by § 305.5(b) of the regulations.

AUTHORITY: 34 Stat. 1264, as amended (21 U.S.C. 621).

Subpart A—General

§ 335.1 Scope and applicability of rules of practice.

(a) The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under sections 4, 6, 7(e), 8, and 401 of the Federal Meat Inspection Act (21 U.S.C. 604, 606, 607(e), 608 and 671). In addition, the Supplemental Rules of Practice set forth in Subpart B of this Part shall be applicable to such proceedings.

(b) The rules of practice set forth in Subpart C of this Part shall be applicable to the suspension of assignment of inspectors for threats to forcibly assault or

forcible assault, intimidation or interference with any inspection service employee pursuant to § 305.5(b) of the regulations (9 CFR 305.5(b)) under the Federal Meat Inspection Act. In addition, the definitions applicable to proceedings under the Uniform Rules of Practice (7 CFR 1.132) shall apply with equal force and effect to proceedings under Subpart C.

Subpart B—Supplemental Rules of Practice

§ 335.10 Refusal or withdrawal of inspection service under section 401 of the Act.

If the Administrator has reason to believe that the applicant for or recipient of service under Title I of the Act is unfit to engage in any business requiring such inspection because of any of the reasons specified in section 401 of the Act, he may institute a proceeding by filing a complaint with the Hearing Clerk, who shall promptly serve a true copy thereof upon each respondent, as provided in § 1.147(b) of the Uniform Rules of Practice (9 CFR 1.147(b)).

§ 335.11 Withdrawal of inspection service for failure of an establishment to destroy any condemned carcass or part thereof or any condemned meat or meat food product.

(a) In any situation in which the Administrator has reason to believe that an establishment which receives inspection service under Title I of the Federal Meat Inspection Act has failed to destroy any condemned carcass or part thereof or any condemned meat or meat food product, as required under sections 4 and 6 of the Federal Meat Inspection Act (21 U.S.C. 604 and 606) and the regulations in this subchapter, he may notify the operator of the establishment, orally or in writing, of the Administrator's intent to withdraw (for such period or indefinitely as the Administrator deems necessary to effectuate the purposes of the Act) inspection service from the establishment, pursuant to sections 4, 6, and 401 of the Act (21 U.S.C. 604, 606 and 671) and § 305.5(a) of the regulations (9 CFR 305.5(a)), if the establishment fails to destroy the condemned articles involved, as specified in the notification, within three days of the receipt of the notification by the operator of the establishment. In the event of oral notification, a written confirmation shall be given, as promptly as circumstances permit, to the operator of the establishment of the intent to withdraw inspection. The written notification or confirmation shall be served upon the operator of the establishment in the manner prescribed in § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) If any establishment so notified fails to destroy any condemned carcass or part thereof or any condemned meat or meat food product as specified in the notice, the Administrator may issue and file a complaint in accordance with the Uniform Rules of Practice. Effective upon service of the complaint, inspection service under the Act shall be withdrawn from such establishment as provided in sections 4, 6, and 401 of the Federal Meat Inspection Act (21 U.S.C. 604, 606 and 671), pending final determination in the proceeding.

§ 335.12 Withholding use of marking, labeling or containers from use under section 7 of the Federal Meat Inspection Act.

(a) In any situation in which the Administrator determines that any marking or labeling or size or form of any container in use or proposed for use with respect to any article subject to Title I of the Federal Meat Inspection Act is false or misleading in any particular, he shall notify, in writing, the person, firm, or corporation using or proposing to use such marking, labeling, or container that such use shall be withheld unless the marking, labeling, or container is modified in such a manner as the Administrator may prescribe so that it would not be false or misleading.

(b) The written notification shall briefly set forth the reason for withholding the use of the marking, labeling, or container, and shall offer the respondent an opportunity to submit a written statement by way of answer to the notification and a right to request a hearing with respect to the merits or validity of the withholding action. The written notification shall be served in the manner prescribed in § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(c) Effective upon service of the notification, the use of the marking, labeling, or container shall be withheld, if the Administrator so directs.

(d) If any person, firm, or corporation so notified fails to accept the determination of the Administrator and files an answer and requests a hearing, and the Administrator, after review of the answer, determines the initial determination to be correct, he shall file with the Hearing Clerk the notification, answer and request for hearing, which shall constitute the complaint and answer in the proceeding, which shall thereafter be governed by the Uniform Rules of Practice.

§ 335.13 Refusal or withdrawal of inspection service under the Federal Meat Inspection Act for failure to maintain sanitary conditions.

(a) In any situation in which the Administrator determines that the sanitary conditions of an establishment which is applying for inspection or receiving inspection under Title I of the Federal Meat Inspection Act are such that any meat or meat food product prepared therein are or would be rendered adulterated, he shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "inspected and passed," pursuant to section 8 of the Act (21 U.S.C. 608). The Administrator shall notify the applicant or operator of the establishment, orally or in writing, as promptly as circumstances permit, of such refusal to inspect and pass the meat or meat food products and the reasons therefor, and the action which the Administrator deems necessary to eliminate the insanitary conditions. In the event of oral notification, written confirmation shall be given, as promptly as circumstances permit, to the applicant or operator of the establishment in the manner prescribed in § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) If any applicant or operator of an establishment so notified fails to take the necessary action to eliminate the insanitary conditions within the period specified in the notice, the Administrator may issue a complaint in accordance with the Uniform Rules of Practice. Effective upon service of the complaint, inspection service shall be refused or withdrawn from such establishment as provided in sections 8 and 401 of the Act pending final determination in the proceeding.

Subpart C—Rules Applicable to Suspension of Assignment of Inspectors for Threats to Forcibly Assault or Forcible Assault, Intimidation or Interference With Any Inspection Service Employee

§ 335.20 Notification to operator of establishment of incident.

In any situation in which a supervisor of an inspection service employee determines that the operator of any official establishment or any subsidiary therein, or any officer, employee, or agent of any such operator or any subsidiary therein, acting within the scope of his office, employment, or agency, has threatened to forcibly assault or has forcibly assaulted, intimidated or interfered with any inspection service employee, under his supervision, in or on account of the performance of the employee's official duties under the Act, he shall notify the operator of the establishment, orally or in writing, of the incident in accordance with § 305.5(b) of the regulations in this subchapter (9 CFR 305.5(b)).

§ 335.21 Procedure upon failure of operator of establishment to take action required by section 305.5(b) of the regulations.

(a) If any operator of an establishment notified pursuant to § 335.20 fails to promply take any of the actions specified in § 305.5(b) of the regulations (9 CFR 305.5(b)), the Administrator may suspend the assignment of inspectors at that establishment, in whole or in part, as the Administrator determines necessary to avoid impairment of the effective conduct of inspection service, by notifying the operator of the establishment, orally or in writing, of such suspension. In the event of oral notification, a written confirmation shall be given, as promptly as circumstances permit, to the operator of the establishment. The written notification or confirmation shall be served upon the operator of the establishment in the manner prescribed in § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) The written notification or confirmation, specified in paragraph (a) of this section, which shall constitute the complaint in the proceeding, shall briefly set forth the reason for the suspension of the assignment of inspectors, including allegations of fact which constitute a basis

for the action. The complaint shall offer the respondent opportunity to submit a specific written statement by way of answer and the right to request a hearing with respect to the merits or validity of the suspension action, and shall state the time within which answer by the respondent must be made, which shall not be less than 10 days after service of the complaint. At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, on the request of the respondent, be adjourned for a period not exceeding 15 days, if the judge determines that such an adjournment is necessary to avoid prejudice to the respondent.

(c) A copy of the complaint served upon the respondent shall be filed with the Hearing Clerk who shall assign the matter a docket number.

(d) After the complaint is served upon the respondent, as provided in paragraphs (a) and (b) of this section, the proceeding shall thereafter be conducted in accordance with rules of practice which shall be adopted for the proceeding.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

6. The Table of Contents of Part 381, Chapter III of Title 9 of the Code of Federal Regulations is amended by adding the following to the end thereof:

Subpart W—Rules of Practice Governing, Proceedings Under the Poultry Products Inspection Act

GENERAL

Sec.
381.230 Scope and applicability of rules of practice.

SUPPLEMENTAL RULES OF PRACTICE

381.231 Refusal or withdrawal of inspection service under section 18(a) of the Act.
381.232 Withdrawal of inspection service for failure of an establishment to destroy any condemned carcass or part thereof or any condemned poultry product.
381.233 Withholding use of marking, labeling or containers from use under section 8 of the Poultry Products Inspection Act.
381.234 Refusal or withdrawal of inspection service under the Poultry Products Inspection Act for failure to comply with requirements as to premises, facilities, equipment, or the operation thereof.

RULES APPLICABLE TO THE SUSPENSION OF ASSIGNMENT OF INSPECTORS FOR THREATS TO FORCIBLY ASSAULT OR FORCIBLE ASSAULT, INTIMIDATION OR INTERFERENCE WITH ANY INSPECTION SERVICE EMPLOYEE

381.235 Notification to operator of establishment of incident.
381.236 Procedure upon failure of operator of establishment to take action required by § 381.29 of the regulations.

AUTHORITY: 71 Stat. 447; 82 Stat. 803; 21 U.S.C. 463.

7. The following new Subpart W of Part 381, Chapter III, Title 9 of the Code of Federal Regulations is promulgated to read as follows:

Subpart W—Rules of Practice Governing Proceedings Under the Poultry Products Inspection Act

GENERAL

§ 381.230 Scope and applicability of rules of practice.

(a) The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under sections 6, 7, 8(d) and 18 of the Poultry Products Inspection Act (21 U.S.C. 455, 456, 457(d), and 467). In addition, the Supplemental Rules of Practice set forth in §§ 381.232 through 381.234 of this Subpart shall be applicable to such proceedings.

(b) The rules of practice set forth in §§ 381.235 and 381.236 shall be applicable to the suspension of assignment of inspectors for threats to forcibly assault or forcible assault, intimidation or interference with any inspection service employee pursuant to § 381.29 of the regulations (9 CFR 381.29) under the Poultry Products Inspection Act. In addition, the definitions applicable to proceedings under the Uniform Rules of Practice (7 CFR 1.132) shall apply with equal force and effect to proceedings under §§ 381.235 and 381.236 of this Subpart (9 CFR 381.235 and 381.236).

SUPPLEMENTAL RULES OF PRACTICE

§ 381.231 Refusal or withdrawal of inspection service under section 18(a) of the Act.

If the Administrator has reason to believe that the applicant for or recipient of service under the Act is unfit to engage in any business requiring such inspection because of any of the reasons specified in section 18(a) of the Act, he may institute a proceeding by filing a complaint with the Hearing Clerk, who shall promptly serve a true copy thereof upon each respondent, as provided in section 1.147(b) of the Uniform Rules of Practice (9 CFR 1.147(b)).

§ 381.232 Withdrawal of inspection service for failure of an establishment to destroy any condemned carcass or part thereof or any condemned poultry product.

(a) In any situation in which the Administrator has reason to believe that an establishment which receives inspection service under the Poultry Products Inspection Act has failed to destroy any condemned carcass or part thereof or any condemned poultry product, as required under section 6 of the Poultry Products Inspection Act (21 U.S.C. 455) and the regulations in this subchapter, he may notify the operator of the establishment, orally or in writing, of the Administrator's intent to withdraw (for such period or indefinitely as the Administrator deems necessary to effectuate the purposes of the Act) inspection service from the establishment, pursuant to section 18(b) of the Act (21 U.S.C. 467(b)), if the establishment fails to destroy the condemned articles involved, as specified in the notification, within three days of the receipt of the notification by the operator of the establishment. In the event of oral notification, a written confirmation shall be given, as promptly as circumstances permit, to the operator of the establishment of the intent to withdraw inspection. The written notification or confirmation shall be served upon the operator of the establishment in the manner prescribed in § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) If any establishment so notified fails to destroy any condemned carcass or part thereof or any condemned poultry product as specified in the notice, the Administrator may issue and file a complaint in accordance with the Uniform Rules of Practice. Effective upon service of the complaint, inspection service under the Act shall be withdrawn from such establishment as provided in section 18(b) of the Poultry Products Inspection Act (21 U.S.C. 467(b)), pending final determination in the proceeding.

§ 381.233 Withholding use of marking, labeling or containers from use under section 8 of the Poultry Products Inspection Act.

(a) In any situation in which the Administrator determines that any marking or labeling or size or form of any container in use or proposed for use with respect to any article subject to the Poultry Products Inspection Act is false or misleading in any particular, he shall notify, in writing, the person, firm, or corporation using or proposing to use such marking, labeling, or container, that such use shall be withheld unless the marking, labeling, or container is modified in such a manner as the Administrator may prescribe so that it would not be false or misleading.

(b) The written notification shall briefly set forth the reason for withholding the use of the marking, labeling, or container, and shall offer the respondent an opportunity to submit a written statement by way of answer to the notification and a right to request a hearing with respect to the merits or validity of the withholding action. The written notification shall be served in the manner prescribed in § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(c) Effective upon service of the notification, the use of the marking, labeling, or container shall be withheld, if the Administrator so directs.

(d) If any person, firm, or corporation so notified fails to accept the determination of the Administrator and files an answer and requests a hearing, and the Administrator, after review of the answer, determines the initial determination to be correct, he shall file with the Hearing Clerk the notification, answer and request for hearing, which shall constitute the complaint and answer in the proceeding, which shall thereafter be governed by the Uniform Rules of Practice.

§ 381.234 Refusal or withdrawal of inspection service under the Poultry Products Inspection Act for failure to comply with requirements as to premises, facilities, equipment, or the operation thereof.

(a) In any situation in which the Administrator determines that the conditions of an establishment which is applying for inspection or receives inspection under the Poultry Products Inspection Act are such that there is a failure to comply with any requirements as to premises, facilities, equipment, or the operation thereof, as provided in section 7 of the Act (21 U.S.C. 456) and the regulations issued thereunder (9 CFR 381.1 et seq.), he shall refuse to render inspection at the establishment. The Administrator shall notify the applicant or operator of the establishment, orally or in writing, as promptly as circumstances permit, of such refusal and the reasons therefor, and the action which the Administrator deems necessary to eliminate such conditions. In the event of oral notification, written confirmation shall be given, as promptly as circumstances permit, to the applicant or operator of the establishment in the manner prescribed in § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) If any applicant or operator of an establishment so notified fails to take the necessary action to eliminate the conditions within the period specified in the notice, the Administrator may issue a complaint in accordance with the Uniform Rules of Practice. Effective upon service of the complaint, inspection service shall be refused or withdrawn from such establishment as provided in sections 7 and 18(b) of the Act (21 U.S.C. 456 and 467(b)) pending final determination in the proceeding.

RULES APPLICABLE TO THE SUSPENSION OF THE ASSIGNMENT OF INSPECTORS FOR THREATS TO FORCIBLY ASSAULT OR FORCIBLE ASSAULT, INTIMIDATION OR INTERFERENCE WITH ANY INSPECTION SERVICE EMPLOYEE

§ 381.235 Notification to operator of establishment of incident.

In any situation in which a supervisor of an inspection service employee determines that the operator of any official establishment or any subsidiary therein, or any officer, employee, or agent of any such operator or any subsidiary therein, acting within the scope of his office, employment, or agency, has threatened to forcibly assault or has forcibly assaulted, intimidated or interfered with any inspection service employee, under his supervision, in or on account of the performance of the employee's official duties under the Poultry Products Inspection Act, he shall notify the operator of the establishment, orally or in writing, of the incident in accordance with section 381.29 of the regulations in this subchapter (9 CFR 381.29).

§ 381.236 Procedure upon failure of operator of establishment to take action required by § 381.29 of the regulations.

(a) If any operator of an establishment, notified pursuant to § 381.235 (9 CFR 381.235), fails to promptly take any of the actions specified in § 381.29 of the regulations (9 CFR 381.29), the Administrator may suspend the assignment of inspectors at that establishment, in whole or in part, as the Administrator determines necessary to avoid impairment of the effective conduct of inspection service, by notifying the operator of the establishment, orally or in writing, of such suspension. In the event of oral notification, a written confirmation shall be given as promptly as circumstances permit to the operator of the establishment. The written notification or confirmation shall be served upon the operator of the establishment in the manner prescribed in § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) The written notification or confirmation, specified in paragraph (a) of this section, which shall constitute the complaint in the proceeding, shall briefly set forth the reason for the suspension of the assignment of inspectors, including allegations of fact which constitute a basis for the action. The complaint shall offer the respondent the opportunity to submit a specific written statement by way of answer and the right to request a hearing with respect to the merits or validity of the suspension action, and shall state the time within which answer by the respondent must be made, which shall not be less than 10 days after service of the complaint. At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, on the request of the respondent, be adjourned for a period not exceeding 15 days, if the judge determines that such an adjournment is necessary to avoid prejudice to the respondent.

(c) A copy of the complaint served upon the respondent shall be filed with the Hearing Clerk who shall assign the matter a docket number.

(d) After the complaint is served upon the respondent, as provided in paragraphs (a) and (b) of this section, the proceeding shall thereafter be conducted in accordance with rules of practice which shall be adopted for the proceeding.

The rules of practice contained herein shall be effective on February 25, 1977.

Done this 22nd day of February, 1977.

P. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.77-5805 Filed 2-24-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

1977 Price and Allocation Interpretations

Pursuant to the Federal Energy Administration's Notice concerning the publication of FEA Price and Allocation Interpretations (42 FR 7923, February 8, 1977), appended hereto are the Interpretations issued to date this calendar year by the FEA Office of General Counsel.

Also appended hereto is an additional Interpretation issued in 1976 by FEA Region V, which was inadvertently omitted from the 1976 Interpretations appended to the Notice at 42 FR 7923. This Interpretation has been designated 1976-24.

FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal. The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA Notice cited above.

Issued in Washington, D.C., February 20, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

Appendix

No.	To	Date	Category
1976-24	Diversified Chemicals & Propellants Co.	Feb. 20	Price.
1977- 1	Sundance Oil Co.	Feb. 11	Do.
1977- 2	City of Long Beach	do	Do.
1977- 3	McCulloch Gas Processing Corp.	do	Do.
1977- 4	Pyrofax Gas Corp.	do	Do.
1977- 5	Guam Oil & Refining Co.	do	Allocation.

APPENDIX

INTERPRETATION 1976-24

To: Diversified Chemicals & Propellants Co.
Date: February 20, 1976.
Rule Interpreted: § 212.31.
Code: GCR(V)-PI—Covered Products.

The Office of Regional Counsel has received and reviewed your January 22, 1976 "Request for Interpretation" which questioned the applicability of Federal Energy Administration price regulations to Diversified Chemicals & Propellants Co. ("Diversified") and its activities.

FACTS

Diversified is engaged in the purchase and resale of various aerosol propellants, including normal butane and propane. The majority of Diversified's sales involve hydrocarbon blends made up of varying percentages of normal butane, propane and isobutane which Diversified purchases from the Cities Service Corporation of Blackwell, Oklahoma. Most of the blends are prepared either by Cities Service for direct shipment to Diversified customers or by Diversified at its Frankfort, Illinois plant.

Diversified has requested an interpretation that its pricing of aerosol propellants is not subject to FEA regulation. Essentially, Diversified argues that FEA pricing authority extends only to products and materials "useable as a fuel." It further maintains that the propane, butane, and mixtures thereof which it offers for sale are therefore exempt from FEA regulation because they are derived from a complex fractioning process which Diversified claims destroys the gases' utility as a fuel.

INTERPRETATION

The pricing rules applicable to the sale of certain petroleum products were originally promulgated on August 19, 1973 (38 F.R. 22538, August 22, 1973), by the Cost of Living Council (CLC) pursuant to authority vested in it by the Economic Stabilization Act of 1970, as amended, 12 U.S.C.A. 1904, note (the "Stabilization Act"). On December 27, 1973, the Federal Energy Office ("FEO") adopted CLC's pricing rules for petroleum products as part of what are now the FEA Mandatory Petroleum Price Regulations. In CLC Order No. 47 (December 26, 1973) and CLC Order No. 47, Amendment 1 (January 30, 1974) the Chairman of the CLC delegated authority to the Administrator of the FEO to, among other things, "make determinations and take action with respect to Phase II, Phase III, and Phase IV compliance and enforcement cases" received after December 21, 1973.

The Cost of Living Council Phase IV price controls for the petroleum industry have been continued in essentially their initial form to the present, and were in effect at the time Congress considered and enacted the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159, November 27, 1973) (EPAA), under the authority of which FEA now administers the price control regulations. As provided in § 4(a) in the EPAA, products covered by the Act are "crude oil, residual fuel oil and refined petroleum products." Refined petroleum products are defined in § 3(5) of the EPAA as "gasoline, kerosene, distillates (including No. 2 fuel oil), LPG, refined lubricating oils or diesel fuel." LPG is further defined in § 3(b) as "propane and butane, but not ethane."

The definitions contained within the Act irrefutably evidence congressional intent to include propane and butane within the regulatory scope of the EPAA. Consistent with such intent, the FEA has defined "covered products" in its Mandatory Petroleum Price Regulations in terms which specifically include butane and propane. Presently found at 10 CFR 212.31, "covered products" is defined to mean "aviation fuels, benzene, butane, crude oil, gas oil, gasoline greases, hexane, kerosene, lubricant base oil stocks, lubricants, naphthas, natural gas liquids, natural gasoline, No. 1 heating oil, and No. 1-D diesel fuel, No. 2 heating oil, and No. 2-D diesel fuel, No. 4 fuel oil and No. 4-D diesel fuel, propane, residual fuel oil, special naphthas (solvents), toluene, unfinished oils, xylene, and other finished products. A blend of two or more covered products is considered to be that particular covered product constituting the major portion of the blend."

Butane is further defined in § 212.31 to mean "a hydrocarbon whose chemical composition is predominantly C_4H_{10} whether recovered from natural gas or crude oil." Propane means "a hydrocarbon whose chemical composition is predominantly C_3H_8, whether recovered from natural gas or crude oil."

In view of the legislative history and definitions recited above, the FEA is of the opinion that the propellants sold by Diversified are covered products. If Congress intended coverage of the EPAA to be dependent upon the intended use of various products, it could have easily provided such a limitation within the terms of the Act.

INTERPRETATION 1977-1

To: Sundance Oil Co.
Date: February 11, 1977.
Rules Interpreted: § 212.72, Ruling 1977-1.
Code: GCW-PI—Definition of Property.

This is in response to your letter of July 6, 1976 on behalf of Sundance Oil Company ("Sundance") requesting an interpretation of the definition of "property" (10 CFR 212.72) for purposes of the Mandatory Petroleum Price Regulations applicable to first sales of domestic crude oil. After consideration of all the information contained in your request, and all relevant authorities, we have concluded that the appropriate interpretation is the one which follows.

FACTS

As we understand the facts, Sundance is the operator for all owners of the operating interest under the "Wiegand Lease." All operating interests which are the subject of this request arise from the Wiegand Lease, a single oil and gas lease executed on January 13, 1971 and conveying a single premises of approximately 480 acres.

On November 16, 1971, the Wiegand No. 1 Well was drilled and completed for production of crude oil from the xxx sand formation at a depth of x feet. All parties owning a share of the operating interest under the Wiegand Lease participated in the costs of drilling and completing the Wiegand No. 1 Well.

On or about July 19, 1972, Sundance proposed the drilling of the Wiegand No. 2-A Well. The Wiser Oil Company ("Wiser"), owner of a xx percent share of the operating interest under the Wiegand Lease, declined to participate in the drilling of the Wiegand No. 2-A Well. Under the provisions of the Operating Agreement, Wiser was considered to be a "non-consenting" party with respect to the drilling and possible completion of the Wiegand No. 2-A Well. Accordingly, under the terms of the Operating Agreement, Sundance and other "consenting" owners of the operating interest under the Wiegand Lease elected to drill the Wiegand No. 2-A Well, assuming and paying the share of costs otherwise attributable to Wiser. The Wiegand No. 2-A Well was completed on or about September 30, 1972, for production of crude oil from the "D" sand formation at a depth of x feet.

Under Section 12 of the Operating Agreement, Wiser's share of the operating interest in the Wiegand No. 2-A Well was relinquished and transferred to Sundance and the other consenting parties until such time as the consenting parties recovered an amount specified in Section 12 of the Operating Agreement, including a penalty recovery of xxx percent of the costs of drilling, completing and equipping the Wiegand No. 2-A Well. Under the terms of Section 12 of the Operating Agreement, the share of the operating interest which Wiser had relinquished in the Wiegand No. 2-A Well reverted to Wiser on March 1, 1973. As indicated in the interpretation request, "from and after March 1, 1973, the (operating) ownership of the Wiegand Lease has been common."

ISSUE

The issue presented by these facts is whether the decision by Wiser not to participate in the drilling and completion of the Wiegand No. 2-A Well constituted a sufficient basis for the treatment of the Wiegand No. 2-A Well as a separate property for purposes of the Mandatory Petroleum Price Regulations applicable to domestic crude oil.

INTERPRETATION

The definition of "property" was adopted by the Cost of Living Council ("CLC") on August 17, 1973, and provided:

"Property" is the right which arises from a lease or from a fee interest to produce domestic crude petroleum. (38 FR 22536 at 22538, August 22, 1973.)

The CLC definition was adopted by FEO, and then FEA, and remained substantially unchanged since its amendment effective September 1, 1976, to provide:

"Property" means the right to produce domestic crude oil, which arises from a lease or from a fee interest. A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation. (41 FR 36172 at 36184, August 26, 1976.)

In connection with the September 1, 1976 amendment to the definition of property, FEA traced the regulatory and legislative background of the definition and concluded that:

[i]nasmuch as the lease is the basic document of the oil and gas industry, there should have been no doubt but that CLC intended by its definition of property to signify the premises described by an oil and gas lease (or by a deed, in those comparatively few instances in which the operator was also the owner of the mineral interest). (41 FR at 36175.)

Notwithstanding this conclusion, however, FEA determined that an interpretation of the definition of property should recognize more flexibility because of a variety of circumstances under which an interpretation of the term property that was limited to the literal meaning of the language of the definition itself would be inequitable. Accordingly, FEA set forth its conclusions with respect to those circumstances under which a departure from a strict "premises described by an oil and gas lease" concept of property was appropriate. These conclusions were subsequently reproduced verbatim in FEA Ruling 1977-1, a copy of which is enclosed for your convenience.

The clarifications contained in Ruling 1977-1 do not recognize property delineations made on the basis of non-consent operations. As described in your request, the Wiegand Lease conveyed a single right to produce crude oil from the described premises and should have been treated as a single property. Separate rights and liabilities with respect to participation by operating interest owners in specific drilling activities arise not from the Wiegand Lease but from the Operating Agreement.

Moreover, the departures from a literal application of the "premises described by an oil and gas lease" concept of property as set forth in Ruling 1977-1 are dependent upon determinations made by producers in adapting to the then-new system of price controls under CLC regulations in August 1973. With respect to the Wiegand Lease, however, the property has been operated since March 1973

as a single right to produce crude oil under common operating interests. Accordingly, inasmuch as the Wiegand Lease was being operated as a single property in August 1973, it was inappropriate for Sundance to have treated the premises as more than a single property for purposes of the price regulations.

To the extent that the Wiegand No. 1 and No. 2-A Wells produce crude oil from separate and distinct producing reservoirs, recognized by the appropriate governmental authority as such, Sundance may treat those separate reservoirs as separate properties after September 1, 1976, in accordance with the definition of property that was adopted at that time.

INTERPRETATION 1977-2

To: City of Long Beach, Calif.
Date: February 11, 1977.
Rule Interpreted: § 212.73.
Code: GCW-PI—Crude Oil Ceiling Price Rules, Long-Term Contracts (premiums).

This is in response to your May 27, 1975 request for interpretation concerning the ceiling price applicable to first sales of domestic crude oil under 10 CFR 212.73. Since February 1, 1976, all first sales of domestic crude oil (with the exception of first sales of domestic crude oil now specifically exempt under 10 CFR 212.54 and 212.55) are subject to a two tier price system adopted by FEA to implement the pricing policy of the Energy Policy and Conservation Act (Pub. L. 94-163). Accordingly, the interpretation which follows is directed not only to the ceiling price rule in effect prior to February 1, 1976, but to the upper and lower tier ceiling price rules in effect since February 1, 1976, as well.

FACTS

Prior to 1973, the City of Long Beach, California ("the City"), a municipal corporation, as trustee for state tidelands known as the Wilmington Oil Field ("the Field"), entered into contracts with five oil companies for the purpose of developing the Field. These contracts reserved for the City the right to retain up to x percent of the crude oil produced by the oil companies from the Field. In turn the City sold its x percent of the crude oil produced from the Field to the highest bidder.

Pursuant to crude oil sales contracts between the City and the highest bidders, the price of the crude oil sold by the City was set as the posted price plus an additional per-barrel increment that reflected the successful purchasing firm's bid. In December 1971, the City entered into crude oil sales contracts with x, with deliveries beginning in July 1972. In December 1972, the City entered into crude oil sales contracts with x with deliveries beginning after May 15, 1973.

The City has requested an interpretation as to the proper determination of the ceiling price for domestic crude oil pursuant to 10 CFR 212.73 in instances where long-term contracts were executed (and in many cases deliveries were begun) prior to May 15, 1973.

INTERPRETATION

Prior to February 1, 1976, first sales of domestic crude oil (except first sales of crude oil produced and sold from a stripper well lease) were subject to the ceiling price rule of 10 CFR 212.73, which provided as follows:

(a) *Rule.* Except as provided in § 212.74, no producer may charge a price higher than the ceiling price for the first sale of domestic crude oil.

(b) *Ceiling price determination.* The ceiling price for a particular grade of domestic crude oil in a particular field is the sum of (1) The highest posted price at 6 a.m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in that field, the related price for that grade of domestic crude oil which is most similar in kind and quality at the nearest field for which prices are posted; and (2) A maximum of $1.35 per barrel.

(Notwithstanding the provisions of § 212.73, in any month a producer was permitted to sell from a property without regard to the ceiling price rule any "new" crude oil produced and sold from the property. New crude oil was the number of barrels of crude oil equal to the amount by which the property's current monthly production and sale of crude oil exceeded the property's Base Production Control Level[1] for that month, less any Current Cumulative Deficiency[2] for the property concerned. Additionally, a number of barrels of crude oil equal to the number of barrels of new crude oil were "released" from the property's BPCL in that month for sale without regard to the ceiling price rule.)

Effective February 1, 1976, all first sales of domestic crude oil (except first sales of domestic crude oil now specifically exempt under § 212.54 and § 212.55) are subject to a two tier price system. The lower tier ceiling price is set forth at § 212.73, and provides as follows:

(a) *Rule.* Except as provided in § 212.74 with respect to new crude oil, no producer may charge a price higher than the lower tier ceiling price for any first sale of domestic crude oil.

(b) *Lower tier ceiling price determination.* The lower tier ceiling price for a particular grade of domestic crude oil in a particular field is the sum of (1) the highest posted price at 6 a.m., local time, May 15, 1973, for transactions in that grade of crude oil in that field, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; and (2) $1.35 per barrel.

The upper tier ceiling price rule is set forth at § 212.74, and provides as follows:

(a) *Rule.* Notwithstanding the provisions of § 212.73(a), a producer may in any month charge a price not to exceed the upper tier ceiling price in first sales of new crude oil.

(b) *Upper tier ceiling price determination.* The upper tier ceiling price for a particular grade of domestic crude oil in a particular filed is (1) The highest posted price on September 30, 1975, for transactions in that grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; less (2) $1.32 per barrel.

To the extent that the issue raised by your interpretation request is whether the prices determined under a long-term contract supersede the ceiling prices determined under § 212.73 and § 212.74, our conclusion is that the ceiling prices for first sales of domestic crude oil are the prices as determined pursuant to § 212.73 and § 212.74, and may not be exceeded regardless of the existence of a long-term contract (whenever executed) that calls for higher prices.

The ceiling price rules under FEA regulations are applicable to all producers in all first sales of domestic crude oil, excepting only first sales of domestic crude oil specifically exempt under § 212.54 and § 212.55. These ceiling prices are generally determined with reference to the highest posted prices in each field on May 15, 1973 (for lower tier crude oil) and on September 30, 1975 (for upper tier crude oil).

On August 20, 1976, in connection with the "Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil" (41 FR 36172, August 26, 1976), the FEA made it clear that ceiling price determinations themselves have always been made by reference to highest posted prices and not to actual prevailing transaction prices (whether pursuant to a written contract or otherwise), and that since the posted price definition was adopted by the Cost of Living Council in November 1973, posted prices do "not include premiums above posted prices which may have been paid for crude purchased on May 15, 1973." (38 FR 33577 at 33578, December 6, 1973.). Accordingly, in determining the ceiling prices under § 212.73 and § 212.74, the City may not include the additional per-barrel increment to posted prices reflected in the long-term contracts.

Additionally, to the extent that the issue raised in your interpretation request is whether the prices established under the long-term contracts themselves may be interpreted as posted prices, FEA made it clear in the August 20 Notice that

Other than the published price bulletins of the type traditionlly issued by major oil companies, FEA will only recognize as a "posted price" written offers to purchase only so long as they were bona fide public offers of general applicability to crude oil producers in the field. (41 FR at 36180.)

Moreover, any contract establishing a price by reference to a specified per-barrel increment "above posted price," by its express terms may not constitute a posted price.

INTERPRETATION 1977-3

To: McCulloch Gas Processing Corp.
Date: February 11, 1977.
Rules Interpreted: 6 CFR Part 212, Subparts D, F, K.
Code: GCW-PI—Definition of Crude Oil, Natural Gas Liquid Products, Reseller; Subparts D, F, K.

This is in response to your letter of April 16, 1976, in which you requested, on behalf of your client, the McCulloch Gas Processing Corporation ("MGPC"), an interpretation with respect to the above-captioned FEA regulations.

FACTS

MGPC operates gas processing plants located in Wyoming, South Dakota and Montana. MGPC purchases "wet gas" at the wellhead, transports such gas through its own gathering lines to its gas processing facilities, where the gas is processed to extract natural gas liquid products (propane, butane and natural gasoline). MGPC sells bu-

[1] Prior to February 1, 1976, a property's Base Production Control Level ("BPCL") was determined each month to be the number of barrels of crude oil produced and sold from the property concerned in the same month in 1972. (If crude oil was not produced and sold from the property concerned during every month in 1972, the property's BPCL was equal to the total number of barrels of crude oil produced and sold from the property in 1972, divided by 12.)

[2] If, in any month following the production and sale of new crude oil from a property, the property's monthly production and sale of crude oil failed to exceed the property's BPCL, the difference between the property's current monthly production and sale and the BPCL was considered to be a cumulative deficiency. Therefore, before new crude oil could again be sold from the property, an equivalent volume of crude oil that would otherwise have qualified as new crude oil was required to be sold subject to the ceiling price.

tane and natural gasoline to pipeline companies which use these products as additives to crude oil being transported by such companies. These additives increase the API gravity of the crude oil which improves the pumping and flow characteristics thereof.

The pipeline companies purchase crude oil at the wellhead and also transport crude oil on consignment. In the latter case, title to the crude oil is retained by the producer until it is delivered to a refinery.

The pipeline company purchasers of butane and natural gasoline from MGPC contend that the prices for such natural gas liquid products purchased from MGPC and injected into crude oil being transported on consignment (and prior to the "first sale" as defined in § 212.72 of that crude oil) are subject to the crude oil ceiling price regulations of §§ 212.73 (Lower tier ceiling price rule) and 212.74 (Upper tier ceiling price rule). It is further contended by the pipeline company purchasers that the first sale price of such crude oil as prescribed under §§ 212.73 and 212.74 can not be adjusted to reflect the cost of the natural gas liquid products injected therein, if that cost were to be in excess of the crude oil ceiling price as determined pursuant to §§ 212.73 and 212.74. Accordingly, the pipeline company customers of MGPC contend that the FEA mandatory crude oil price regulations proscribe payment of higher than upper and lower tier crude oil ceiling prices for such natural gas liquid products purchased from MGPC.

ISSUES

1. Are natural gas liquid products, which are sold to pipeline companies and injected into crude oil being transported on consignment (prior to the "first sale" as defined in § 212.72 of that crude oil) regulated at the lower tier and upper tier crude oil ceiling prices as prescribed in §§ 212.73 and 212.74 of the FEA price regulations?

2. May the lower tier and upper tier crude oil ceiling prices that are prescribed in §§ 212.73 and 212.74 of the FEA price regulations with respect to the first sale of crude oil be adjusted to reflect the cost of natural gas liquid products that are purchased by the pipeline companies and injected into crude oil being transported on consignment prior to its "first sale" as defined in § 212.72 of the FEA price regulations?

INTERPRETATION

1. The Federal Energy Administration ("FEA") Mandatory Petroleum Price Regulations (FEA price regulations) implement the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159, as amended) to regulate the selling price of crude oil and natural gas liquids and certain of the products produced therefrom.

Subpart D (Producers of Crude Oil) (10 CFR 212.71 et seq.) of the FEA price regulations prescribes the selling price of "crude oil" produced and sold in the United States, other than crude oil which is specifically exempt from the provisions of Subpart D pursuant to §§ 212.54. (Stripper well crude oil) and 212.55 (Naval Petroleum Reserves crude oil). Section 212.73 (Lower tier ceiling price rule) provides in part:

"(a) *Rule.* Except as provided in § 212.74 with respect to new crude oil, no producer may charge a price higher than the lower tier ceiling price for any *first sale of domestic crude oil.*" (Emphasis added.)

Section 212.74 (Upper tier ceiling price rule) provides in part:

"(a) *Rule.* Notwithstanding the provisions of § 212.73(a), a producer may in any month charge a price not to exceed the upper tier ceiling price *in first sales of new crude oil.*" (Emphasis added.)

"First sale" is defined in § 212.72 (Definitions) as:

"* * * the first transfer for value by the producer or royalty owner. With respect to transfers between affiliated entities, the 'first sale' shall be imputed to occur as if in arms-length transactions."

"New crude oil" is defined in § 212.72 as:

" 'New crude oil' means, with respect to a specific property: (1) prior to February 1, 1976, the total number of barrels of *domestic crude oil* produced and sold in a specific month, less (A) the base production control level for that month, and less (B) the current cumulative deficiency;

(2) effective February 1, 1976, the total number of barrels of *domestic crude oil* produced and sold in a specific month, less (A) the property's base production control level for that month and less (B) the current cumulative deficiency since February 1, 1976 * * *." (Emphasis added.)

"Domestic crude oil" is defined in § 212.31 (Definitions) as:

"* * * *crude oil* produced in the United States or from the 'outer continental shelf' as defined in 43 U.S.C. 1331." (Emphasis added.)

"Crude oil" is defined in § 212.31 as:

"* * * a mixture of hydrocarbons *that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities.* 'Crude oil' includes condensate recovered in associated or nonassociated production by mechanical separators, whether located on the lease, at central field facilities, or at the inlet side of a gas processing plant. (Emphasis added.)

The selling price of "natural gas liquids" and "natural gas liquid products" produced and sold in the United States is regulated by Subpart K (Natural Gas Liquids) (10 CFR 212.161 et seq.) of the FEA price regulations. Section 212.161(a) (Applicability and relationship to other Subparts) provides in part:

"Scope. This subpart applies to all sales of *natural gas liquids* and *natural gas liquid products,* including transfers between affiliated entities, by all firms, *including gas plant operators,* producers of natural gas, natural gas royalty owners, and refiners except sales by resellers or retailers, which are subject to Subpart F of this part." (Emphasis added.)

Section 212.163(a) (General price rule) provides in part:

"(a) *First sale.* A * * * gas plant owner, gas plant operator or other entity may not charge to (or receive from) any class of purchaser a price in excess of the weighted average price at which *natural gas liquids or natural gas liquid products* were lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, except to the extent permitted by this subpart." (Emphasis added.)

"Natural gas liquids" are defined in § 212.162 (Definitions) as:

"* * * a mixed hydrocarbon stream containing, in whole or in substantial part, mixtures of ethane, butane (iso-butane and normal butane), propane or natural gasoline."

"Natural gas liquid products" are defined in § 212.162 as:

"* * * the separate products derived from natural gas liquids, including *butane* (iso-butane and normal butane), propane, propane-butane mixtures, and *natural gasoline,* but not ethane." (Emphasis added.)

Historically "crude oil" and "natural gas liquids and natural gas liquid products" have received separate regulatory pricing treatment. The Cost of Living Council Phase IV Price Regulations (6 CFR 150.351 et seq.; 38 FR 22536, August 22, 1973) regulated the price of "crude petroleum" in § 150.354) Ceiling price rule: Crude petroleum). "Natural gas liquids" was defined in § 150.352 as a "covered product" and the price of "natural gas liquids" was regulated with refined petroleum products in § 150.358 (Price rule: Refiners). "Crude oil" and "natural gas liquids" continued to receive separate pricing treatment under FEA price regulations although FEA determined that "natural gas liquids" and "natural gas liquid products" required separate regulatory pricing treatment from refined petroleum products (39 FR 44407, December 24, 1974). Subpart E (Refiners) (10 CRF 212.81 et seq.) and Subpart K (Natural Gas Liquids) of the FEA price regulations presently prescribe the separate regulatory pricing treatment of petroleum products refined from crude oil and "natural gas liquid products".

FEA separate regulatory pricing treatment of "crude oil" and "natural gas liquid products" indicates that, absent express provision therein, FEA price regulations prescribing the "first sale" price of "crude oil" do not concomitantly regulate the selling price of "natural gas liquid products." Furthermore, "crude oil" as defined in § 212.31 of FEA price regulations includes only hydrocarbons remaining in liquid form at atmospheric pressure after passing through the surface separating facilities and condensate. Natural gas (methane) and certain other hydrocarbons mixed therewith, e.g., butane, natural gasoline, etc. (natural gas liquids and liquid products) remain in a gaseous state at atmospheric pressure after mechanical separation procedures. Thus, "crude oil" as defined therein may not be construed to include "natural gas liquids or natural gas liquid products."

Since natural gas liquid products such as butane and natural gasoline do not constitute "crude oil" within the meaning of § 212.31 of FEA price regulations, they are not regulated at the upper and lower tier ceiling prices prescribed for crude oil in §§ 212.73 and 212.74. Natural gas liquid products derived from natural gas are regulated and priced according to the regulations prescribed in Subpart K.

It is our conclusion that the disposition of the natural gas liquid products after their sale pursuant to the provisions of Subpart K, in this case purchase by the pipeline companies for injection into crude oil prior to the "first sale" thereof, does not serve to make such sales subject to Subpart D rather than Subpart K.

2. It is our conclusion that in the fact situation you have described, the pipeline companies that purchase natural gas liquid products (butane and natural gasoline) and inject them into crude oil being transported by such companies on consignment may not adjust the first sale price of such crude oil prior to its "first sale," but that such companies act as "resellers," as defined in § 212.31, with respect to their purchase and sale of natural gas liquid products. Section 212.31 (Definitions) defines "reseller" as:

"* * * a firm (other than a refiner or retailer) or that part of such a firm which carries on the trade or business of purchasing covered products, and reselling them *without substantially changing their form to purchasers other than ultimate consumers.* (Emphasis added.)

Although the injection of natural gas liquid products into crude oil in order to facilitate the transportation of the crude oil to a subsequent purchaser does change the "form" of the natural gas liquid products and the crude oil, such change in "form" does not serve to preclude the application of the reseller price rules to the sale of the natural gas liquid products. The language of the § 212.31 "reseller" definition which limits the scope of that definition to firms that resell covered products "without substantially changing their form" was intended generally to distinguish between those activi-

ties which would properly be regarded as refining and those which would properly be regarded as reselling, under a system of price regulations for covered products that was intended to be comprehensive in scope. Accordingly, only where a change in the form of covered products is so substantial as to amount to a "refining" operation will a change in form generally be sufficient to make the reseller price rules inapplicable.

Moreover, natural gas liquid products, although added to crude oil for purposes of pipeline transportation, are generally separated from the crude oil at the refinery, and remain chemically unchanged during the time they are mixed with crude oil. For purposes of FEA pricing regulations, the sale of crude oil containing such natural gas liquid products in the circumstances described constitutes the "first sale" of crude oil and the "resale" of natural gas liquid products.

Subpart K generally prescribes FEA pricing regulations for natural gas liquid products. However, as prescribed in § 212.161(a) (Applicability and relationship to other Subparts), Subpart K pricing provisions for natural gas liquid products are not applicable to resellers.

"*Scope.* This subpart applies to all sales of natural gas liquids and natural gas liquid products * * * *except sales by resellers * * * which are subject to Subpart F of this part.*" (Emphasis added.)

Section 212.91 (Applicability) of Subpart F (Resellers and Retailers) (10 CFR 212.91 et seq.) provides in pertinent part: "This subpart applies to each sale of a covered product * * * by resellers * * *." "Covered product" as defined in § 212.31 includes both "butane" and "natural gasoline". Section 212.93(a) (Price rule) prescribes the resale price of an item subject to Subpart F (i.e., natural gas liquid butane and natural gasoline) shall not exceed:

"* * * the weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects, on a dollar-for-dollar basis, the increased product costs concerned."

Accordingly, the injection of natural gas liquid products into crude oil prior to the "first sale" of the crude oil does not influence the first sale price of such crude oil as prescribed in the mandatory crude oil price regulations. Such crude oil is priced in accordance with the producer price regulations prescribed in §§ 212.73 (Lower tier ceiling price rule) and 212.74 (Upper tier ceiling price rule) while the natural gas liquid product additives, i.e., butane and natural gasoline, are priced in accordance with the reseller price regulations prescribed in § 212.93(a) (Price rule).

INTERPRETATION 1977–4

To: Pyrofax Gas Corp.
Date: February 11, 1977.
Rules Interpreted: § 212.92, Rulings 1975–1, 1975–9, 1975–10.
Code: GCW–PI—Transportation Costs to Reseller/Retailer Inventory.

This is in response to your letter of June 24, 1976, in which you requested, on behalf of your client, Pyrofax Gas Corporation ("Pyrofax"), an interpretation with respect to §§ 212.92 and 212.93 of the FEA regulations.

FACTS

Pyrofax purchases and resells propane to both wholesale and retail outlets in twenty-two states. Pyrofax is a wholly-owned subsidiary of Texas Eastern Transmission Corporation which also owns Texas Eastern Products Pipeline ("Products Pipeline"). Products Pipeline owns and operates a petroleum products pipeline that extends from the Mt. Belvieu area in Texas into New York and Pennsylvania. Products Pipeline's facilities also include an initial pipeline terminal, a large, underground propane storage facility at Mt. Belvieu, and various staging terminals along the pipeline. The Products Pipeline facilities constitute a common carrier subject to Interstate Commerce Commission jurisdiction. Pyrofax and other firms purchase propane and deliver it to Products Pipeline at Mt. Belvieu for ultimate delivery through the pipeline to their respective bulk terminals in the midwestern and northeastern states and elsewhere. Pyrofax and the other firms pay the same rates for propane transportation and storage by Products Pipeline.

ISSUE

May the cost of transporting propane through the facilities owned by Products Pipeline be included as a § 212.92 "cost of product in inventory" by Pyrofax?

INTERPRETATION

Section 212.92, as amended in part, effective May 1, 1976 (41 FR 19110, May 10, 1976) to redefine "product in inventory" provides in relevant part, that:

"* * * the cost of transportation may be included as a cost of product in inventory only up to the point at which the product concerned first comes to rest in facilities which constitute *a part of the seller's storage and distribution system.*" (Emphasis added. This language is referred to as the "transportation provision".)

The "transportation provision" of amended § 212.92 prescribes the extent to which transportation costs incurred by a reseller may be included as a "cost of product in inventory" for the purpose of determining the allowable resale price of covered products under Subpart F (Resellers and Retailers) of the Mandatory Petroleum Price Regulations. (10 CFR 212.91 et seq.) Section 212.93(a), as amended, effective May 1, 1976 (41 FR 19110, May 10, 1976) provides that a seller (reseller or retailer) may determine the maximum allowable price for a particular product by adding on a dollar-for-dollar basis a seller's increased product costs incurred since May 15, 1973 to the lawful weighted average price in transactions with the class of purchaser concerned on May 15, 1973. Section 212.92 defines increased product costs as:

"* * * the difference between the weighted average unit *cost of a product in inventory* and the weighted average unit cost of that product in inventory on May 15, 1973." (Emphasis added; 41 FR 18304, May 3, 1976.)

Accordingly, the inclusion of allowable transportation costs as a "cost of product in inventory" increases the dollar-for-dollar cost pass-through of "increased product costs" and results in a higher allowable resale price.

FEA Rulings 1975–1 (40 FR 6768, February 14, 1975), 1975–9 (40 FR 40826, September 4, 1975) and 1975–10 (40 FR 40826, September 4, 1975), issued prior to this amendment, provided guidelines for determining which transportation costs a reseller could include as a "cost of product in inventory." Amended § 212.92 is not intended to change the reseller guidelines prescribed in Rulings 1975–1, 1975–9 and 1975–10. The preamble to amended § 212.92 provides:

"* * * Rulings 1975–1, 1976–9 and 1975–10 * * * remain unaltered by today's amendments, and by the further clarification provided herein." (41 FR at 19113.)

Ruling 1975–1 provides that increased transportation costs that are associated with bringing a covered product into inventory are increased product costs pursuant to § 212.92. The point at which a product is brought into a purchaser's inventory is prescribed in Ruling 1975–9.

"[Transportation] * * * costs may be included as part of the weighted average cost of product in inventory to the extent that they are incurred in bringing the product into storage at *a location that constitutes a part of the buying firm's storage and distribution system.* In other words, the costs associated with movement of the product through a distribution system that is used in common to distribute product to various firms operating at the same level of distribution as the buying firm may generally be treated as part of the cost of the product to the buying firm." (Emphasis added; 40 FR at 40826.)

Thus, FEA's initial rulings on the inclusion of transportation costs as a cost of product in inventory by a reseller set forth the same general guideline as is now reflected in § 212.92. That is, transportation costs may be included up to the point at which the product is brought into storage at a location that constitutes a part of a firm's storage and distribution system. Accordingly, a reseller that purchases a product in Texas may include as a "cost of product in inventory" the transportation rate charged by an unaffiliated common carrier (i.e., a petroleum products pipeline) to deliver the product to that reseller's storage and distribution system.

Rulings 1975–9 and 1975–10 concern instances in which a reseller owns or leases a transportation or distribution facility of a kind that more typically forms part of a distribution system used in common by itself and other firms. In such instances, the distribution facility *is not considered* a part of a firm's own storage and distribution system for purposes of determining when a product has come to rest in facilities which constitute a part of a seller's storage and distribution system.

Ruling 1975–10 provides:

"* * * a firm should not be disadvantaged under the FEA price regulations because it chose to use its own facilities rather than an independent carrier. Accordingly, [*the firm*] *may treat its actual increased transportation costs associated with transporting the covered product from* [*the refiner*] *into its inventory as 'increased costs.'* However, the amount of such increased transportation costs must be established by the firm concerned and may not, in any event, exceed increases in the amount being charged for comparable services by independent carriers (e.g., increases in published ICC tariffs since May 15, 1973). The firm concerned has the burden of establishing not only that it has actually incurred those increased costs, but also that the increased costs it computes as attributable to the cost of transportation do not exceed such third-party rate increases for comparable services." (Emphasis added; 40 FR at 40827.)

In light of the fact that the revision to § 212.92, effective May 1, 1976, was expressly not intended to affect the principles set forth in Rulings 1975–1, 1975–9 and 1975–10, it is our interpretation that Pyrofax may include as a § 212.92 "cost of product in inventory" the cost of transporting propane through the facilities owned by Products Pipeline.

INTERPRETATION 1977–5

To: Guam Oil and Refining Co.
Date: February 11, 1977.
Rules Interpreted: §§ 210.21, 211.51, 211.62, 211.67.
Code: GCW–AI—Entitlements Program.

This is in response to your request for interpretation dated November 12, 1976, as supplemented by letter dated February 10, 1977, on behalf of Guam Oil and Refining Company ("GORCO"). You have requested that we confirm that certain feedstocks purchased by GORCO are eligible for inclusion

in GORCO's crude oil runs to stills under FEA's domestic crude oil allocation program (the "entitlements program") set forth at 10 CFR 211.67.

FACTS

GORCO was established for the purpose of supplying petroleum products to the United States military in the Western Pacific. GORCO's refinery, which is located in Guam and has a refining capacity of 29,500 barrels per day, began continuous operations in 1970.

GORCO has relied exclusively on the purchase of foreign oil to meet its feedstock requirements since commencement of operations, and has purchased all of its feedstocks from Exxon pursuant to an agreement dated February 4, 1969 (hereinafter the "Exxon Agreement"). The Exxon Agreement provides for the purchase in bulk of crude oil and petroleum products for Guam's entire refinery feedstock requirements. Under this Agreement, Esso International Inc., an affiliate of Exxon Company, U.S.A. and hereinafter referred to as "Exxon", must supply and GORCO is obligated to purchase its requirements up to xxxxxx barrels per day of either Feedstock A, having a capability of yielding forty percent jet fuel, or Feedstock B, with the capability of producing a sixty-five percent jet fuel yield. These feedstocks are equivalent to crude oils with a gravity range of 35 degrees API (for Feedstock A) to 44 degrees API (for Feedstock B). Initially, Exxon had the right to supply Feedstocks A and B from any crude and/or components available to the Mediterranean Standard Oil Company at the Ras Tanura loading port. By an amendment to the Exxon Agreement dated June 3, 1975, Exxon was given the added flexibility of supplying Feedstocks A and B from any supplier at any loading port most advantageous to Exxon.

To meet its supply obligation for Feedstocks A and B, Exxon has consistently, since loading the initial cargo on March 29, 1970, blended unfinished oils with Arabian crude oil to meet the product yield specifications set forth in the Exxon Agreement. This process has involved kerosene and/or naphtha blend stocks, and has been performed by Exxon at either Ras Tanura or Bahrain in the Persian Gulf. When received by GORCO, Feedstocks A and B do not consist of separate components, but are fully blended, homogeneous substances, containing as much as forty-eight percent unfinished oils. Pursuant to the Exxon Agreement, GORCO purchases these feedstocks at prices comparable to the prevailing international market prices of high quality virgin crude oils of like gravity. GORCO processes all of the feedstock purchased from Exxon through the distillation unit of its refinery and sells all the finished products on Guam to civilian consumers or to the United States Government.

Since the commencement of its operations in 1970, GORCO has consistently accounted for all of the feedstocks received from Exxon as imported crude oil. GORCO has also reported the total volumes of these feedstocks to FEA as refinery inputs and/or crude oil receipts on FEA Forms FEO-96/P-110-M (Monthly Cost Allocation Report), and M-701-M-0 (Transfer Pricing Report). GORCO has consistently reported these feedstocks as "crude oil runs to stills" for purposes of the entitlements program, on Form FEA P-102-M-0.

ISSUE FOR INTERPRETATION

Are the feedstocks purchased by GORCO pursuant to the Exxon Agreement crude oil as defined in 10 CFR 211.51 and as such eligible for inclusion in GORCO's crude oil runs to stills under 10 CFR 211.62 and 211.67?

INTERPRETATION

It is our opinion that the feedstocks purchased by GORCO under the Exxon Agreement do not qualify as crude oil under § 211.67 to the extent they consist of unfinished oils and, accordingly, the portion of those feedstocks consisting of unfinished oils is not eligible for inclusion in the volume of GORCO's crude oil runs to stills as defined in § 211.62 for purposes of the entitlements program under § 211.67.

Crude oil is defined in § 211.51 as follows:

* * * a mixture of liquid hydrocarbons including lease condensate that exists in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities.

As indicated in your request, Exxon has consistently blended unfinished oils with Arabian crude oil to meet the product yield specifications of the Exxon Agreement. The blending process has involved kerosene and/or naphtha stocks, and the feedstocks purchased by GORCO have contained as much as 48% unfinished oils. This is confirmed by a reading of the Exxon Agreement, which specifically contemplates the delivery of both crude oil and refined products to meet the specifications of Feedstocks A and B.

In your request, you have first argued that both Feedstocks A and B are identical to various blends of virgin crude oils and that they are comparable in all material respects to a number of virgin crude oils. In addition, you have argued that the § 211.51 definition of crude oil does not require the actual liquid hydrocarbons contained in the feedstock to have been produced and transported from the underground reservoir to the ultimate destination without having been processed or disturbed in any way. In this regard, you have described certain treatment facilities for crude oil produced in Saudi Arabia that appear to perform functions similar to those performed by a topping plant or unsophisticated refinery. In summary, your argument is that GORCO's feedstocks are chemically identical to crude oil and thus qualify as crude oil as defined in § 211.51, regardless of the fact that a portion of these feedstocks is produced at a refinery.

Our analysis of the definition of crude oil in § 211.51 leads us to a contrary conclusion. This definition clearly contemplates that crude oil consists only of the mixture of hydrocarbons existing in natural underground reservoirs, i.e., virgin crude oil, and does not include chemically identical materials produced from a refinery. Once crude oil has been processed at a refinery it ceases to be classified as crude oil under this definition.

In your request you discuss the Bureau of Mines Form 6-1300-M, which is the basis for measurement of a refiner's crude oil runs to stills under the entitlements program, specifically with regard to whether the inclusion of unfinished oils in a refiner's crude oil runs to stills is proper under this report. The instructions to this report clearly distinguish for reporting purposes between crude oil and unfinished oils, whether domestic or imported, and this distinction is also made in the Bureau of Mines definition of crude oil:

GORCO's historical procedures of accounting for Feedstocks A and B as crude oil would not seem controlling for this interpretation, since the definition of crude oil receipts in § 211.62 states that for a refiner those receipts shall include "* * * the volume of *crude oil* booked into its refineries * * *" (Emphasis added.)

You have also generally contended in your request that the term "crude oil" as used in the Emergency Petroleum Allocation Act ("EPAA") and in FEA regulations and decisions supports the conclusion that Feedstocks A and B qualify as crude oil. However, we believe that such an interpretation of the regulations governing the entitlements program is not called for by those specific regulatory provisions, nor is such an interpretation necessarily consistent with the overall intent of the entitlements program, as we have indicated in our discussion below. Your request also emphasizes the direct link between the prices of Feedstocks A and B and crude oil prices. This does imply that these feedstocks may very well be crude oil equivalents, but not necessarily that the feedstocks therefore qualify as crude oil under applicable FEA regulations.

Finally, in your November 12, 1976 request you discuss the general policy objectives of the EPAA and FEA's regulations and state that interpretations of these regulations should promote these objectives. You have also detailed various EPAA policy objectives that would be served by our issuance of the interpretation that you have requested. However, we believe that our interpretation in this case is consistent with the overall purpose of the entitlements program, in that the program is directed at reducing to a competitive range disparities in refiners' feedstock costs resulting from price controls on domestic crude oil. If domestic unfinished oils, for example, that were chemically identical to crude oil were allowed to earn entitlements, the result would be a windfall for a refiner processing those unfinished oils, since the raw material costs therefor would have already been equalized at another refinery. In addition, as a policy matter, it is a fairly complex issue to determine whether it would be appropriate to consider all imported unfinished oils as crude oil for purposes of the entitlements program.

Even conceding that the purposes of the entitlements program would not seem to be subverted in certain cases by permitting refiners to include imported unfinished oils in their crude oil runs, to arrive at the interpretation of FEA's regulations that you seek would require us to hold that the particular imported unfinished oils contained in GORCO's Feedstocks A and B are eligible for entitlement issuances, whereas other imported and domestic unfinished oils are not so eligible. There is no apparent basis under our regulations to grant the interpretation you seek as to specific imported unfinished oils and at the same time to distinguish a multitude of separate cases involving other unfinished oils. In summary, we do not feel that we have the requisite flexibility to interpret our regulations to arrive at the result you advocate in your request on purely policy grounds alone.

In the February 10, 1977 supplement to your November 12, 1976 request, an additional argument supporting your position has been set forth. In summary, your contention is that 10 CFR Part 210 is generally applicable to Part 211, and that the definition of "covered products" in § 210.21 is coextensive with the definition of that term in Part 212. This latter definition of "covered products" provides that a "* * * blend to two or more particular covered products is considered to be that particular covered product constituting the major proportion of the blend." You therefore argue that Feedstocks A and B are crude oil for purposes of Part 211, since crude oil constitutes the major proportion of the blend thereof. In response to this argument, it should first be pointed out that the term "covered products" is not used in Part 211. Instead, the term "allocated products" is used in its place and is defined in § 211.51 as "* * * residual fuel oil and refined petroleum products." This definition of allocated products does not refer to crude oil, which is separately defined in § 211.51, nor is there any reference to product blends. Second, that definition of crude oil and the definition of crude oil runs to stills in § 211.62, as discussed above, specifically do not include unfinished oils and, as pointed out above, there is a valid regulatory purpose served in

interpreting these Part 211 definitions in a restrictive manner so as to exclude unfinished oils from their coverage.

[FR Doc.77-5820 Filed 2-22-77;4:40 pm]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

Nonbanking Activities

On a number of recent occasions the Board of Governors has been presented with difficult issues concerning the timing of divestitures required either by statute or Board order. As the 1980 deadline approaches for divestitures under the 1970 Amendments to the Bank Holding Company Act the Board expects that the frequency of such problems will increase. Accordingly, the Board has decided to issue this statement setting forth a policy with respect to divestitures for the guidance of the Reserve Banks and the industry, and adding § 225.138 as follows:

§ 225.138 Statement of policy concerning divestitures by bank holding companies.

(a) From time to time the Board of Governors receives requests from companies subject to the Bank Holding Company Act, or other laws administered by the Board, to extend time periods specified either by statute or by Board order for the divestiture of assets held or activities engaged in by such companies. Such divestiture requirements may arise in a number of ways. For example, divestiture may be ordered by the Board in connection with an acquisition found to have been made in violation of law. In other cases the divestiture may be pursuant to a statutory requirement imposed at the time and amendment to the Act was adopted, or it may be required as a result of a foreclosure upon collateral held by the company or a bank subsidiary in connection with a debt previously contracted in good faith. Certain divestiture periods may be extended in the discretion of the Board, but in other cases the Board may be without statutory authority, or may have only limited authority, to extend a specified divestiture period.

(b) In the past, divestitures have taken many different forms, and the Board has followed a variety of procedures in enforcing divestiture requirements. Because divestitures may occur under widely disparate factual circumstances, and because such forced dispositions may have the potential for causing a serious adverse economic impact upon the divesting company, the Board believes it is important to maintain a large measure of flexibility in dealing with divestitures. For these reasons, there can be no fixed rule as to the type of divestiture that will be appropriate in all situations. For example, where divestiture has been ordered to terminate a control relationship created or maintained in violation of the Act, it may be necessary to impose conditions that will assure that the unlawful relationship has been fully terminated and that it will not arise in the future. In other circumstances, however, less stringent conditions may be appropriate.

(1) *Avoidance of Delays in Divestitures.* Where a specific time period has been fixed for accomplishing divestiture, the affected company should endeavor and should be encouraged to complete the divestiture as early as possible during the specific period. There will generally be substantial advantages to divesting companies in taking steps to plan for and accomplish divestitures well before the end of the divestiture period. For example, delays may impair the ability of the company to realize full value for the divested assets, for as the end of the divestiture period approaches the "forced sale" aspect of the divestiture may lead potential buyers to withhold firm offers and to bargain for lower prices. In addition, because some prospective purchasers may themselves require regulatory approval to acquire the divested property, delay by the divesting company may—by leaving insufficient time to obtain such approvals—have the effect of narrowing the range of prospective purchases. Thus, delay in planning for divestiture may increase the likelihood that the company will seek an extension of the time for divestiture if difficulty is encountered in securing a purchaser, and in certain situations, of course, the Board may be without statutory authority to grant extensions.

(2) *Submission and Approval of Divestitute Plans.* When a divestiture requirement is imposed, the company affected should generally be asked to submit a divestiture plan promptly for review and approval by the Reserve Bank or the Board. Such a requirement may be imposed pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act to issue such orders as may be necessary to enable the Board to administer and carry out the purposes of the Act and prevent evasions thereof. A divestiture plan should be as specific as possible, and should indicate the manner in which divestiture will be accomplished—for example, by a bulk sale of the assets to a third party, by "spinoff" or distribution of shares to the shareholders of the divesting company, or by termination of prohibited activities. In addition, the plan should specify the steps the company expects to take in effecting the divestiture and assuring its completeness, and should indicate the time schedule for taking such steps. In appropriate circumstances, the divestiture plan should make provision for assuring that "controlling influence" relationships, such as management or financial interlocks, will not continue to exist.

(3) *Periodic Progress Reports.* A company subject to a divestiture requirement should generally be required to submit regular periodic reports detailing the steps it has taken to effect divestiture. Such a requirement may be imposed pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act, referred to above, as well as its authority under section 5(c) of the Act to require reports for the purpose of keeping the Board informed as to whether the Act and Board regulations and orders thereunder are being complied with. Reports should set forth in detail such matters as the identities of potential buyers who have been approached by the company, the dates of discussions with potential buyers and the identities of the individuals involved in such discussions, the terms of any offers received, and the reasons for rejecting any offers. In addition, the reports should indicate whether the company has employed brokers, investment bankers or others to assist in the divestiture, or its reasons for not doing so, and should describe other efforts by the company to seek out possible purchasers. The purpose of requiring such reports is to insure that substantial and good faith efforts are being made by the company to satisfy its divestiture obligations. The frequency of such reports may vary depending upon the nature of the divestiture and the period specified for divestiture. However, such reports should generally not be required less frequently than every three months, and may in appropriate cases be required on a monthly or even more frequent basis. Progress reports as well as divestiture plans should be afforded confidential treatment.

(4) *Extensions of Divestiture Periods.* Certain divestiture periods—such as the December 31, 1980 deadline for divestitures required by the 1970 Amendments to the Bank Holding Company Act—are not extendable. In such cases it is imperative that divestiture be accomplished in a timely manner. In certain other cases, the Board may have discretion to extend a statutorily prescribed divestiture period within specified limits. For example, under section 4(c)(2) of the Act the Board may extend for three one-year periods the two-year period in which a bank subsidiary of a holding company is otherwise required to divest shares acquired in satisfaction of a debt previously contracted in good faith. In such cases, however, when the permissible extensions expire the Board no longer has discretion to grant further extensions. In still other cases, where a divestiture period is prescribed by the Board, in the exercise of its regulatory judgment, the Board may have broader discretion to grant extensions. Where extensions of specified divestiture periods are permitted by law, extensions should not be granted except under compelling circumstances. Neither unfavorable market conditions, nor the possibility that the company may incur some loss, should alone be viewed as constituting such circumstances—particularly if the company has failed to take earlier steps to accomplish a divestiture under more favorable circumstances. Normally, a request for an extension will not be considered unless the company has established that it has made substantial and continued good faith efforts to accom-

plish the divestiture within the prescribed period. Furthermore, requests for extensions of divestiture periods must be made sufficiently in advance of the expiration of the prescribed period both to enable the Board to consider the request in an orderly manner and to enable the company to effect a timely divestiture in the event the request for extension is denied. Companies subject to divestiture requirements should be aware that a failure to accomplish a divestiture within the prescribed period may in and of itself be viewed as a separate violation of the Act.

(5) *Use of Trustees.* In appropriate cases a company subject to a divestiture requirement may be required to place the assets subject to divestiture with an independent trustee under instructions to accomplish a sale by a specified date, by public auction if necessary. Such a trustee may be given the responsibility for exercising the voting rights with respect to shares being divested. The use of such a trustee may be particularly appropriate where the divestiture is intended to terminate a control relationship established or maintained in violation of law, or where the divesting company has demonstrated an inability or unwillingness to take timely steps to effect a divestiture.

(6) *Presumptions of Control.* Bank holding companies contemplating a divestiture should be mindful of section 2 (g) (3) of the Bank Holding Company Act, which creates a presumption of continued control over the transferred assets where the transferee is indebted to the transferor, or where certain interlocks exist, as well as § 225.2 of Regulation Y, which sets forth certain additional control presumptions. Where one of these presumptions has arisen with respect to divested assets, the divestiture will not be considered as complete until the presumption has been overcome. It should be understood that the inquiry into the termination of control relationships is not limited by the statutory and regulatory presumptions of control, and that the Board may conclude that a control relationship still exists even though the presumptions do not apply.

(7) *Role of the Reserve Banks.* The Reserve Banks have a responsibility for supervising and enforcing divestitures. Specifically, in coordination with Board staff they should review divestiture plans to assure that proposed divestitures will result in the termination of control relationships and will not create unsafe or unsound conditions in any bank or bank holding company; they should monitor periodic progress reports to assure that timely steps are being taken to effect divestitures; and they should prompt companies to take such steps when it appears that progress is not being made. Where Reserve Banks have delegated authority to extend divestiture periods, that authority should be exercised consistently with this policy statement.

Board of Governors of the Federal Reserve System, February 21, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-5734 Filed 2-24-77;8:45 am]

[Reg. Z; Docket No. R-0070]

PART 226—TRUTH IN LENDING

Board Interpretations of Regulation Z—Sample Lease Disclosure Statements

On December 29, 1976, the Board published for comment three sample lease disclosure statements as proposed official Board interpretations of Regulation Z (41 FR 56657). The statements were proposed for use in conjunction with three types of lease transactions: (1) Open-end or finance vehicle leases (Interpretation § 226.1501), (2) closed-end or net vehicle leases (Interpretation § 226.1502) and (3) furniture leases (Interpretation § 226.1503).

Thirty written comments on the proposal were received. The comments have been given careful consideration and, on the basis of the comments and its own analysis, the Board has revised the interpretations and has issued them in final form.

The comments generally supported the design, format and use of simplified language in the forms. The instructions were generally considered adequate by the commenters; revisions to the instructions will be discussed below. The completed forms provided by the Board, which were not part of the interpretations, have not been reproduced in final form. They appeared to be a source of confusion, and the Board is concerned that the provision of contract terms merely as illustrations would be misconstrued as approval of those terms for use by lessors.

The forms have not been reduced to one page for this publication. They will be printed as soon as possible, republished in the FEDERAL REGISTER and made available in limited quantities to interested parties.

The Board wishes to emphasize, as it did in the December 29, 1976, publication, that these forms are not the exclusive method of compliance with the Consumer Leasing Act and the implementing Regulation. Lessors are permitted to design other formats by which compliance may be achieved. Lessors that do choose to use the forms issued by the Board, however, must not alter the wording or sequence of the disclosures, except to the extent that provisions have been made for deletion or substitution of terms.

Any inapplicable disclosure should be deleted. The titles of the forms and the numbering system may be changed or deleted, but care should be taken that consistency is maintained in the references to item numbers in the disclosures. The statement that the disclosures are provided pursuant to Federal law may be deleted or changed. Brackets have been provided around disclosures which are alternative in nature (e.g., the purchase option disclosures).

The following changes have been made to the interpretations:

1. A statement that the disclosures are provided pursuant to the Federal Consumer Leasing Act has been added at the top of all three disclosure statements. A similar statement at the beginning of Item 14 in § 226.1501 has been deleted. A comment was received that the placement of that statement in Item 14 implied that the other disclosures are not required, when in fact they are.

2. In Item 2 of the vehicle lease statements (§§ 226.1501 and 1502) the words "Body Style" have been substituted for the words "Body Make" and the term "Vehicle ID #" has been substituted for "Serial #" in response to comments that these terms more accurately reflect business usage. In Item 2 of the furniture lease statement (§ 226.1503), the term "Price" has been deleted from the description; it is not a required term and appeared to be confusing as it is susceptible of a variety of definitions.

3. In response to a number of written comments, the Board has significantly changed the disclosures of the payment due at consummation and the periodic payment. In order to avoid double disclosure, the proposal provided for disclosure in the open-end vehicle lease statement only of those elements of these two disclosures which were to be used in calculating the "Total Lease Obligation." As a consequence, there were no disclosures of the total payment made by the lessee at consummation or the total monthly payment. Commenters felt that disclosure of these inclusive totals was more important than the avoidance of double disclosure.

The Board has therefore amended § 226.1501, Items 3 and 4, to provide these totals. Item 3(a) consists of those elements of a total payment due at inception which will be used to calculate "Total Lease Obligation." Item 3(b) consists of all other elements of that total initial payment. Item 4(a) consists of that portion of the total monthly payment which is attributable to rent, depreciation, profit and sales/use tax on that payment. It will be used in calculating the "Total Lease Obligation." Item 4(b) contains all other charges which may be incurred on a monthly basis by the lessee. Lessors should refer to the form's specific instructions for further guidance.

The closed-end vehicle lease and the furniture lease forms have been revised to provide similar totals without the separate elements, as there is no total lease obligation disclosure in those types of leases.

4. All instructions in the forms themselves have been deleted and placed in the accompanying instructions in response to comments that the forms could be more easily reproduced without them.

5. The forms have been revised to provide disclosures for leases with monthly payment schedules. The majority of consumer leases appear to have monthly schedules and differing periodic terms can be easily substituted where a lease provides otherwise.

6. The sequence of disclosure has been changed to provide a more meaningful format.

7. The disclosures in Item 4 regarding the number, amounts and due dates of periodic payments have been revised to provide the number of scheduled payments and a simpler method of determining the "Total of Basic Monthly Payments" in § 226.1501.

8. The insurance disclosure in all statements (Item 9) has been revised to permit disclosure of optional as well as required insurance.

9. Item 10 in the open-end lease statement has been amended to permit the lessor to state what type of value (e.g., wholesale or retail) is being placed on the vehicle at the end of the term. A similar space is provided in Item 14(b).

It has also been amended to state that the lessee's liability for the estimated value of the vehicle "may be" (rather than "is") limited. Comments stated that the lessee's liability for this sum may in fact be unlimited.

10. Item 14 (End of Term Liability) of § 226.1501 has been revised to provide the following:

(a) A more precise statement of the lessee's liability at the end of the term by stating that the lessee may have liability beyond that for the difference between estimated and actual values as a result of disposition charges, unpaid traffic tickets and other charges incurred under the lease (Item 14(a)).

(b) A reference to the standards used to determine unreasonable or excessive wear or use, if the lessor sets such standards (Item 14(a) 1).

(c) Space has also been added in which the lessor may set forth the type of appraisal to be obtained by the lessee (14(b)).

11. Item 13 in § 226.1502 (closed-end vehicle statement) has been amended to provide disclosure of the lessee's right to an appraisal at early termination where the charge for such early termination is based on the estimated value of the vehicle. A similar disclosure has not been provided in the furniture statement as it does not appear to be a common term in furniture leases.

12. The instructions have been revised to provide further guidance for use of the forms.

In consideration of the foregoing the Board issues the following interpretations of 12 CFR Part 226, effective March 23, 1977.

§ 226.1501 Open-end or finance vehicle lease disclosure statement.

Date _____

These disclosures are provided pursuant to the Federal Consumer Leasing Act.

1. LESSOR(S) _____ LESSEE(S) _____

2. Description of leased property

Year	Make	Model	Body Style	Vehicle ID #

3. (a) Initial Charges, consisting of
☐ Capitalized Cost Reduction ☐ Trade-in Allowance $ _____
☐ _____

(b) Other Charges Payable at Inception, consisting of
☐ Advance Monthly Payment of _____
☐ Refundable Security Deposit ☐ Delivery Charge $ _____
☐ Registration Fees ☐ _____

Total Payment Due at Inception: $ _____

4. (a) Basic Monthly Payment: $ _____

(b) Other Charges Payable Monthly:
☐ Maintenance ☐ Registration Fees $ _____
☐ Insurance ☐ _____

Total Monthly Payment: $ _____

5. Term of this lease: _____
The first monthly payment of $ _____ is due on _____;
_____ subsequent payments of $ _____ on the _____ of each month thereafter.

6. Total of Basic Monthly Payments: $ _____

7. Total of Other Charges Payable to Lessor:
☐ Disposition $ _____ ☐ Maintenance $ _____
☐ _____ $ _____ $ _____

8. Fees and Taxes
Total amount you will pay during the term for official fees, registration, certificate of title, license fees and taxes. $ _____

9. Insurance
The following types and amounts of insurance will be acquired in connection with this lease: _____

☐ We (lessor) will provide the insurance coverage quoted above for a total premium cost of $ _____.
☐ You (lessee) agree to provide insurance coverage in the amounts and types indicated above. $ _____

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10. Estimated _____ value of the vehicle at the end of the lease term: (Your liability for this sum may be limited. See Item 14.) $_____

11. Total Lease Obligation: (Items 3(a), 6 and 10.) $_____

12. Initial Value of Vehicle: $_____

13. Difference: (Item 11 less Item 12.) $_____

14. End of Term Liability

(a) The estimated value of the vehicle stated in Item 10 is based on a reasonable, good faith estimate of the value of the vehicle at the end of the lease term. If the actual value of the vehicle at that time is greater than the estimated value, you will have no further liability under this lease, except for other charges already incurred [and are entitled to a credit or refund of any surplus].

If the actual value of the vehicle is less than the estimated value, you will be liable for any difference up to $_____ (3 times Item 4(a)). For any difference in excess of that amount, you will be liable only if

1. Excessive use or damage [as described in Item 15] [representing more than normal wear and tear] resulted in an unusually low value at the end of the term.

2. You voluntarily agree with us after the end of the lease term to make a higher payment.

3. The matter is not otherwise resolved and we win a lawsuit against you seeking a higher payment.

Should we bring a lawsuit against you, we must prove that our original estimate of the value of the leased property at the end of the lease term was reasonable and was made in good faith. For example, we might prove that the actual value was less than the original estimated value, although the original estimate was reasonable, because of an unanticipated decline in value for that type of vehicle.

Unless we prove that the excess amount owed was the result of excessive use or unreasonable wear and tear, we will pay your reasonable attorney's fees.

(b) If you disagree with the value we assign to the vehicle, you may obtain, at your own expense, from an independent third party agreeable to both of us, a professional appraisal of the _____ value of the leased vehicle which could be realized at sale. The appraised value shall then be used as the actual value.

15. Standards for Wear and Use

The following standards are applicable for determining unreasonable or excessive wear and use of the leased vehicle: _____

16. Maintenance

[You are responsible for the following maintenance and servicing of the leased vehicle: _____.]

[We are responsible for the following maintenance and servicing of the leased vehicle: _____.]

17. Warranties

The leased vehicle is subject to the following express warranties: _____

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18. Early Termination and Default

(a) You may terminate this lease before the end of the lease term under the following conditions: _____

The charge for such early termination is _____

(b) We may terminate this lease before the end of the lease term under the following conditions: _____

Upon such termination we shall be entitled to the following charge(s) for _____

(c) To the extent these charges take into account the value of the vehicle at the end of the lease term, you have the same right to a professional appraisal as that stated in Item 14(b).

19. Security Interest

We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: _____

20. Late Payments

The charge for late payments is _____

21. Option to Purchase

[You have an option to purchase the leased vehicle at the following times: _____

If at the end of the term, the price will be $_____.

If prior to the end of the term, the price will be $_____.]

[You have no option to purchase the leased vehicle.]

INSTRUCTIONS FOR COMPLETION OF § 226.1501—OPEN-END OR FINANCE VEHICLE LEASE DISCLOSURE STATEMENT

GENERAL INSTRUCTIONS

Completion of this form may be facilitated by reference to the following instructions. Any question as to the permissibility or accuracy of a specific disclosure may be answered by reference to Regulation Z, 12 CFR Part 226. Parenthetical citations are to Regulation Z.

Information which is required to be disclosed may be estimated if the information is unknown or unavailable, provided that the information is clearly identified as an estimate and the estimate is based on the best information available and is reasonable (§ 226.6(f)).

Any inapplicable disclosures should be deleted. This form is based on a monthly periodic payment. Any lessor whose lease contemplates a different payment period should change the form where it refers to "monthly" amounts to read "weekly" or other time period, as appropriate.

All numerical amounts must be stated in figures and shall be printed in not less than the equivalent of ten point type or elite typewritten numerals or legibly handwritten (§ 226.6(a)). Paragraph numbers need not be printed in ten point type or its equivalent.

SPECIFIC INSTRUCTIONS

Item 1. The disclosures must be made on a written dated statement. All lessors and lessees must be identified by name (§ 226.15(a)). If, for example, one person arranges the lease and another person enters into the lease, both must be identified as lessors (§ 226.2(h) and (oo)). An address may augment the identification but need not be supplied as part of the disclosure form.

Item 2. This disclosure provides a brief description of the leased property (§ 226.15(b)(1)). Lessors may include a more detailed description including, for example, special accessories. There is no requirement that a vehicle identification number for the vehicle be disclosed.

Item 3. This disclosure shows the total amount of any initial payment the customer must make when the lease is entered into (§ 226.15(b)(2)). The components of the initial payment must be identified and may, at the lessor's option, be itemized with respect to dollar amount.

This item is divided into two distinct parts. The items identified in 3(a) are those which are included in the calculation of the "Total Lease Obligation." Those which appear in 3(b) are not included in the "Total Lease Obligation." For convenient reference and to provide the customer with the total amount due at the inception of the lease, subtotals for 3(a) and 3(b) are provided as well as a combined total of 3(a) and 3(b) (shown as "Total Payment Due at Inception").

The term "Capitalized Cost Reduction" is used to indicate a payment in the nature of a downpayment which reduces the value of the leased vehicle to be amortized over the term of the lease.

The "Advance Monthly Payment" is the total of all amounts collected at the inception of the lease which are to be attributed to a monthly payment(s). For example, if the first month's rental payment is collected at the inception, the form might read "Advance Monthly Payment of the first month's rent" or a similar phrase. If the last month's payment, or any other payment in the nature of rental for a portion of the term, is collected at the inception, appropriate language should be provided to describe the

components of the "Advance Monthly Payment."

Checklists are provided for both 3(a) and 3(b) to aid in identifying their components. Blank spaces and check boxes are provided to identify any other elements which are to be included in these items.

Item 4. This item discloses the payment the lessee must make each payment period. This item is divided into two parts. The terms in 4(a) are those portions of each payment which are included in the computation of the "Total Lease Obligation." This item includes sales/use taxes paid on the periodic (monthly) payment. The terms in 4(b) are not included in the "Total Lease Obligation." For convenient reference and to provide the customer with the total amount of each payment, subtotals are provided for 4(a) and 4(b) as well as the combined total of 4(a) and 4(b) (shown as the "Total Monthly Payment"). The components of 4(a) and 4(b) may be itemized as to dollar amount.

Item 5. This item discloses the term of the lease, the date of the first periodic payment and the dates or periods of all subsequent periodic payments. The blank spaces should be filled in with the appropriate terms. For example, after the phrase "Term of this lease:" The lessor may place the words "24 months" or "April 2, 1977, through April 2, 1979," as appropriate. In the blank spaces provided after the phrase "The first monthly payment of:" should be the appropriate amount and date. The first monthly payment may be part or all of the "Advance Monthly Payment" disclosed under 3(b). The phrase "subsequent payments of" should be preceded by the appropriate number of payments and followed with the appropriate terms, such as "$100.00 on the 2d of each month thereafter."

Item 6. This item discloses the total of the basic monthly payments payable over the term of the lease. This figure is computed by multiplying the basic monthly payment from Item 4(a) by the number of subsequent payments in Item 5 and adding to the product the basic portion of the first monthly payment. This figure will be used in computing the "Total Lease Obligation."

Item 7. This item discloses the total of other charges payable to the lessor (§ 226.15 (b)(5)). This excludes charges for official fees, taxes, insurance and charges disclosed as totals under other items. The individual components must be identified and itemized as to amount. A blank check box is provided in order to add to the list, as necessary.

Item 8. This item discloses the total amount to be paid by the lessee during the lease term for taxes and other official fees (§ 226.15(b)(4)).

Item 9. This item requires disclosure of the types and amounts of insurance coverage, with their total premium cost, if the insurance is provided by the lessor (§ 226.15 (b)(6)(i)). In the alternative, only the types and amounts of coverage required of the lessee must be disclosed if the lessee provides the insurance coverage (§ 226.15(b)(6)(ii)). The disclosure is to be completed by identifying the types and amounts of insurance coverage following the colon at the end of the first sentence. If the lessor is to provide the coverage the top check box should be filled in and the total premium cost indicated in the blank space provided. Otherwise the bottom check box should be filled in.

Item 10. This item provides for disclosure of the estimated value of the leased vehicle at the end of the term, an element of the "Total Lease Obligation" (§ 226.15(b)(15)(i)). The reference to Item 14 is to call the lessee's attention to the qualifying disclosures in that item required by §§ 226.15 (b)(14) and 226.15(b)(15) (ii) and (iii). A blank space is provided in which to indicate whether the value shown is, for example, "retail" or "wholesale" value.

Items 11, 12 and 13. These items provide for disclosure of the difference between the "Total Lease Obligation" and the vehicle's value at the inception of the lease. The definition of "Total Lease Obligation" (§ 226.2 (rr)) is the sum of any initial charges (Item 3(a)), the total of basic monthly payments (Item 6) and the estimated value of the property at the end of the term (Item 10). The Board has indicated it does not consider items such as refundable security deposits and insurance premiums to be amounts properly includable in the "Total Lease Obligation." 41 FR 45537.

Item 14. This item provides disclosures with respect to the lessee's liability at the end of the lease term. The bracketed phrase in the second sentence is appropriate only where the lessee will be given any surplus resulting from the disposition. Item 14(a) implements, in lay language, the disclosures required by § 226.15(b)(15) (ii) and (iii). The lessor may, in Item 14(a)1, reference the standards set forth in Item 15, if the lessor set such standards. If the lessor does not set standards for wear and use, the second bracketed phrase should be used. Item 14(b) discloses the lessee's right to an independent appraisal required by § 226.15(b)(14). The blank space in Item 14(b) is provided to indicate whether the value of the appraisal should be, for example, "wholesale" or "retail." This item should be consistent with the type of value used in Item 10.

Item 15. This item discloses reasonable standards for wear and use established by the lessor. The lessor is permitted but not required to set such standards. Therefore, the disclosure may be omitted by lessors who do not set standards for wear and use (§ 226.15 (b)(8)).

Item 16. This item provides for disclosure of the maintenance and servicing responsibilities (§ 226.15(b)(8)). These responsibilities may be allocated either to the lessor or to the lessee, or may be divided between them.

Item 17. This item discloses all express warranties on the leased property made by the manufacturer or lessor and available to the lessee (§ 226.15(b)(7)). A brief identification of the warranty must be supplied. A reference to the standard manufacturer's warranty, for example, would suffice.

Item 18. This item discloses the conditions under which the lessee may terminate the lease prior to the end of the lease term. It also discloses the amount or method of determining the amount of the charge which the lessee must pay for early termination (§ 226.15(b)(12)). This item should disclose the conditions under which the lessor may terminate the lease prior to the end of the term, such as default. This item should also be used to disclose the amount or method of determining the amount of any default charges (§ 226.15(b)(10)). The charges or method of determining the charges for early termination by the lessor other than for lessee's default should be separately specified in this item.

Item 19. This disclosure of the security taken must include, in the space provided,

a brief identification of the types of security interests and an identification of the property covered by each (§ 226.15(b)(9)).

Item 20. This disclosure indicates the amount or method of determining the amount of any charges for late payment (§ 226.15(b)(10)).

Item 21. This item provides alternative disclosures covering the several options a lessor may offer to a lessee to purchase the leased property. A lessor should use the disclosures applicable to the lease plan used. For example, if no option to purchase is offered, only the last sentence of the item should be used. If the lessor offers an option to purchase, the times at which it may be exercised must be supplied. The price must be disclosed for an option exercised at the end of the term and the price or method of computing the price for an option exercised during the lease term must be supplied (§ 226.15(b)(11)).

§ 226.1502 Closed-end or net vehicle lease disclosure statement.

Date _____

These disclosures are provided pursuant to the Federal Consumer Leasing Act.

1. LESSOR(S) _____ LESSEE(S) _____

2. Description of leased property

Year	Make	Model	Body Style	Vehicle ID #

3. Total Payment Due at Inception: $ _____
   - ☐ Capitalized Cost Reduction
   - ☐ Trade-in Allowance
   - ☐ Advance Monthly Payment of _____
   - ☐ Refundable Security Deposit
   - ☐ Delivery Charge
   - ☐ Registration Fees
   - ☐ _____

4. Term of this lease:
   The first monthly of payment of $ _____ is due on _____;
   _____ subsequent payments of $ _____ on the _____ of each month thereafter.

5. Total Monthly Payment: $ _____

6. Total of Monthly Payments: $ _____

7. Total of Other Charges Payable to Lessor: $ _____
   - ☐ Disposition $ _____
   - ☐ Maintenance $ _____
   - ☐ _____ $ _____

8. Fees and Taxes
   Total amount you will pay during the term for official fees, registration, certificate of title, license fees and taxes. $ _____

9. Insurance
   The following types and amounts of insurance will be acquired in connection with this lease: _____
   - ☐ We (lessor) will provide the insurance coverage quoted above for a total premium cost of $ _____.
   - ☐ You (lessee) agree to provide insurance coverage in the amounts and types indicated above.

   $ _____

10. Standards for Wear and Use
    The following standards are applicable for determining unreasonable or excessive wear and use of the leased vehicle: _____

11. Maintenance
    [You are responsible for the following maintenance and servicing of the leased vehicle: _____.]
    [We are responsible for the following maintenance and servicing of the leased vehicle: _____.]

12. Warranties
    The leased vehicle is subject to the following express warranties: _____

13. Early Termination and Default
    (a) You may terminate this Lease before the end of the lease term under the following conditions: _____
    The charge for such early termination is _____
    (b) We may terminate this lease before the end of the lease term under the following conditions: _____
    Upon such termination we shall be entitled to the following charge(s) for _____
    (c) To the extent that these charges take into account the value of the vehicle at the end of the lease term, if you disagree with the value we assign to the vehicle, you may obtain at your own expense, from an independent third party agreeable to both of us, a professional appraisal of the _____ value of the leased vehicle which could be realized at sale. The appraised value shall then be used as the actual value.

14. Security Interest
    We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: _____

15. Late Payments
    The charge for late payments is _____

16. Lessee's Option to Purchase
    [You have an option to purchase the leased vehicle at the following times: _____
    If at the end of the term, the price will be $ _____.
    If prior to the end of the term, the price will be $ _____.]

    [You have no option to purchase the leased vehicle.]

INSTRUCTIONS FOR COMPLETION OF § 226.1502—CLOSED-END OR NET VEHICLE LEASE DISCLOSURE STATEMENT

GENERAL INSTRUCTIONS

Completion of this form may be facilitated by reference to the following instructions. Any question as to the permissibility or accuracy of a specific disclosure may be answered by reference to Regulation Z, 12 CFR Part 226. Parenthetical citations are to Regulation Z.

Information which is required to be disclosed may be estimated if the information is unknown or unavailable, provided that the information is clearly identified as an estimate and the estimate is based on the best information available and is reasonable (§ 226.6(f)).

Any inapplicable disclosures should be deleted. This form is based on a monthly periodic payment. Any lessor whose lease contemplates a different payment period should change the form where it refers to "monthly"

amounts to read "weekly" or other time period, as appropriate.

All numerical amounts must be stated in figures and shall be printed in not less than the equivalent of ten point type or elite typewritten numerals or legibly handwritten (§ 226.6(a)). Paragraph numbers need not be printed in ten point type or its equivalent.

SPECIFIC INSTRUCTIONS

Item 1. The disclosures must be made on a written dated statement. All lessors and lessees must be identified by name (§ 226.15 (a)). If, for example, one person arranges the lease and another person enters into the lease, both must be identified as lessors (§ 226.2 (h) and (oo)). An address may augment the identification but need not be supplied as part of the disclosure form.

Item 2. This disclosure provides a brief description of the leased property (§ 226.15 (b)(1)). Lessors may include a more detailed description including, for example, special accessories. There is no requirement that a vehicle identification number for the vehicle be disclosed.

Item 3. This disclosure shows the total amount of any initial payment the customer must make when the lease is entered into (§ 226.15(b)(2)). The components of the initial payment must be identified and may, at the lessor's option, be itemized with respect to dollar amount.

The term "Capitalized Cost Reduction" is used to indicate a payment in the nature of a downpayment which reduces the value of the leased vehicle to be amortized over the term of the lease.

The "Advance Monthly Payment" is the total of all amounts collected at the inception of the lease which are to be attributed to a monthly payment(s). For example, if the first month's rental payment is collected at the inception, the form might read "Advance Monthly Payment of the first month's rent" or a similar phrase. If the last month's payment, or any other payment in the nature of rental for a portion of the term, is collected at the inception, appropriate language should be provided to describe the components of the "Advance Monthly Payment."

Checklists are provided to aid in identifying the components. Blank spaces and check boxes are provided to identify any other elements which are to be included in this item.

Item 4. This item discloses the term of the lease, the date of the first periodic payment and the dates or periods of all subsequent periodic payments. The blank spaces should be filled in with the appropriate terms. For example, after the phrase "Term of this lease:" the lessor may place the words "24 months" or "April 2, 1977, through April 2, 1979," as appropriate. In the blank spaces provided after the phrase "The first monthly payment of:" should be the appropriate amount and date. The first monthly payment may be part or all of the "Advance Monthly Payment" disclosed under Item 3. The phrase "subsequent payments of" should be preceded by the appropriate number of payments and followed with the appropriate terms, such as "$100.00 on the 2d of each month thereafter."

Item 5. This item discloses the payment the lessee must make each payment period (§ 226.15(b)(3)). The component parts of the "Total Monthly Payment" may but need not be identified and itemized as to amount.

Item 6. This item discloses the total of the monthly payments payable over the term of the lease (§ 226.15(b)(3)). This figure is computed by multiplying the monthly payment from Item 5 by the number of subsequent payments in Item 4 and adding the first monthly payment to the product.

Item 7. This item discloses the total of other charges payable to the lessor (§ 226.15 (b)(5)). This excludes charges for official fees, taxes, insurance and charges disclosed as totals under other items. The individual components must be identified and itemized as to amount. A blank check box is provided in order to add to the list, as necessary.

Item 8. This item discloses the total amount to be paid by the lessee during the lease term for taxes and other official fees (§ 226.15(b)(4)).

Item 9. This item requires disclosure of the types and amounts of insurance coverage, with their total premium cost, if the insurance is provided by the lessor (§ 226.15(b) (6)(i)). In the alternative, only the types and amounts of coverage required of the lessee must be disclosed if the lessee provides the insurance coverage (§ 226.15(b)(6)(ii)). The disclosure is to be completed by identifying the types and amounts of insurance coverage following the colon at the end of the first sentence. If the lessor is to provide the coverage the top check box should be filled in and the total premium cost indicated in the blank space provided. Otherwise the bottom check box should be filled in.

Item 10. This item discloses reasonable standards for wear and use established by the lessor. The lessor is permitted but not required to set such standards (§ 226.15(b) (8)). Therefore, the disclosure may be omitted by lessors who do not set standards for wear and use.

Item 11. This item provides for disclosure of the maintenance and servicing responsibilities of the parties (§ 226.15(b)(8)). These responsibilities may be allocated either to the lessor or to the lessee, or may be divided between them.

Item 12. This item discloses all express warranties on the leased property made by the manufacturer or lessor and available to the lessee (§ 226.15(b)(7)). A brief identification of the warranty must be supplied. A reference to the standard manufacturer's warranty, for example, would suffice.

Item 13. This item discloses the conditions under which the lessee may terminate the lease prior to the end of the lease term. It also discloses the amount or method of determining the amount of the charge which the lessee must pay for early termination (§ 226.15(b)(12)). This item should disclose the conditions under which the lessor may terminate the lease prior to the end of the term, such as default. This item should also be used to disclose the amount or method of determining the amount of any default charges (§ 226.15(b)(10)). The charges or method of determining the charges for early termination by the lessor other than for lessee's default should be separately specified in this item. The blank space in 13(c) is provided to indicate whether the appraisal should be, for example, "retail" or "wholesale."

Item 14. This disclosure of the security taken must include, in the space provided, a brief identification of the types of security interests and an identification of the property covered by each (§ 226.15(b)(9)).

Item 15. This disclosure indicates the amount or method of determining the amount of any charges for late payment (§ 226.15(b)(10)).

Item 16. This item provides alternative disclosures covering the several options a lessor may offer to a lessee to purchase the leased property. A lessor should use the disclosures applicable to the lease plan used. For example, if no option to purchase is offered, only the last sentence of the item should be used. If the lessor offers an option to purchase, the times at which it may be exercised must be supplied. The price must be disclosed for an option exercised at the end of the term and the price or method of computing the price for an option exercised during the lease term must be supplied (§ 226.15(b)(11)).

§ 226.1503 Furniture lease disclosure statement.

Date _____

These disclosures are provided pursuant to the Federal Consumer Leasing Act.

1. LESSOR(S) _____ LESSEE(S) _____

2. Description of leased property [is attached].

Item	Color	Stock #	Mfg.	Qty.			

3. Total Payment Due at Inception: $ _____
   ☐ Refundable Security Deposit ☐ Delivery Charge
   ☐ Advance Monthly Payment of _____ ☐ _____

4. Term of this lease: _____
   The first monthly payment of $ _____ is due on _____;
   _____ subsequent payments of $ _____ on the _____ of each month thereafter.

5. Total Monthly Payment: $ _____

6. Total of Monthly Payments: $ _____

7. Total of Other Charges Payable to Lessor: $ _____
   ☐ Pick-up charge $ _____ ☐ _____ $ _____

8. Fees and Taxes
   Total amount you will pay during the term for official fees and taxes. $ _____

9. Insurance
   You (lessee) agree to provide insurance coverage of the following types
   ☐ in the following amounts: _____.
   We (lessor) will provide the following types and amounts of insurance
   ☐ coverage: _____.
   Total premium cost: $ _____

☐ You agree to pay a waiver fee of $ _____ per month in lieu of insurance.
Total Waiver Fee: $ _____

10. Maintenance
[You are responsible for the following maintenance of the leased property: _____.]
[We are responsible for the following maintenance of the leased property: _____.]

11. Warranties
The leased property is subject to the following express warranties: _____.

12. Standards for Wear and Use
The following standards are applicable for determining unreasonable or excessive wear and use of the leased property: _____.

13. Early Termination and Default
(a) You may terminate this lease before the end of the lease term under the following conditions: _____.
The charge for such early termination is _____.
(b) We may terminate this lease before the end of the lease term under the following conditions: _____.
Upon such termination we shall be entitled to the following charge(s): _____.

14. Security Interest
We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: _____.

15. Late Payments
The charge for late payments is _____.

16. Option to Purchase
[You have an option to purchase any or all items of the leased property at the following times: _____.
If at the end of the term, the price will be $ _____.
If prior to the end of the, term the price will be $ _____.]

[You have no option to purchase the leased property.]

INSTRUCTIONS FOR COMPLETION OF § 226.1503—FURNITURE LEASE DISCLOSURE STATEMENT

GENERAL INSTRUCTIONS

Completion of this form may be facilitated by reference to the following instructions. Any question as to the permissibility or accuracy of a specific disclosure may be answered by reference to Regulation Z, 12 CFR Part 226. Parenthetical citations are to Regulation Z.

Information which is required to be disclosed may be estimated if the information is unknown or unavailable: *Provided*, That the information is clearly identified as an estimate and the estimate is based on the best information available and is reasonable (§ 226.6(f)).

Any inapplicable disclosures should be deleted. This form is based on a monthly periodic payment. Any lessor whose lease contemplates a different payment period

should change the form where it refers to "monthly" amounts to read "weekly" or other time period, as appropriate.

All numerical amounts must be stated in figures and shall be printed in not less than the equivalent of ten point type or elite typewritten numerals or legibly handwritten (§ 226.6(a)). Paragraph numbers need not be printed in ten point type or its equivalent.

SPECIFIC INSTRUCTIONS

Item 1. The disclosures must be made on a written dated statement. All lessors and lessees must be identified by name (§ 226.15(a)). If, for example, one person arranges the lease and another person enters into the lease, both must be identified as lessors (§ 226.2 (h) and (oo)). An address may augment the identification but need not be supplied as part of the disclosure form.

Item 2. This disclosure provides a brief description of the leased items (§ 226.15(b)(1)). In the left column the name of the item should appear. The relevant entry should be made in the appropriate box in the columns to the right of the names of the items as indicated by the column headings. All of the descriptive elements in the column headings, except the one labeled "Item," are examples only. Those which are inapplicable to a lease plan may be deleted. Other descriptive column headings may be added (as indicated by the blank columns) if the lessor desires.

Item 3. This disclosure shows the total amount of any initial payment the customer must make when the lease is consummated (§ 226.15(b)(2)). The components of the initial payment must be identified and may, at the lessor's option, be itemized with respect to dollar amount. Additional components may be added to the list, as necessary, by use of the blank check box.

The "Advance Monthly Payment" is the total of all amounts collected at the inception of the lease which are to be attributed to a monthly payment(s). For example, if the first month's rental payment is collected at the inception, the form might read "Advance Monthly Payment of the first month's rent" or a similar phrase. If the last month's payment, or any other payment in the nature of rental for a portion of the term, is collected at the inception, appropriate language should be provided to describe the components of the "Advance Monthly Payment."

Item 4. This item discloses the term of the lease, the date of the first periodic payment and the dates or periods of all subsequent periodic payments. The blank spaces should be filled in with the appropriate terms. For example, after the phrase "Term of this lease:" the lessor may place the words "24 months" or "April 2, 1977, through April 2, 1979," as appropriate. In the blank spaces provided after the phrase "The first monthly payment of:" Should be the appropriate amount and date. The first monthly payment may be part or all of the "Advance Monthly Payment" disclosed under Item 3. The phrase "subsequent payments of" should be preceded by the appropriate number of payments and followed with the appropriate terms, such as "$100.00 on the 2d of each month thereafter."

Item 5. This item discloses the payment the lessee must make each month (§ 226.15(b)(3)). The component parts of the monthly payment may but need not be itemized as to amount.

Item 6. This item discloses the total of the monthly payments payable over the term of the lease. This figure is computed by multiplying the amount of the monthly payment in Item 5 by the number of subsequent payments in Item 4 and adding to that product the amount of the first monthly payment.

Item 7. This item discloses the total of other charges payable to the lessor (§ 226.15(b)(5)). This excludes charges for official fees, taxes, insurance and charges disclosed as totals under other items. The individual components must be identified and itemized as to amount. A blank check box is provided in order to add to the list, as necessary.

Item 8. This item discloses the total amount to be paid by the lessee during the lease term for taxes and other official fees (§ 226.15(b)(4)).

Item 9. This item provides alternative methods of disclosing insurance coverage. It provides a disclosure for situations in which the lessee provides the coverage, in which case the types and amounts of coverage must be specified (§ 226.15(b)(6)(ii)). It provides a disclosure for situations in which the lessee procures coverage through the lessor, in which case the types, amounts and costs of coverage must be specified (§ 226.15(b)(6)(i)). It also provides for disclosure of a fee in lieu of insurance.

Item 10. This item provides for disclosure of the maintenance and servicing responsibilities of the parties (§ 226.15(b)(8)). These responsibilities may be allocated either to the lessor or to the lessee, or may be divided between them.

Item 11. This item discloses all express warranties applicable to the leased property made by the manufacturer or lessor and available to the lessee (§ 226.15(b)(7)). A brief identification of the warranty must be supplied. A reference to the standard manufacturer's warranty would suffice.

Item 12. This item discloses standards for wear and use established by the lessor. The lessor is permitted, but not required, to set such standards (§ 226.15(b)(8)).

Item 13. This item discloses the conditions under which the lessee may terminate the lease prior to the end of the lease term. It also discloses the amount or method of determining the amount of the charge which the lessee must pay for early termination (§ 226.15(b)(12)). This item should disclose the conditions under which the lessor may terminate the lease prior to the end of the term, such as default. This item should also be used to disclose the amount or method of determining the amount of any default charges (§ 226.15(b)(10)). The charges or method of determining the charges for early termination by the lessor other than for lessee's default should be separately specified in this item. The blank space in 13(c) is provided to indicate whether the appraisal should be, for example, "retail" or "wholesale."

Item 14. This disclosure of the security taken must include, in the space provided, a brief identification of the types of security interests and an identification of the property covered by each such interest (§ 226.15(b)(9)).

Item 15. This disclosure indicates the amount or method of determining the amount of any charges for late payment (§ 226.15(b)(10)).

Item 16. This item provides alternative disclosures covering the several options a lessor may offer to a lessee to purchase the leased property. A lessor should use the disclosures applicable to the lease plan used. For example, if no option to purchase is offered, only the last sentence of the item should be used. If the lessor offers an option to purchase, the times at which it may be exercised must be supplied. The price must be disclosed for an option exercised at the end of the term and the price or method of computing the price for an option exercised during the lease term must be supplied (§ 226.15(b)(11)).

(Interpret and apply 12 CFR Part 226.15.)

By order of the Board of Governors of the Federal Reserve System, February 17, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-5733 Filed 2-24-77;8:45 am]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Surety Bond and Insurance Coverage

On pages 39771–39772 of the September 16, 1976, edition of the FEDERAL REGISTER (41 FR 39771–39772) there was published a proposal to revised § 701.20 (12 CFR 701.20). The purpose of the proposed revision was to clarify (i) the degree of surety bond protection required of Federal credit unions and (ii) the maximum extent to which deductibles may be used by Federal credit unions. Interested persons were given until October 31, 1976, to submit written comments, suggestions, or objections regarding the proposal. All comments, suggestions, and objections which were submitted have been carefully examined. The following substantive comments are those which have been utilized in the finalization of this regulation.

In respect to paragraph (e), it was brought to our attention that there was no time period specified in which a Federal credit union would be required to obtain higher surety bond coverage after it discovered that its current limits were inadequate to meet the amount of its cash fund on hand. In response to this comment, it has been determined that a reasonable time period should be set forth in order to clarify this procedural oversight. Further, a technical change has been made to the wording of paragraph (e). This change was made solely for the sake of clarity. Also, in paragraph (e), and in paragraph (f), the word "coverage" has been replaced with the word "limits." This change in wording is consistent with insurance industry usage.

In response to various commentators, the $5,000,000 figure in footnote two of the table in paragraph (f) has been changed to $50,000,000 in order to rectify an error in publication.

Paragraph (g) of the final regulation is new and replaces paragraph (h) of the proposed regulation. It was drafted in response to those comments which noted that the proposed paragraph (h) was ambiguous and would result in problems of practical application. If the minimum limits specified in paragraph (f) were applicable to "all surety clauses and to all insuring clauses, and subsequently issued riders," as specified in the proposed regulation, many of the optional coverages available would be well below the limits specified in paragraph (f). To alleviate this problem and to safeguard a Federal credit union's interest in adequate surety bond protection, the new regulation provides that the minimum limits of paragraph (f) apply only to the minimum required surety bond coverage

approved by the Administrator as specified in paragraph (c) (that being Credit Union Blanket Bond, Standard Form No. 23 of the Surety Association of America (revised to May 1950), plus Faithful Performance Rider (revised May 1950)), or the equivalent of such coverage existing in those NCUA optional Forms approved presently or in the future by the Administrator pursuant to paragraph (c) of this regulation. The coverages of those optional forms listed in paragraph (c) and those approved in the future by the Administrator which are not equivalent to Form 23 plus the Faithful Performance Rider are not subject to the minimum limits of paragraph (f). A Federal credit union, therefore, is permitted to determine for itself the amount and extent of the optional coverage desired except when it is required under paragraph (i).

An additional change has been made in paragraph (g) requiring approval by the Administrator of any requests for reduced limits below those minimum limits in paragraph (f) which are mandatory for all required coverage. The proposed paragraph (h) provided that the request would be deemed approved by the Administrator if he makes no objection within the 60 day period noted in that paragraph. This procedure is unacceptable as the failure to receive such request without fault on behalf of the National Credit Union Administration could result in approval of the requested reduction.

Paragraph (g) of the proposed regulation is now paragraph (h). The subject of paragraph (h) concerns maximum deductible limits which can be applied to the required minimum coverages mandated by paragraph (c). The maximum deductible limit specified in this paragraph is not applicable to optional coverages. Consequently, the Federal credit union is free to determine what size deductible, if any, it wishes to have on all optional coverages. The above should not be interpreted to require a deductible, rather it simply establishes the maximum limit allowable. Needless to say, a deductible may be less than the maximum allowed by the table. Two minor changes also have been made in this paragraph. First, the word "certain" which appeared in its first sentence has been deleted. Second, the phrase "lack of faithful performance" has replaced the phrase "faithful performance."

In reference to paragraph (i), a change has been made clarifying the Administrator's authority to require a Federal credit union to obtain additional coverage when he finds that the insuring or surety clauses which make up its surety bond provide inadequate coverage. This change consists of the deletion of the word "surety" which precedes the phrase "coverage and it shall be * * *."

It should be noted that the majority of the comments received were most helpful. As a result of the comments received, the following deletions and inclusions have been made:

(1) Section 701.20(e) is amended:

(a) By adding to the beginning of the paragraph between "Where" and "daily" the phrase "a Federal credit union's" in lieu of the word "the";

(b) By deleting the phrase "of a Federal credit union" after the first parenthetical phrase and before the word "exceeds";

(c) By deleting the word "coverage," and inserting in lieu thereof the word "limits"; and

(d) By adding at the end of the paragraph the language, "such increased limits must be obtained no more than 30 days after the discovery of the need for such increase."

(2) Section 701.20(f) is amended:

(a) By deleting the word "Coverage" in the heading above the Table of Minimum Requirements and inserting in lieu thereof the word "Limits"; and

(b) By deleting the figure "$5,000,000" in footnote two to the schedule of minimum requirements and inserting in lieu thereof the figure "$50,000,000."

(3) Section 701.20(g) is amended:

(a) By deleting the entire proposed paragraph and inserting in lieu thereof the language, "The minimum limits specified in paragraph (f) shall be deemed to apply to those surety and insuring clauses contained in Credit Union Standard Form No. 23 of the Surety Association of America (revised to May 1950), such coverage being the minimum coverage required by paragraph (c), above. Coverage equivalent to the above standard form and rider provided in Credit Union Blanket Bonds-NCUA Optional Forms 576, 577, 578, 579, 580, and 581, or any other optional form approved in accordance with paragraph (c), above, must also conform with the minimum limits set forth in paragraph (f). Any additional coverage contained in an approved optional form is not subject to paragraph (f). Any proposal for reduced limits on any of the above surety or insuring clauses must be approved by the Administrator at least 20 days in advance of the proposed effective date."

(4) Section 701.20(h) is amended:

(a) by deleting the proposed paragraph and inserting in lieu thereof the language, "Maximum deductible limits may be applied to the minimum required coverage contained in Form No. 23 of the Surety Association of America (revised to May 1950), and equivalent coverage contained in NCUA Optional Forms 576, 577, 578, 579, 580, and 581, or any other optional form approved in accordance with paragraph (c), above, as specified in the table below. Any additional coverage contained in an approved optional form is not subject to this paragraph. Deductibles in excess of those shown in the table must be approved by the Administrator in writing at least 20 days prior to the effective date of such deductibles. In no event shall any deductible be applied to those provisions of the bond which protect the credit union against loss due to dishonesty or lack of faithful performance of an employee.

Assets:	*Maximum deductible*
$0 to $100,000	(1)
$100,001 to $250,000	$500
$250,001 to $500,000	750
$500,001 to $750,000	1,000
$750,001 to $1,000,000	1,500
$1,000,001 to $2,000,000	2,000
$2,000,001 to $3,000,000	3,000
$3,000,001 to $5,000,000	4,000
Over $5,000,000	5,000

(1) No deductible.

(5) Section 701.20(i) is amended:

(a) By deleting the word "surety" between the words "adequate" and "coverage."

Accordingly, with the above changes the proposed revision is adopted as set forth below.

Effective February 25, 1977.

C. AUSTIN MONTGOMERY,
Administrator.

FEBRUARY 16, 1977.

§ 701.20 Surety bond and insurance coverage for Federal credit unions.

(a) The board of directors of each Federal credit union shall, at least semi-annually, carefully review the bond and insurance coverage in force in order to ascertain its adequacy in relation to the exposure and to the minimum requirements fixed from time to time by the Administrator.

(b) All surety bonds must provide faithful performance-of-duty coverage for any officer or employee while performing any of the duties of the treasurer as prescribed in the Act, the Bylaws, or Rules and Regulations of the Administration.

(c) No form of surety bond shall be used except as is aproved by the Administrator. Credit Union Blanket Bond, Standard Form No. 23 of the Surety Association of America (revised to May 1950), plus Faithful Performance Rider (for use with this form to broaden clause (a)) (revised to May 1950) shall be considered as the minimum coverage required and is hereby approved. Credit Union Blanket Bonds-NCUA Optional Forms 576, 577, 578, 579, 580, and 581 are also approved. No other bond form may be used unless specifically approved in writing by the Administrator. No form of surety bond is approved for use by a Federal credit union having its office outside of the continental United States unless by the terms of the bond or by an appropriate rider attached thereto the provisions of the bond are made applicable within the jurisdiction in which the office of such Federal credit union is located.

(d) All sureties writing Federal credit union bonds must hold a certificate of authority from the Secretary of the Treasury under the act of Congress approved July 30, 1947, (6 U.S.C. secs. 6–13), as an acceptable surety on Federal bonds in the state or jurisdiction concerned.

(e) Where a Federal credit union's daily cash fund (change fund plus maximum anticipated receipts) exceeds the minimum limits specified in paragraph (f) of this section, the minimum limits

of that Federal credit union shall be increased to be equal to such expected daily cash fund. Such increased limits must be obtained no more than 30 days after the discovery of the need for such increase.

(f) The following schedule shall be deemed as the minimum requirements only:

Assets:	Minimum limit
$0 to $5,000	$1,000
$5,001 to $10,000	2,000
$10,001 to $20,000	4,000
$20,001 to $30,000	6,000
$30,001 to $40,000	8,000
$40,001 to $50,000	10,000
$50,001 to $75,000	15,000
$75,001 to $100,000	20,000
$100,001 to $150,000	30,000
$150,001 to $200,000	40,000
$200,001 to $300,000	50,000
$300,001 to $400,000	60,000
$400,001 to $500,000	70,000
$500,001 to $750,000	85,000
$750,001 to $1,000,000	100,000
$1,000,001 to $50,000,000	[1] 100,000
$50,000,001 to $150,000,000	[2] 2,500,000
Over $150,000,000	5,000,000

[1] Plus $50,000 for each million or fraction thereof of assets over $1,000,000.

[2] Plus $25,000 for each million or fraction thereof of assets over $50,000,000.

It shall be the duty of the board of directors of each Federal credit union to provide proper protection to meet any circumstances by obtaining adequate bond and insurance coverage in excess of the above minimum schedule.

(g) The minimum limits specified in paragraph (f) of this section shall be deemed to apply to those surety and insuring clauses contained in Credit Union Blanket Bond, Standard Form No. 23 of the Surety Association of America (revised to May 1950), plus Faithful Performance Rider (revised to May 1950), such coverage being the minimum coverage required by paragraph (c) of this section. Coverage equivalent to the above standard form and rider provided in Credit Union Blanket Bonds-NCUA Optional Forms 576, 577, 578, 579, 580, and 581, or any other optional form approved in accordance with paragraph (c) of this section, must also conform with the minimum limits set forth in paragraph (f) of this section. Any additional coverage contained in an approved optional form is not subject to paragraph (f) of this section. Any proposal for reduced coverage on any of the above surety or insuring clauses must be approved by the Administrator at least 20 days in advance of the proposed effective date.

(h) Maximum deductible limits may be applied to the minimum required coverage contained in Standard Form No. 23 of the Surety Association of America (revised to May 1950) and equivalent coverage contained in NCUA Optional Forms 576, 577, 578, 579, 580, and 581, or any other optional form approved in accordance with paragraph (c) of this section, as specified in the table below. Any additional coverage contained in an approved optional form is not subject to this paragraph. Deductibles in excess of those shown in the table must be approved by the Administrator in writing at least 20 days prior to the effective date of such deductibles. In no event shall any deductible be applied to those provisions of the bond which protect the credit union against loss due to dishonesty or lack of faithful performance of an employee.

Assets:	Maximum deductible
0 to $100,000	[1]
$100,001 to $250,000	$500
$250,001 to $500,000	750
$500,001 to $750,000	1,000
$750,001 to $1,000,000	1,500
$1,000,001 to $2,000,000	2,000
$2,000,001 to $3,000,000	3,000
$3,000,001 to $5,000,000	4,000
Over $5,000,000	5,000

[1] No deductible.

(i) The Administrator may require additional coverage for any Federal credit union when, in his opinion, the surety bonds in force are insufficient to provide adequate coverage and it shall be the duty of the board of directors of the Federal credit union to obtain such additional coverage within 30 days after the date of written notice.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766); Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).)

[FR Doc.77-5757 Filed 2-24-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9035-o]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Kraftco Corp., et al.

Subpart — Interlocking directorates unlawfully: § 13.1106 Interlocking directorates unlawfully.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45); sec. 8, 38 Stat. 732; 49 Stat. 717; (15 U.S.C. 19).)

In the Matter of Kraftco Corporation, a corporation, SCM Corporation, a corporation, and Richard C. Bond, an individual.

Order requiring SCM Corporation, a New York City, producer of margarine, edible oils and barbecue sauce, among other things to cease seating on its board of directors, individuals who simultaneously serve as directors of Kraftco Corporation, or any other companies with whom respondent is in competition.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

The following definitions shall apply in this order:

"Subsidiary" of SCM means any corporation, 50 percent or more of the voting stock of which is owned or controlled, directly or indirectly, by SCM.

"Parent" of SCM means any corporation which owns or controls, directly or indirectly, 50 percent or more of the voting stock of SCM.

"Sister" of SCM means any subsidiary of a parent of SCM.

1. *It is ordered*, That respondent SCM Corporation and its successors and assigns shall forthwith cease and desist from having, and in the future shall not have, on their board of directors any individual who either:

(a) Serves at the same time as a director of Kraftco Corporation, its successors or assigns (so long as Kraftco and SCM Corporation compete in the production or sale of any product or service), or serves at the same time as a director of any other corporation (other than a subsidiary, parent, or sister of SCM) which competes with SCM Corporation in the production or sale of any product or service; or

(b) Fails to submit to SCM Corporation any statement required by Paragraph Two of this order to be obtained by SCM.

2. *It is further ordered*, That within thirty (30) days of the effective date of this order, and prior to each election of directors or prior to the solicitation of proxies for such election, whichever is earlier, SCM Corporation shall obtain a written statement from each member of its board of directors (except directors whose terms expire at the next election and who are not standing for re-election) and from each nominee for a directorship (who is not then a director) showing:

(a) The name and home mailing address of each director or nominee; and

(b) The name and principal office mailing address of, and a listing of each product or service produced or sold by, each corporation which the director or nominee then serves as a director, or has been nominated to serve as a director at the time of the statement.

The requirements of this paragraph shall not apply to elections of directors occurring after five years from the effective date of this order, nor shall directors or nominees be required to list products or services of subsidiaries, sisters, or parents of SCM Corporation.

Nothing in this paragraph shall be construed to relieve respondent of its obligation under Paragraph 1(a) hereto due to any error or omission contained in any written statement received pursuant to this Paragraph.

3. *It is further ordered*, That within forty-five (45) days of the effective date of this order and annually for a period of ten (10) years thereafter, SCM Corporation shall file with the Commission a written report setting forth in detail the manner and form in which it has complied with this order. Copies of the statements obtained pursuant to Paragraph Two of this order shall be submitted to the Commission as part of the reports of compliance required by this paragraph during the first five (5) years. Nothing in this paragraph shall relieve SCM Corporation of its obligation to comply with Paragraphs One and Four of this order once it is no longer required to submit

[1] Copies of the Complaint, Initial Decision, Final Order and Opinion filed with the original document.

reports of compliance to the Commission.

4. *It is further ordered*, That SCM Corporation shall notify the Commission at least thirty (30) days prior to any change in the corporation such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

The Final Order was issued by the Commission January 11, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-5762 Filed 2-24-77;8:45 am]

Title 21—Food and Drugs

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

[Docket No. 75N-0001]

ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

General Provisions; Correction

In FR Doc. 77-2224 appearing at page 4680 in the issue of January 25, 1977, the following corrections are made:

1. In § 2.18 *Dissemination of draft* FEDERAL REGISTER *notices and regulations* on page 4708, in the second column, in the first full paragraph "(1)" should read "(i)"; in the second paragraph "(2)" should read "(ii)"; in the third paragraph "(3)" should read "(iii)"; in the fourth paragraph "(i)" should read "*(a)*"; and in the fifth paragraph "(ii)" should read "*(b)*".

2. On page 4717, in the first column:

a. In § 503.22 *Petitions* on the third line from the top of the page, delete the words "Subpart B of".

b. In § 514.201 *Procedure for hearings*, in the second line of the section, "505" should read "512".

Dated: February 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5689 Filed 2-24-77;8:45 am]

SUBCHAPTER A—GENERAL

[Docket No. 76C-0454]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

Listing of D&C Yellow No. 7 for Use in Externally Applied Drugs and Cosmetics; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is confirming the effective date of December 20, 1976, of an order concerning the use of D&C Yellow No. 7 in externally applied drugs and cosmetics.

DATES: Effective date confirmed as December 20, 1976.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202) 472-5740.

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51003) that added §§ 8.4177 and 8.7257 (21 CFR 8.4177 and 8.7257) to provide for safe use of D&C Yellow No. 7 in externally applied drugs and cosmetics and amended § 8.501 (21 CFR 8.501) by deleting D&C Yellow No. 7 from the provisionally listed colors in paragraph (b). The order also amended the identity nomenclature and specifications for D&C Yellow No. 7 under § 9.130 (21 CFR 9.130) to reference § 8.4177. Further amendments included deletion of reference to D&C Yellow No. 7 in § 8.502(b)(1), deletion of the entry for D&C Yellow No. 7 in the undesignated paragraph that follows § 8.502(b)(3), and deletion of the reference to D&C Yellow No. 7 in § 8.503 (a).

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), notice is given that no objections or requests for hearing were filed in response to the order of November 19, 1976. Accordingly, the amendments promulgated thereby became effective on December 20, 1976.

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5532 Filed 2-24-77;8:45 am]

[Docket No. 76C-0455]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

Listing of D&C Yellow No. 8 For Use in Externally Applied Drugs and Cosmetics; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration in confirming the effective date of December 20, 1976 of an order concerning the use of D&C Yellow No. 8 in externally applied drugs and cosmetics.

DATES: Effective date confirmed as December 20, 1976.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202) 472-5740.

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51004) that added §§ 8.4179 and 8.7259 (21 CFR 8.4179 and 8.7259) to provide for the safe use of D&C Yellow No. 8 in externally applied drugs and cosmetics and amended § 8.501 (21 CFR 8.501) by deleting D&C Yellow No. 8 from the provisionally listed colors in paragraph (b). The order also amended the identity nomenclature and specifications for D&C Yellow No. 8 under § 9.131 (21 CFR 9.131) to reference § 8.4179. Further amendments included deletion of reference to D&C Yellow No. 8 in § 8.502(b)(3), deletion of the entry for D&C Yellow No. 8 in the undesignated paragraph that follows paragraph (b)(3), and deletion of the reference to D&C Yellow No. 8 in § 8.503 (a).

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), notice is given that no objections or requests for hearing were filed in response to the order of November 19, 1976. Accordingly, the amendments promulgated thereby became effective on December 20, 1976.

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5531 Filed 2-24-77;8:45 am]

[Docket No. 76C-0044]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

Listing of D&C Blue No. 4 For Use in Externally Applied Drugs and Cosmetics; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration is confirming the effective date of January 3, 1977 of an order concerning the use of D&C Blue No. 4 in externally applied drugs and cosmetics.

DATES: Effective date confirmed as January 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St., SW., Washington, DC 20204, (202) 472-5740.

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 30, 1976 (41 FR 52444) that added §§ 8.4023 and 8.7034 (21 CFR 8.4023 and 8.7034) to provide for safe use of D&C Blue No. 4 in coloring externally applied drugs and cosmetics. The order also amended the identity and specifications for D&C Blue No. 4 under § 9.240 (21 CFR 9.240) to reference § 8.4023, and it amended § 8.501 (21 CFR 8.501) by deleting D&C Blue No. 4 from

the provisionally listed colors in paragraph (b).

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), notice is given that no objections or requests for hearing were filed in response to the order of November 30, 1976. Accordingly, the amendments promulgated thereby became effective on January 3, 1977.

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5524 Filed 2-24-77;8:45 am]

[Docket No. 76C-0442]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

Listing of D&C Red No. 31 For Use in Externally Applied Drugs and Cosmetics; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is confirming the effective date of December 27, 1976 of an order concerning the use of D&C Red No. 31 in externally applied drugs and cosmetics.

DATES: Effective date confirmed as December 27, 1976.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202) 472-5740.

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 23, 1976 (41 FR 51595) that added §§ 8.4125 and 8.7192 (21 CFR 8.4125 and 8.7192) to provide for safe use of D&C Red No. 31 in externally applied drugs and cosmetics. The order also amended the identity and specifications for D&C Red No. 31 under § 9.176 (21 CFR 9.176) to reference § 8.4125, and it amended § 8.501 (21 CFR 8.501) by deleting D&C Red No. 31 from the provisionally listed colors in paragraph (b).

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), notice is given that no objections or requests for hearing were filed in response to the order of November 23, 1976. Accordingly, the amendments promulgated thereby became effective on December 27, 1976.

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5525 Filed 2-24-77;8:45 am]

[Docket No. 76C-0424]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

Listing of D&C Violet No. 2 For Use in Externally Applied Drugs and Cosmetics; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is confirming the effective date of December 20, 1976 of an order listing D&C Violet No. 2 for use in externally applied drugs and cosmetics.

DATE: Effective date confirmed as December 20, 1976.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202) 472-5740.

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51007) that amended § 8.4152 (21 CFR 8.4152) and added § 8.7222 (21 CFR 8.7222) to provide for safe use of D&C Violet No. 2 in externally applied drugs and cosmetics. The order also amended § 8.501 (21 CFR 8.501) by deleting D&C Violet No. 2 from the provisionally listed colors in paragraph (b) and revised the reference in § 9.270 (21 CFR 9.270) to the identity and specifications for D&C Violet No. 2 given in § 8.4152(a)(1).

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), notice is given that no objections or requests for hearing were filed in response to the order of November 19, 1976. Accordingly, the amendments promulgated thereby became effective on December 20, 1976.

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5529 Filed 2-24-77;8:45 am]

[Docket No. 76C-0432]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

Listing of Ext. D&C Yellow No. 7 for Use in Externally Applied Drugs and Cosmetics; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is confirming the effective date of December 27, 1976 of an order concerning the use of Ext. D&C Yellow No. 7 in externally applied drugs and cosmetics.

DATES: Effective date confirmed as December 27, 1976.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods, (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202) 472-5740.

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 23, 1976 (41 FR 51591) that added §§ 8.4178 and 8.7258 (21 CFR 8.4178 and 8.7258) to provide for safe use of Ext. D&C Yellow No. 7 in externally applied drugs and cosmetics. The order also amended § 8.501 (21 CFR 8.501) by deleting Ext. D&C Yellow No. 7 from the provisionally listed colors in paragraph (c), and it amended the identity and specifications for Ext. D&C Yellow No. 7 under § 9.307 (21 CFR 9.307) to reference § 8.4178.

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), notice is given that no objections or requests for hearing were filed in response to the order of November 23, 1976. Accordingly, the amendments promulgated thereby became effective on December 27, 1976.

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5528 Filed 2-24-77;8:45 am]

[Docket No. 76C-0409]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

Listing of Manganese Violet for Use in Cosmetics; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is confirming the effective

date of December 6, 1976 of an order listing manganese violet for use in the area of the eye.

DATES: Effective date confirmed as December 6, 1976.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods, (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204. (202) 472-5740.

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 5, 1976 (41 FR 48730) that amended Part 8 by adding a new § 8.8008 (21 CFR 8.8008) to Subpart H to provide for the safe use of manganese violet in cosmetics, generally, including those intended for use in the area of the eye and amended § 8.501 (21 CFR 8.501) by deleting manganese violet from the provisionally listed colors in paragraph (g).

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))), and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), notice is given that no objections or requests for a hearing were filed in response to the order of November 5, 1976. Accordingly, the amendments promulgated thereby became effective on December 6, 1976.

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate
Commissioner for Compliance.

[FR Doc.77-5530 Filed 2-24-77;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 76N-0275]

PART 27—CANNED FRUITS AND FRUIT JUICES

Clarification of Definitions and Standards of Identity; Confirmation of Effective Date

The Food and Drug Administration confirms the effective date of regulations, published in the FEDERAL REGISTER of August 6, 1976 (41 FR 32886), that clarify the definitions for canned fruits and fruit juices (21 CFR 27.1) and the standards of identity for canned peaches (21 CFR 27.2), canned apricots (21 CFR 27.10), canned pears (21 CFR 27.20), canned fruit cocktail (21 CFR 27.40), canned plums (21 CFR 27.45), and canned figs (21 CFR 27.70).

Under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1045 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), notice is given that no objections were filed in response to the subject regulations. Accordingly, the amendments promulgated by the subject regulations become effective as follows: Compliance with the regulations, which shall include any required labeling changes, may have begun October 5, 1976, and all products initially introduced into interstate commerce on or after January 1, 1978, shall fully comply.

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate
Commissioner for Compliance.

[FR Doc.77-5527 Filed 2-24-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Tetracycline Hydrochloride Capsules

The Food and Drug Administration approves a new animal drug application (65-467V) filed by Pierrel America, Inc., 576 Fifth Ave., New York, NY 10036, proposing the safe and effective use of a 250-milligram tetracycline hydrochloride capsule for dogs for treating infections caused by tetracycline-sensitive organisms, such as bacterial gastroenteritis caused by *E. coli* and urinary tract infections caused by *Staphylococcus spp.* and *E. coli*. The approval is effective February 25, 1977.

The Commissioner of Food and Drugs is amending § 546.180a (21 CFR 546.180a) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 546 is amended in § 546.180a by revising paragraph (c)(5)(i)(c) to read as follows:

§ 546.180a Tetracycline hydrochloride capsules.

* * * * *

(c) * * *
(5) * * *
(i) * * *

(c) *Sponsor.* See Nos. 000003, 000009, and 000345 in § 510.600(c) of this chapter.

* * * * *

Effective date. This amendment shall be effective February 25, 1977.

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

Dated: February 15, 1977.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.77-5523 Filed 2-24-77;8:45 am]

SUBCHAPTER F—BIOLOGICS

[Docket No. 77N-0024]

PART 600—BIOLOGICAL PRODUCTS: GENERAL

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

Biological Products

The Food and Drug Administration (FDA) is amending the biologics regulations concerning Platelet Concentrate (Human) by (1) deleting the requirement that a platelet count be performed at the time of preparation of the product and (2) modifying the required temperature of 20° to 24° C at which Platelet Concentrate (Human) and blood intended as a source for Platelet Concentrate (Human) must be maintained during transport. These amendments shall be effective February 25, 1977.

In the FEDERAL REGISTER of January 29, 1975 (40 FR 4300), the Commissioner of Food and Drugs promulgated additional standards under §§ 640.20 through 640.26 (21 CFR 640.20 through 640.26) concerning the manufacture of Platelet Concentrate (Human).

Section 640.25 of the standards requires that quality control tests be conducted each month on four units of Platelet Concentrate (Human) prepared from different donors. Pursuant to § 640.25(b)(1), two platelet counts are performed—one at the time of preparation of the product and one at its expiration date (72 hours after preparation).

The Commissioner has received letters from manufacturers of Platelet Concentrate (Human) suggesting that the required platelet count at the time of preparation is unnecessary. The manufacturers submitted their quality control records, maintained since the effective date of the regulations, which show no meaningful difference in the test results between the first and second tests. Based on these data and other relevant information, the Commissioner finds that the required platelet count at the time of preparation provides no more information on the quality of the product than practical experience demonstrates is derived from a platelet count at 72 hours after preparation. Consequently, the required platelet count is unnecessary and constitutes an undue hardship to manufacturers of Platelet Concentrate (Human). Accordingly, the Commissioner concludes that § 640.25(b)(1) should be amended to delete the required platelet count at the time of preparation of the product.

In addition to promulgating standards for Platelet Concentrate (Human), the Commissioner amended § 610.53 (21 CFR 610.53) to prescribe a dating period of 72 hours from the time the source blood is collected. The Commissioner also amended § 600.15 (21 CFR 600.15) to require that Platelet Concentrate (Human) be maintained during shipment between 20° and 24° C if suspended in 30 to 50 milliliters of plasma, or between 1° and 10° C if suspended in 20 to 30 milliliters of plasma, and he amended § 640.4(i) (21 CFR 640.4(i)) to provide that source blood from which Platelet Concentrate (Human) is prepared be

held in an environment maintained at a temperature range of 20° to 24° C until the platelet concentrates are separated.

As a result of the short dating period for Platelet Concentrate (Human), the manufacturer must ship the platelets as soon as possible after collection so that the platelets may be used within the prescribed period. For this reason, platelets are normally collected by a facility located in close proximity to the user.

Experience under the regulations has established that refrigerators, insulators, ice packs, and other materials are available and suitable to assure that Platelet Concentrate (Human) suspended in 20 to 30 milliliters of plasma are maintained at a temperature of 1° to 10° C during shipment. In contrast, manufacturers have asserted that adequate materials and methods are not available to assure that Platelet Concentrate (Human) and the source blood are maintained at a temperature of 20° to 24° C during all weather conditions and modes of transportation. Ice packs provide a relatively simple means of maintaining the lower temperatures (1° to 10° C), particularly suitable for the short distances often involved. However, refrigerators are not constructed nor may they be readily re-set to be useful in maintaining the intermediate temperatures (20° to 24° C). Insulation materials cannot be used reliably in view of the great variation in modes of transportation (automobile, bus, truck, train, and plane) and differing weather conditions. Accordingly, compliance with the 20° to 24° C shipping temperature requirements is impractical and, at times, impossible. The problems in maintaining a temperature of 20° to 24° C during shipment of Platelet Concentrate (Human) and during transport of source blood from remote collection sites for separation were not foreseen before publication of the January 1975 final order. There were no objections raised to the provision when proposed for public comment and published in the FEDERAL REGISTER of January 16, 1974 (39 FR 2008).

The Commissioner believes that, whenever possible, platelets and the source blood should be maintained at a temperature during transport that is consistent with the required storage temperatures. However, in light of practical experience demonstrating that compliance with the 20° to 24° C shipping temperature is sometimes impractical or impossible, the Commissioner concludes that the regulations should be amended in §§ 600.15, 640.4, 640.24 and 640.25, as applicable, by deleting the present requirement that Platelet Concentrate (Human) and the source blood used in its preparation be maintained at 20° to 24° C during transport. Rather, the regulations will now require that all reasonable methods shall be used to maintain the temperature as close as possible to a range between 20° to 24° C during transport.

The Commissioner advises, however, that he will propose to reinstitute maintenance at 20° to 24° C as soon as adequate and suitable materials or methods are available. Persons who feel they have such information should submit it to the Director, Bureau of Biologics, 8800 Rockville Pike, Bethesda, MD 20014.

The background data and information on which the Commissioner relies in promulgating this regulation are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Parts 600 and 640 of Subchapter F of Title 21 of the Code of Federal Regulations are amended as follows:

1. In Part 600, § 600.15(a) is amended by revising the listing for "Platelet Concentrate (Human)" to read as follows:

§ 600.15 Temperature during shipment.

* * * * *

(a) * * *

* * *	* * *
Platelet Concentrate (Human)	Between 1° and 10° C if suspended, in 20 to 30 ml of plasma or all reasonable methods to maintain the temperature as close as possible to a range between 20° and 24° C, if suspended in 30 to 50 ml of plasma.
* * *	* * *

* * * * *

2. In Part 640:

a. Section 640.4 is amended by revising paragraph (i) to read as follows:

§ 640.4 Collection of the blood.

* * * * *

(i) *Storage.* Immediately after collection, unless the blood is to be used as a source for Platelet Concentrate (Human), it shall be placed in storage within a 2-degree range between 1° and 6° C, unless it must be transported from the donor clinic to the processing laboratory. In the latter case, the blood shall be placed in temporary storage having sufficient refrigeration capacity to cool the blood continuously toward a 2-degree range between 1° and 6° C until it arrives at the processing laboratory where it shall be stored within a 2-degree range between 1° and 6° C. Immediately after collection of blood to be used as a source for Platelet Concentrate (Human), it shall be placed in storage between 20° to 24° C, unless it must be transported from the donor clinic to the processing laboratory. During such transport, all reasonable methods shall be used to maintain the temperature as close as possible to a range between 20° to 24° C until it arrives at the processing laboratory where it shall be stored between 20° to 24° C. The red blood cells shall be placed in storage at a 2-degree range between 1° and 6° C immediately after the platelet concentrates are separated.

b. Section 640.24 is amended by revising paragraph (b) to read as follows:

§ 640.24 Processing.

* * * * *

(b) Immediately after collection, the whole blood or plasma shall be held in storage between 20° to 24° C, unless it must be transported from the donor clinic to the processing laboratory. During such transport, all reasonable methods shall be used to maintain the temperature as close as possible to a range between 20° and 24° C until it arrives at the processing laboratory where it shall be held between 20° and 24° C until the platelet concentrate is separated. The platelet concentrate shall be separated within 4 hours after the collection of the unit of whole blood or plasma.

* * * * *

c. Section 640.25 is amended by revising paragraph (b)(1) to read as follows:

§ 640.25 General requirements.

* * * * *

(b) * * *

(1) Platelet count—at 72 hours after preparation.

* * * * * *

Under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary for the issuance of this amendment because it does not impose an additional duty or burden on any person but rather relieves restrictions that are unnecessary, impractical, and constitute an undue hardship to manufacturers.

Effective date: This amendment shall be effective February 25, 1977.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262).)

Dated: February 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5694 Filed 2-24-77;8:45 am]

SUBCHAPTER J—RADIOLOGICAL HEALTH

[Docket No. 75N-0071]

PART 1020—PERFORMANCE STANDARDS FOR IONIZING RADIATION EMITTING PRODUCTS

Diagnostic X-ray Systems and Their Major Components; Amendments to Performance Standard

The Food and Drug Administration (FDA) is issuing final amendments to the performance standard for diagnostic x-ray systems and their major components to revise the list of major components to which the standard applies and to add alternate certification and labeling procedures for products marketed as a combination of two or more major components. Requirements regarding fluoroscopic x-ray high level controls are modified to improve the radiation safety performance of these systems, and certain definitions, performance requirements, and methods for determining compliance are revised to clarify provisions that have been subject to misinterpretation. Certain amendments are effective February 25, 1978; other amendments are effective April 26, 1977.

In a notice of proposed rulemaking published in the FEDERAL REGISTER of June 11, 1975 (40 FR 24909), interested persons were given until August 11, 1975 to file comments regarding the proposed amendments. The Commissioner received a total of 28 comments, 17 from physicians, 7 from manufacturers, 1 from a manufacturer's association, 2 from professional organizations, and 1 from a State radiation control agency. These comments, the Commissioner's analyses, and his final actions are summarized as follows:

1. One comment asked whether noncephalometric radiography of the head using dental x-ray machines should also be expressly regulated and subject to the same regulations as x-ray machines used for cephalometric radiography.

The Commissioner discourages noncephalometric radiography of the head using dental x-ray machines not suitably equipped with appropriate devices that limit the x-ray field to the area of clinical interest. The numerous possible uses of particular equipment subject to the Radiation Control for Health and Safety Act of 1968 traditionally have not been the subject of explicit regulatory restrictions. If, however, manufacturers of dental x-ray equipment design or represent their equipment as being suitable for extraoral, noncephalometric applications, it would be subject to the beam limitation and alignment provisions of the standard, and the manufacturers would be required to provide with the equipment, means to assure adequate beam limitation and alignment for such extraoral applications. Because the cephalometric device is often marketed separately from the x-ray system, it is necessary that this component be certified to ensure that it is properly selected and installed so that the x-ray system will meet the requirements of § 1020.31(f) (21 CFR 1020.31(f)) regarding radiographic x-ray field limitation and alignment.

2. One comment recommended that the term "spot-film device" in proposed § 1020.30(b)(51) be defined as the radiographic image receptor transporting device of a radiographic-fluoroscopic (R–F) table. The comment contended that the proposed definition could lead to misinterpretation and conflicts with the Bureau of Radiological Health's regulatory guideline concerning cassette trays when such trays are used in front of an image intensifier. In addition, the comment contended that the definition does not exclude clip-on cassette holders, as was stated in the preamble to the proposal.

The Commissioner rejects the suggested definition. If the term were limited to only spot-film devices associated with R–F tables, the requirements for field limitation and alignment, § 1020.31(g) (21 CFR 1020.31(g)), would not apply to fluoroscopic systems that do not make use of a table. This is contrary to the Bureau of Radiological Health's policy that such requirements apply whether or not a table is involved. The requirement has been applied to mobile fluoroscopic systems. Concerning the reference to the regulatory guidelines, which were published by the Bureau of Radiological Health, cassette trays do not require certification because there are no directly applicable requirements in the standard. With spot-film devices, however, the requirements for field limitation and alignment are directly applicable.

The Commissioner agrees that the proposed definition for spot-film devices does not specifically exclude cassette holders that attach to the input end of the image intensifier. The statement in the preamble of the proposal was inconsistent, as it was not the Commissioner's intent that clip-on cassette holders be excluded by the definition for "spot-film devices." To clarify, the definition in § 1020.30(b)(51) is changed to include a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

3. One comment stated that the sentence "It consists of an image intensifier tube installed in its housing" in the proposed definition for image intensifier (21 CFR 1020.30(b)(52)) limits the definition unnecessarily and should be deleted.

The Commissioner agrees in principle with this comment. However, for certification and compliance purposes, it is necessary to consider the image intensifier tube and its housing as a single component. To clarify this, the final definition is changed to read: "Image intensifier means a device, installed in its housing, which instantaneously converts an x-ray pattern into a corresponding light image of higher energy density."

4. One comment recommended that definitions be included in § 1020.30(b) for "cassette holder" and "cassette tray" because these terms have been used frequently by the Bureau of Radiological Health without being defined.

The Commissioner agrees that because a cassette holder is a certifiable component, future consideration should be given to amending § 1020.30(b) to add a definition for this term. No distinction is made in the standard between a cassette holder and a cassette tray because cassette trays are considered to be one type of cassette holder.

5. Two comments regarding the proposed definition for leakage technique factors in § 1020.30(b)(21)(iii) indicated there may be an undue restriction imposed on mammography systems because literal interpretation implies that the mammography beam-limiting device must comply with the leakage requirements at the maximum rated tube potential, whereas the x-ray control restricts the use of the system to the much lower tube potentials used for mammography. One comment also stated that the leakage technique factors imply discrimination against x-ray systems that have a duty cycle that does not permit continuous operation.

The proposed amendment was intended to clarify the point that the maximum-rated peak tube potential is a leakage technique factor. As stated in the preamble to the proposal, leakage technique factors are conditions of operation of a diagnostic source assembly under which the maximum rate of leakage radiation from the assembly may be expected.

The Commissioner believes the comment regarding discrimination against x-ray systems that have a noncontinuous duty cycle is a misunderstanding of the requirement. It is not intended that an x-ray system can be set to operate continuously at the leakage technique factors, but that the diagnostic source assembly can be rated for continuous operation at the leakage technique factors regardless of the x-ray system with which it is used. The manufacturer is required to provide a statement of the leakage technique factors that will describe the maximum continuous tube current for the maximum-rated peak tube potential.

The Commissioner recognizes that literal interpretation of § 1020.30(b)(21)(iii) may appear to require that beam-limiting devices for mammography comply with the leakage requirements at the maximum-rated tube potential rather than the maximum potential of the compatible x-ray control and generator. The policy of the Bureau of Radiological Health, however, is that the test for leakage radiation may be performed at the maximum potential of the compatible x-ray control and generator. Thus, a beam-limiting device used for mammography may be listed by the manufacturer as being compatible with an x-ray tube rated at 150 kilovolts peak (kVp), for example, provided it is installed with a control interlocked so as to prevent x-ray production above the peak tube potential for which the beam-limiting device was rated.

6. Two comments concerned the proposed definition of "x-ray control" in § 1020.30(b)(43) as it relates to the proposed amendments to § 1020.30 (c) and (e) regarding certification and identification of x-ray components. One comment observed that safety devices intended to terminate an x-ray exposure in the event of an equipment malfunction could be considered to be x-ray controls. The other comment agreed with the proposed amendments to § 1020.30 (c) and (e) as related to x-ray controls, stating that certification of a complete x-ray system or subsystem will serve to protect the public health whether optional control devices are delivered originally with the basic control or retrofitted at a later date. However, the comment stated that it would be difficult to identify these control devices in a manner so that the identification is accessible to view when the control devices are mounted internally.

The proposed definition of "x-ray control" was not intended to include protective devices not under control of the operator that are designed to prevent x-ray system overload. As stated in the preamble to the proposal, the revised definition is necessary because some manufacturers and other persons were unaware that timers, phototimers, and automatic brightness stabilizers are considered to be x-ray controls, and as major components of diagnostic x-ray

systems, when sold separately, must be separately labeled and certified in accordance with § 1020.30 (c) and (e).

Concerning the second comment, in those cases where optional controls are installed at a later date, single labeling and identification of the x-ray system or subsystem may not be appropriate because it appears that the optional x-ray control is a separately marketed item. In such cases, the certification and identification labels could be mounted on the exterior surface of the housing in which the optional x-ray control is mounted.

7. One comment questioned the proposed certification and identification amendments (§ 1020.30 (c) and (e)) with respect to repair or replacement of a major component of an x-ray system manufactured and certified as a single unit.

The Commissioner advises that § 1020.30 (c) and (e) apply only to the combinations of major components that are produced and marketed in assembled form as a complete x-ray system or subsystem. The portable system referred to as an example in the preamble to the June 11 proposal is a system in which the control, generator, x-ray tube, and beam-limiting device are integrated in a single housing. Portable systems consisting of replaceable components specified in § 1020.30(a)(1) would not qualify for single certification. Similarly, dental x-ray equipment consisting of a separate x-ray control and tube housing assembly would not qualify for single certification.

8. One comment concerning the proposed amendments to §§ 1020.31(g)(2) and 1020.32(b) (1) and (2) (21 CFR 1020.31(g)(2) and 1020.32(b) (1) and (2)) stated that it is not clear if the amendment pertains to chest film changers.

The referenced amendments are clearly indicated as being applicable only to fluoroscopic x-ray equipment or to spot-film devices. A chest film changer is neither of these; no change is needed.

9. Twenty-one comments objected to the proposed amendment to § 1020.32(b) (21 CFR 1020.32(b)) requiring that all fluoroscopic x-ray systems be provided with the means for stepless adjustment of the x-ray field size. Several physicians expressed concern that the addition of stepless beam-limiting devices to C-arm type fluoroscopic x-ray systems used in cardiology would interfere with their intended use. They also stated that such a device would add weight, size, and complexity to C-arm fluoroscopic units that would interfere with positioning of the unit, especially during patient rotation, and would thereby increase the risk and radiation exposure to the patient by increasing the time required for certain examinations. Eleven cardiologists commented that the x-ray field provided with the 6-inch diameter image intensifier is the smallest that can be used effectively in the study of patients with coronary heart disease; therefore, providing the means for further beam limitation would serve no useful purpose.

Two manufacturers and a manufacturer's association stated that FDA had not yet established enough scientific support to justify the proposed amendment. One manufacturer stated that special purpose fluoroscopic systems that operate at a fixed source-image receptor distance (SID) should be exempted from the proposed requirement.

The Commissioner is deleting the proposed amendment concerning stepless adjustment of the x-ray field for image-intensified fluoroscopic x-ray systems from the final rule so that further evaluation will not delay promulgation of the remaining amendments.

10. Three comments were received concerning the proposed amendment to § 1020.32(d) (1)(ii) and (2)(ii) (21 CFR 1020.32(d) (1)(ii) and (2)(ii)) regarding the operation of fluoroscopic high-level controls. One comment stated that the wording of the proposal implies that a two-position momentary exposure switch would be acceptable and that the proposal appears to exclude a common exposure switch with a separate momentary switch for high-level and non-high-level control, both operated by the fluoroscopist. The comment stated that the later switch would be more acceptable. Two comments expressed concern that the wording could be misinterpreted to require a complicated high-level control switch. The comments recommended that the sentence "The high level control shall only be operable when continuous manual activation is provided by the operator" be substituted for the sentence "The high level control shall be automatically deactivated at the termination of any exposure."

The proposed amendment is intended to prohibit a mode selection switch that would permit operation in only a high level mode. It does not prohibit a separate switch for high level exposure provided it requires continuous operator activation. The Commissioner agrees that the sentence recommended can be used more appropriately to clarify the amendment, and the final rule is revised accordingly.

11. The proposed amendment to § 1020.31(g)(1) concerning x-ray field limitation on systems equipped with spot-film devices is being withdrawn due to an error in wording. This amendment was intended to clarify the intent of the current provision that manual means for adjustment of the x-ray field be provided when the initial size of the x-ray field is less than or equal to the size of the selected spot-film format. Thus, the last sentence should have read, "If the initial x-ray field size is less than or equal to the size of the selected portion of the film, such adjustment shall (rather than may) be manually accomplished." Because the correction of the wording error would represent a substantial change from the proposed action, this amendment will be republished in the FEDERAL REGISTER as a notice of proposed rule making to permit further comment.

12. For clarity, the Commissioner is separating proposed § 1020.32(b)(2)(ii) into § 1020.32(b)(2) (ii) and (iii) and is renumbering proposed § 1020.32(b)(2)(iii) as § 1020.32(b)(2)(iv). Appearing as a part of § 1020.32(b)(2)(ii), it is possible that the requirement to provide means to indicate perpendicularity could be interpreted as being applicable only to image-intensified fluoroscopes having rectangular x-ray fields used with circular image receptors.

The Commissioner has carefully considered the environmental effects of the amendments and, because the action would not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. The Commissioner has also carefully considered the inflation impact of the amendments, and no major inflation impact has been found, as defined in Executive Order 11821, OMB Circular A-107, and the Guidelines issued by the Department of Health, Education, and Welfare. Copies of the FDA environmental and inflation impact assessments and other pertinent background data on which the Commissioner relies in promulgating these amendments and are on file and may be seen at the Office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857 between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 1020 is amended as follows:

1. In § 1020.30 by revising paragraphs (a) introductory text and (a)(1), (b) (16), (21) (i), (ii), and (iii), (42), and (43); by adding new paragraphs (b) (51), (52), and (53); and by revising paragraph (c) and the introductory text of paragraph (e) to read as follows:

§ 1020.30 Diagnostic X-ray systems and their major components.

(a) *Applicability.* The provisions of this section and §§ 1020.31 and 1020.32 are applicable to:

(1) The following components of diagnostic X-ray systems:

(i) Tube housing assemblies, X-ray controls, X-ray high-voltage generators, tables, cradles, film changers, cassette holders, and beam-limiting devices manufactured after August 1, 1974.

(ii) Fluoroscopic imaging assemblies manufactured after August 1, 1974 and before April 26, 1977.

(iii) Spot-film devices and image intensifiers manufactured after April 26, 1977.

(iv) Cephalometric devices manufactured after February 25, 1978.

* * * * *

(b) * * *

(16) "Fluoroscopic imaging assembly" means a subsystem in which X-ray photons produce a fluoroscopic image. It includes the image receptor(s) such as the

image intensifier and spot-film device, electrical interlocks, if any, and structural material providing linkage between the image receptor and diagnostic source assembly.

* * * * *

(21) * * *

(i) For tube housing assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (mAs) or the minimum obtainable from the unit, whichever is larger.

(ii) For tube housing assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of X-ray pulses in an hour for operation at the maximum-rated peak tube potential.

(iii) For all other tube housing assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

* * * * *

(42) "Visible area" means that portion of the input surface of the image receptor over which incident X-ray photons are producing a visible image.

(43) "X-ray control" means a device which controls input power to the X-ray high-voltage generator and/or the X-ray tube. It includes equipment such as timers, phototimers, automatic brightness stabilizers, and similar devices, which control the technique factors of an X-ray exposure.

* * * * *

(51) "Spot-film device" means a device intended to transport and/or position a radiographic image receptor between the X-ray source and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

(52) "Image intensifier" means a device, installed in its housing, which instantaneously converts an X-ray pattern into a corresponding light image of higher energy density.

(53) "Cephalometric device" means a device intended for the radiographic visualization and measurement of the dimensions of the human head.

(c) *Certification of components.* Each component subject to this section and §§ 1020.31 and 1020.32 shall be certified by the manufacturer thereof as a product which meets all applicable standards in accordance with the provisions of § 1010.2 of this chapter. Where a combination of two or more such components is manufactured, marketed, and delivered as a system or subsystem, its certification may be applicable to all components contained therein, if authorized in writing by the Director or Deputy Director of the Bureau of Radiological Health, or the Director, Division of Compliance of that Bureau upon application by the manufacturer. Certification that the product conforms to all applicable standards under this part shall be construed to mean that the component, system, or subsystem can meet the applicable provisions of this section and §§ 1020.31 and 1020.32 if installed in a diagnostic X-ray system in accordance with instructions.

* * * * *

(e) *Identification of X-ray components.* In addition to the identification requirements specified in § 1010.3 of this chapter, manufacturers of components subject to this section and §§ 1020.31 and 1020.32, except high-voltage generators contained within tube housings and beam-limiting devices which are integral parts of tube housings, shall permanently inscribe or affix thereon the model number and serial number of the product, so as to be legible and accessible to view. Where the certification of a system or subsystem, consisting of two or more components, has been authorized pursuant to paragraph (c) of this section, a single inscription, tag, or label bearing such information may be used to identify the product.

* * * * *

2. In § 1020.31 by revising paragraphs (e)(1)(iii) and (g)(2) to read as follows:

§ 1020.31 Radiographic equipment.

* * * * *

(e) * * *

(1) * * *

(iii) Indication of field size dimensions and SID's shall be specified in inches and/or centimeters, and shall be such that aperture adjustments result in X-ray field dimensions in the plane of the image receptor which correspond to those indicated by the beam-limiting device to within 2 percent of the SID when the beam axis is indicated to be perpendicular to the plane of the image receptor; and

* * * * *

(g) * * *

(2) The total misalignment of the edges of the X-ray field with the respective edges of the selected portion of the image receptor along the length or width dimensions of the X-ray field in the plane of the image receptor shall not exceed 3 percent of the SID when adjusted for full coverage of the selected portion of the image receptor. The sum without regard to sign of the misalignment along any two orthogonal dimensions shall not exceed 4 percent of the SID. On spot-film devices manufactured after February 25, 1978, if the angle between the plane of the image receptor and beam axis is variable, means shall be provided to indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor, and compliance shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor.

* * * * *

3. In § 1020.32 by revising paragraphs (a)(1), (b), and (d)(1)(ii) and (2)(ii) to read as follows:

§ 1020.32 Fluoroscopic equipment.

* * * * *

(a) *Primary protective barrier*—(1) *Limitation of useful beam.*—The fluoroscopic imaging assembly shall be provided with a primary protective barrier which intercepts the entire cross section of the useful beam at any SID. The X-ray tube used for fluoroscopy shall not produce X-rays unless the barrier is in position to intercept the entire useful beam. The exposure rate due to transmission through the barrier with the attenuation block in the useful beam combined with radiation form the image intensifier, if provided, shall not exceed 2 milliroentgens per hour at 10 centimeters from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor for each roentgen per minute of entrance exposure rate. Radiation therapy simulation systems shall be exempt from this requirement provided the systems are intended only for remote control operation and the manufacturer sets forth instructions for assemblers with respect to control location as part of the information required in § 1020.30(g). Additionally, the manufacturer shall provide to users, pursuant to § 1020.32(h)(1)(i), precautions concerning the importance of remote control operation.

* * * * *

(b) *Field limitation*—(1) *Nonimage-intensified fluoroscopy.*—(i) The X-ray field produced by nonimage-intensified fluoroscopic equipment shall not extend beyond the entire visible area of the image receptor. Means shall be provided for stepless adjustment of the field size. The minimum field size at the greatest SID shall be equal to or less than 5-by-5 centimeters.

(ii) For equipment manufactured after February 25, 1978, when the angle between the image receptor and the beam axis of the X-ray beam is variable, means shall be provided to indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor. Compliance with § 1020.32(b)(1)(i) shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor.

(2) *Image-intensified fluoroscopy.* (i) For image-intensified fluoroscopic equipment other than radiation therapy simulation systems, neither the length nor the width of the X-ray field in the plane of the image receptor shall exceed that of the visible area of the image receptor by more than 3 percent of the SID. The sum of the excess length and the excess width shall be no greater than 4 percent of the SID.

(ii) For rectangular X-ray fields used with circular image receptors, the error in alignment shall be determined along the length and width dimensions of the X-ray field which pass through the center of the visible area of the image receptor.

(iii) For equipment manufactured after February 25, 1978, when the angle between the image receptor and beam axis is variable, means shall be provided to indicate when the axis of the X-ray

beam is perpendicular to the plane of the image receptor. Compliance with § 1020.32(b)(2)(i) shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor.

(iv) Means shall be provided to permit further limitation of the field. The minimum field size at the greatest SID shall be equal to or less than 5-by-5 centimeters.

* * * * *

(d) * * *

(1) * * *

(ii) When an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 5 roentgens per minute at the point where the center of the useful beam enters the patient unless the high level control is activated. Special means of activation of high level controls shall be required. The high level control shall only be operable when continuous manual activation is provded by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(2) * * *

(ii) When an optional high level control is activated. Special means of activation of high level controls shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

* * * * *

Effective dates: The amendment to § 1020.30(a)(1) applicable to spot-film devices and image intensifiers shall become effective April 26, 1977, whereas that portion of § 1020.30(a)(1) which is applicable to cephalometric devices and the amendments to §§ 1020.30(b)(53), 1020.31(g)(2), and 1020.32(b)(1)(ii) and (iii) shall become effective on February 25, 1978. All other amendments shall become effective April 26, 1977.

(Sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f).)

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5535 Filed 2-24-77;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 Maryland Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18 of the Act and 29 CFR Part 1902. On July 5, 1973, a notice was published in the FEDERAL REGISTER (38 CFR 17834) of the approval of the Maryland plan and the adoption of Subpart O of Part 1952 containing the decision and describing the plan. By letters dated May 21, 1975, August 21, 1975, September 26, 1975, October 2, 1975, October 29, 1975, January 9, 1976, February 4, 1976, and March 3, 1976, the State of Maryland submitted supplements to its plan involving developmental changes, evaluation changes and State-initiated changes (see Subparts B, D and E of 29 CFR Part 1953). The supplements consist of various rules, regulations and administrative procedures promulgated by the State designee. On January 28, 1976, a notice was published in the FEDERAL REGISTER (41 FR 4035) concerning the submission of a number of supplements to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary). On October 15, 1976, a notice was published in the FEDERAL REGISTER (41 FR 45563) of the approval of some of the supplements referred to in the January 28, 1976, FEDERAL REGISTER notice. Other proposed supplements noted in the January 28, 1976, notice were not approved as a result of deficiencies found during internal review of the supplements by OSHA. Supplements described in the January 28, 1976, notice which were not approved in the October 15, 1976, notice were procedural regulations concerning the posting of notices informing employees of their protections and obligations, inspections, citations, hearings concerning contested citations before the Commissioner of Labor and Industry, temporary and permanent variances and recordkeeping requirements. Remaining supplements described in the January 28, 1976, notice which have not been approved are the Maryland procedures for the adoption of standards, the State's inspection scheduling system, the public employee program and the State's review of its job classifications. The regulations concerning the posting of notices, citations, and recordkeeping are being approved as set forth below. In addition, certain supplements to the Maryland plan are being approved in this notice without public comment as will be more fully discussed below.

2. *Description of the January 28, 1976, supplements pending.* (a) Regulations. On June 1, 1974, Maryland promulgated various rules and regulations providing requirements and procedures for operations under the Maryland plan. At the time these regulations were submitted to the Assistant Secretary, a number of deficiencies were found in some of the regulations as will be more fully discussed below.

(1) Posting of notices informing employees of their protections and obligations, including the application of the Maryland Act, regulations and standards (§ 09.12.32, Maryland Occupational Safety and Health Rules and Regulations) (hereinafter referred to as the Rules).

(2) Citations, including procedures for the issuance of citations and the proposal of penalties, requirements for the posting of citations, employer and employee contests of citations, or proposed penalties, procedures concerning failure to correct a violation for which a citation has been issued and procedures for informal conferences (§ 09.12.34 of the Rules). Upon submission of these regulations, it was discerned that the regulations did not provide for employers informing employees of their right to participate in any proceeding which might arise from a citation or notice of proposed penalty. By a letter dated August 21, 1975, from Harvey A. Epstein, Commissioner of the Maryland Department of Labor and Industry, to David H. Rhone, Regional Administrator, the State proposed to amend § 09.12.34 (.07) to provide such notice to employees of their right to participate.

(3) Recording and reporting occupational injuries and illnesses, including the maintenance of a log of occupational injuries and illnesses and supplementary records of such injuries and illnesses and sanctions for failure to maintain such reports or records (§ 09.12.37 of the Rules). However, upon submission, it was found that these regulations did not provide that applications for variances from the recordkeeping and reporting requirements of the Maryland regulations would only be considered if such a variance applied for had previously been granted by the Bureau of Labor Statistics of the U.S. Department of Labor. By another letter dated August 21, 1975, from Harvey A. Epstein to David H. Rhone, the State proposed to amend § 09.12.37 of its rules by adding a new § 09.12.37(.11) to provide such a requirement for the consideration of applications for variances from the recordkeeping and reporting requirements of the Maryland Act.

(b) Approval of other regulations referred to in the January 28, 1976, FEDERAL REGISTER notice, namely inspection procedures, procedures for applications on temporary and permanent variances from standards and rules of procedure for hearings, is being held in abeyance at this time pending the resolution of certain issues concerning these regulations with the State.

3. *Description of additional supplements.* (a) Review of Appeal Procedures. Section 1952.213(c) of the State's developmental schedule provided that the State would review its appeal procedures by July 1974 to determine if they should be continued or modified. By a letter dated May 21, 1975, from Harvey A. Epstein to David H. Rhone, the State noted that it had reviewed the appeal and hearing procedures and concluded that the procedures should be continued as presently constituted. The State also indicated that it intends to periodically review these procedures in order to evaluate the necessity for continuing or modifying the procedures.

(b) *Collection of Overdue Penalties.* By a letter dated August 21, 1975, from Harvey A. Epstein to David H. Rhone, the State submitted procedures which it would follow in the collection of overdue penalties. The procedures provide that if no final penalty is forthcoming from a cited employer, the Assistant Commissioner will telephone the cited employer to discuss the delinquent penalty and will also send the employer a notice informing him of the delinquent penalty and that he has 7 days from the date of receipt to make payment. If the penalty is still delinquent after the 7 day period, the matter is turned over to the Attorney General for collection action.

(c) *Affirmative Action Plan.* On April 28, 1976, the State submitted its annual evaluation and program updating of its Affirmative Action plan. This evaluation covers such areas as recruitment, training and education, grievance procedures and an evaluation of the program. This document was submitted to the U.S. Civil Service Commission which subsequently approved the Maryland affirmative action plan in a letter dated June 25, 1976, from Robert Sperry, Regional Director, to David H. Rhone.

(d) *Training of Compliance Personnel.* Section 1952.213(d) of the State's developmental schedule (29 CFR 1952.-213(d)) provided that training of the Maryland compliance personnel in compliance procedures would be completed by August 1973. By a letter dated October 2, 1975, from Harvey A. Epstein to David H. Rhone, the State indicated that training of Maryland personnel in standards covering subparts H, I, N, O and S of 29 CFR Part 1910 would be completed by December 18, 1975. In addition, by a letter dated October 29, 1975, the State submitted an outline of a program of training for all Maryland personnel covering recordkeeping requirements, the general industry standards of 29 CFR Part 1910; the construction standards of 29 CFR Part 1926 and the agricultural standards of 29 CFR Part 1928. In addition, two semi-annual evaluations conducted by the Occupational Safety and Health Administration (OSHA) in 1975 have found the training of Maryland personnel to be adequate.

(e) *Supervisory personnel.* An evaluation of the Maryland merit system by the Occupational Safety and Health Administration (OSHA) indicated that there were some deficiencies in the descriptions of the responsibilities of certain supervisory personnel. By a letter dated January 9, 1976, the State responded to these findings. The State submitted descriptions of the supervisory responsibilities of the Executive Assistant Commissioner, Technical, the Chief Occupational Safety and Health Inspector and the Assistant Chief Occupational Safety and Health Inspector.

(f) *Sampling and Laboratory Manual for Air Contaminants.* Semi-annual evaluations conducted by OSHA in 1974 and 1975 indicated there was a lack of a procedure for sampling of air contaminants and for laboratory analysis of these contaminants. In response to these findings, the State submitted a sampling and laboratory manual for air contaminants on February 4, 1976. This manual was reviewed by the National Institute for Occupational Safety and Health (NIOSH) and was found to be acceptable.

(g) *Radiation enforcement.* The health portion of the Maryland State plan which was approved by the Assistant Secretary on October 16, 1976 (41 FR 45563), provided that the designated agency, the Department of Licensing and Regulation, would enter into an agreement with the Maryland Department of Health and Mental Hygiene for the enforcement of radiation standards. By a letter dated March 3, 1976, the State designee indicated that it will not enter into such an agreement with the Department of Health and Mental Hygiene but would develop and enforce radiation standards itself. The designated agency has four (4) personnel who have been trained or have experience in the enforcement of radiation protection standards.

4. *Public participation.* With regard to the procedural regulations described in section 2(a) above, interested persons were afforded 30 days to submit written comments or request a hearing concerning the supplements described. No comments or requests for a hearing were received during the time allotted. With regard to the other supplements described in section 3 of this notice, the Assistant Secretary may prescribe alternative procedures to expedite the review process under 29 CFR 1953.2 or for any good cause which may be consistent with applicable law. The Assistant Secretary finds on the basis of semi-annual evaluations of the operations of the Maryland plan that the State's enforcement personnel have been trained in compliance procedures. With regard to the Affirmative Action Program, the Civil Service Commission has found it to be acceptable. The Sampling and Laboratory Manual for Air Contaminants has been reviewed and approved by NIOSH. The supplements concerning supervisory personnel and radiation enforcement are organizational in nature and have no substantive impact on the enforcement of standards.

5. *Location of the plan and its supplements for inspection and copying.* Copies of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Director for Federal Compliance and State Programs, Room N-3112, 200 Constitution Avenue N.W., Washington, D.C. 20210; Technical Data Center, Room N-3620, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 2100, Gateway Center, 3535 Market Street, Philadelphia, Pennsylvania 19104; and the Office of the Commissioner, Division of Labor and Industry, 203 East Baltimore Street, Baltimore, Maryland 21202.

6. *Decision.* After careful consideration, the Maryland plan supplements outlined and discussed in sections 2(a) and 3 above are approved under 29 CFR Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition 29 CFR 1952.214 is amended to reflect the completion of three developmental steps by adding paragraphs (e), (f) and (g) to the list of completed developmental steps as follows:

§ 1952.214 Completed developmental steps.

* * * * *

(e) In accordance with 29 CFR 1952.-213(d), training of Maryland compliance personnel in compliance procedure was completed by December 31, 1975.

(f) In accordance with 29 CFR 1952.-213(f), the Maryland inspection and enforcement program was implemented by September 1973.

(g) In accordance with 29 CFR 1952.-213(j), review of the appeal procedures to see if they should be continued or modified was conducted by the State by May 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 17th day of February 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-5777 Filed 2-24-77;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Supplements to Vermont 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 the review of changes and progress in the development and implementation of State plans which have been approved under section 18(e) of the Act and Part 1902 of this title. On October 16, 1973, a notice was published in the FEDERAL REGISTER (38 FR 28658) of the approval of the Vermont plan and of the adoption of Subpart U of Part 1952 containing the decision. On May 7, 1974, and March 31, 1976, the State of Vermont submitted supplements to the plan involving developmental changes (see Subpart B of 29 CFR Part 1953). On November 19, 1976, a notice was published in the FEDERAL REGISTER (41 FR 51040) concerning the submission of these supplements to the Assistant Secretary of Labor for Occupational Safety and Health and the fact that the question of their approval was in issue before him. Interested persons were afforded 30 days from the date of publication of the proposed supplements in the FEDERAL REGISTER to submit written comments or requests for an informal hearing concerning these supplements. The supplements consist of the Vermont Field Operations

Manual, Vermont's Public Employee Program, and Vermont's Voluntary Compliance Program.

2. *Description of the Supplements.* (a) *Field Operations Manual.* In response to the commitment expressed in 29 CFR 1952.273(b), the State has developed a Field Operations Manual. This manual contains such information as the duties and responsibilities of the designee, compliance inspection procedures, complaint handling procedures, citation and penalty processing, occupational health, and voluntary compliance.

(b) *Public Employee Program.* In response to the commitment expressed in 29 CFR 1952.273(d), the State by July 1, 1974, had developed and implemented its State Agency Program coverage of the State agency employees, based on specific administrative procedures. By November 12, 1973, the State had also developed and implemented its Public Agency Enforcement Program for employees in municipal and other local government workplaces. Vermont's public sector programs provide coverage of employees of State and local governments in a manner identical to that of private employees, except for monetary sanctions and meets all of the requirements of § 1952.11.

(c) *Voluntary Compliance Program.* In response to the commitment expressed in 29 CFR 1952.273(e), the State by February 1974, had developed and implemented its voluntary compliance program which includes, among other things, a training program for employers and employees.

3. *Public Participation.* Interested persons were afforded 30 days to submit written comments or request a hearing concerning the proposed supplements involving the Vermont Field Operations Manual, Vermont's Public Employee Program, and Vermont's Voluntary Compliance Program. No comments or requests for a hearing were received during the period provided for public comments. The changes meet current requirements, are administrative in nature, and will undergo evaluation with the plan as a whole.

4. *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: Directorate of Federal Compliance and State Programs, Room N-3608, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1804, John F. Kennedy Building, Boston, Massachusetts 02203; Department of Labor and Industry, State Office Building, Montpelier, Vermont 05602.

5. *Decision.* After consideration of these plan supplements, it is hereby decided that they are approved under 29 CFR Part 1953 of this chapter. The decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In accordance with this decision, Subpart U of 29 CFR Part 1952 is hereby amended as set forth below. Section 1952.274 is amended through the addition of new paragraphs (f), (g), and (h) to read as follows:

§ 1952.274 Completed developmental steps.

* * * * *

(f) In accordance with 29 CFR 1952.273 (b), the State has developed a Field Operations Manual which defines the procedures and guidelines to be used by the Vermont compliance staff in carrying out the goals of the program and other local government workplaces and which has been approved by the Assistant Secretary on February 22, 1977.

(g) In accordance with 29 CFR 1952.-273(d), the State has developed and implemented a State Agency Program by July 1, 1974 and a Public Agency (local and municipal) Enforcement Program by November 12, 1973, which has been approved by the Assistant Secretary on February 22, 1977.

(h) In accordance with 29 CFR 1952.-273(e), the State of Vermont has developed and implemented its voluntary Compliance Program, including a training program for employers and employees, by February 1974, which has been approved by the Assistant Secretary as completion of developmental step on February 22, 1977.

Signed at Washington, D.C. this 22nd day of February 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-5778 Filed 2-24-77;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Virginia Plan; Correction

In § 1952.373 of the above captioned document published on page 42655 of the September 28, 1976, FEDERAL REGISTER, 41 FR 42655, paragraph (j), which read:

A procedure for incorporating State explosives licensing requirements under the State plan will be developed within 6 months of plan approval.

is corrected to read:

The State is now responsible for enforcement of the State explosive code. That code will be amended within 6 months of plan approval to contain only standards identical to OSHA's standards.

Signed at Washington, D.C. this 22nd day of February 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-5779 Filed 2-24-77;8:45 am]

Title 39—Postal Service

CHAPTER III—POSTAL RATE COMMISSION

[Order No. 152; Docket No. RM77-1]

PART 3001—RULES OF PRACTICE

Rules Governing Procedures in Appeals of Postal Service Determinations to Close or Consolidate Post Offices

FEBRUARY 18, 1977.

By notice dated October 7, 1976 (41 FR 45587), the Postal Rate Commission initiated a rulemaking proceeding to amend certain sections of 39 CFR Part 3001, Subpart A, and to add a new Subpart H to implement procedures governing appeals of determinations of the United States Postal Service to close or consolidate any post office. In response to the publication of the Commission's proposed rulemaking, initial and reply comments were submitted by the United States Postal Service (Postal Service or Service) and by the National Association of Postmasters of the United States (NAPUS).

Having considered the written comments of the participants, the Commission has determined that it should incorporate certain modifications to its preliminary proposal. In the main, those modifications relate to the following issues: (1) Whether a formal "on the record" hearing is necessary; and (2) whether NAPUS may appeal a determination to close or consolidate a post office. The first question is answered in the negative, but we alert the Postal Service that the "substantial evidence" requirement of the statute imposes certain obligations upon the Service as the agency responsible for compiling a record as well as the Commission as the reviewing authority. The second question is also answered in the negative, but we will entertain petitions from organizations such as NAPUS, and other interested parties, to intervene and present such matters as are relevant to the issues on appeal before the Commission.

I. HEARING REQUIREMENT AND RECORD ON REVIEW

The Postal Service, in comments filed November 19, 1976, expressed opposition to the Commission's inclusion of a requirement for an opportunity for a hearing on the record in proposed 39 CFR 3001.110. The Postal Service stated that the statute contains no express mention of a "hearing on the record,"[1] that the legislative history of 39 U.S.C. 404(b) does not support imposing such a requirement and that, moreover, it is not bound to follow any formal procedure inasmuch as the Administrative Procedure Act (APA)[2] does not apply. The Postal Service stated that the informal procedures for gathering patrons' views which it contemplates using will be in accord with Congress' intent that customer opinions be solicited and taken into account. Thus, in its view, customers need not become involved in litigating their positions before the Postal Service in formal proceedings. However, the Service's implementing procedures under the new statute have not yet been published.

On November 19, 1976, the National Association of Postmasters of the United States (NAPUS) submitted comments in response to the Commission's notice

[1] A "hearing on the record" has been interpreted to mean a formal hearing including the right of discovery and cross-examination as set out in the Administrative Procedure Act, 5 U.S.C. 556. See United States v. Florida East Coast Railway Co., 410 U.S. 224, 237-38 (1973). See also 39 U.S.C. 3624(b)(3).

[2] 5 U.S.C. 556.

of proposed rulemaking. NAPUS supported our proposed requirement for a Postal Service hearing to develop an administrative record meeting our appellate review needs. In this connection, NAPUS submitted suggested changes which would amplify proposed § 3001.110 to permit postal customers (1) the right to inspect and comment upon the Postal Service files on the proposed action, and (2) to be represented and to participate in the presentation of evidence and questioning of witnesses, including the Postal Service employee who made the decision. NAPUS also expressed concern that the administrative record sent to the Commission be complete, but that extra-record evidence not be permitted.

In reply, the Postal Service addressed that changes proposed by NAPUS and reiterated its position that a hearing on the record is not required under 39 U.S.C. 404(b). Moreover, the Postal Service asserted that "a formal evidentiary litigation on the record would effectively exclude many of the citizens of a community from registering their individual, personal opinions as to the kind of service they wish to receive," and added that the Postal Service intends to solicit customer views in a manner which assures that the intent of the statute is carried out.

In its reply comments, NAPUS stated that while it does not oppose the informal presentation of views, it does not wish to see the procedures limited to either formal or informal presentations. NAPUS commented that the primary question is not whether a hearing on the record is required as a matter of law, but rather whether a formal hearing is desirable to provide an additional and most effective forum to the public and to complete a fair and adequate record for the Commission. Moreover, NAPUS asserted that the statutory inclusion of requirements for adequate notice, an opportunity to present views, a written determination (including findings with respect to specified considerations), and a review procedure—signify the intent of Congress to impose upon the Postal Service formal rules of law and to limit its discretion within prescribed legal standards and procedures. It was further argued that the legislative history of section 404(b) does not support the determination to eliminate formal hearings, or to preclude them as a method for obtaining and recording patrons' views, or to prohibit this Commission from requiring the Postal Service to conduct formal hearings.

On the related issues of whether a formal hearing should be required and the nature of the record on review before this Commission in an appeal proceeding, certain of the comments of the Postal Service and of NAPUS are well taken. Upon further consideration of the statute, its legislative history, relevant case law and the above-described comments, the Commission believes it should delete the requirement for a hearing "on the record" from § 3001.110. In the absence of the express statutory provision for hearings on the record and related discussion in the legislative history indicating it was the intent of Congress that formal proceedings be required, the Commission concludes that it should not prescribe the nature of the procedures to be instituted by the Postal Service for gathering the evidence contained in the record on which it bases its determination to close or consolidate any post office.

The Commission is unpersuaded by NAPUS' contention that it may be assumed it was the intent of Congress that hearings on the record be held if the structure of section 404(b) and the inclusion therein of specified considerations and procedural safeguards are considered.[5] The mandate to the Postal Service to include, in a determination, its findings with regard to those specific factors listed in section 404(b)(2) does not impose a formal hearing requirement. In fact, formal hearings would probably be infeasible in many situations. Consideration of those factors may be accorded by procedures other than hearings on the record. Congress prescribed the necessary areas of inquiry but did not specify the means by which information about them should be gathered by the Postal Service.

II. Substantial Evidence Test

Having decided that a formal hearing is not required, we address the issue of whether the statutory criteria of "substantial evidence on the record" implies some type of hearing requirement. This substantial evidence test, or review standard, has found expression in various organic statutes of federal agencies and in section 706 of the APA.

In the case of "Mobil Oil"[6] in which the Court was construing the substantial evidence standard contained in the Natural Gas Act, the Court stated that substantial evidence on the record meant that the procedures must provide some mechanism for interested parties to introduce adverse evidence and criticize evidence introduced by others and that it necessitated some sort of adversary, adjudicative-type procedure.[7] In that instance, which involved a section 553 "notice and comment" rulemaking proceeding, the Federal Power Commission failed to inform the interested parties of the evidence which formed the basis for its decision, and consequently, no opposing evidence was introduced nor was there an opportunity accorded to the parties to challenge the validity of the FPC's data sources. The Court held that in reviewing the Commission's actions it was unable to decide whether its factual determinations were supported by substantial evidence inasmuch as the only available evidence was that which the Commission had chosen to include in support of its position. The substantial evidence test, the Court stated, "requires consideration of the 'whole record,' and the whole record should contain sufficient unimpeachable—or at least persuasive—evidence to support the conclusion the Commission has reached if its action is to be sustained on appeal."[8] Moreover, the Court continued on the subject of developing the record:[9]

> Informal comments simply cannot create a record that satisfies the substantial evidence test. Even if controverting information is submitted in the form of comments by adverse parties, the procedure employed cannot be relied upon as adequate. A "whole record," as that phrase is used in this context, does not consist merely of the raw data introduced by the parties. It includes the process of testing and illumination ordinarily associated with adversary, adjudicative procedures. Without this critical element, informal comments, even by adverse parties, are two halves that do not make a whole. Thus, it is adversary procedural devices which permit testing and elucidation that raise information from the level of mere inconsistent data to evidence "substantial" enough to support rates.[7]

The Commission does recognize an existing ambiguity among interpretations of the standard for review of "substantial evidence" in cases where the deciding agency must adduce a record on review. Whereas the courts in "Mobil Oil" and "Public Service Commission", supra, inferred certain procedural requirements from the statutory review standard of substantial evidence on the record, other courts have declined to impose such obligations. In "Phillips Petroleum Co."[8], the Court stopped short of mandating specific procedural protections:[9]

> * * * However, we do not agree that this requires that there be a record resulting from a formal evidentiary hearing. The important point is that there shall be a record which will allow an orderly review of the Commission's findings and conclusions.
>
> * * * The submissions of the petitioners would be placed in public files and made available for public inspection. Thus the petitioners are aware of the material which will be considered together with the application of Commission expertise to the information submitted.

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[5] Such an assumption would be improper where Congress has established "on the record" hearing procedures in the recent past in 39 U.S.C. 3624(a), but it has not expressly done so in the provisions under consideration here. See Alaska Airlines v. C.A.B., 257 F.2d 229,230 (D.C. Cir. 1958), cert. denied, 358 U.S. 881.

[6] *Mobile Oil Corporation* v. *Federal Power Commission*, 483 F.2d 1238 (D.C. Cir. 1973).

[7] Id. at 1259.

[8] Id. at 1260.

[7] See also Public Service Commission, *State of New York* v. *Federal Power Commission*, 487 F.2d 1043 (D.C. Cir. 1973), vacated and remanded on other grounds, 417 U.S. 964 (1974); Note, The Judicial Role in Defining Procedural Requirements for Agency Rulemaking, 87 Harv. L. Rev. 782, 805 (1974).

[8] *Phillips Petroleum Co.* v. *Federal Power Commission*, 475 F.2d 842 (10th Cir. 1973), cert. denied, 414 U.S. 1146 (1974).

[9] Id. at 850.

Moreover, in "American Public Gas Association",[10] the Court distinguished the procedures followed there from those found to be defective in the "Mobil" decision:

> In summary we hold that the procedures employed by the Commission accorded due process to the petitioners. The issues were clearly stated from the outset and the petitioners were given an adequate opportunity to participate in developing evidence bearing upon those issues. There is no reason to believe that the exchanges or dialogue between and among the parties were so inadequate as a mechanism for finding the facts that a trial-type proceeding was necessary. That the procedures were streamlined did not make them improper or unconstitutional. In these respects this case is distinguished from *Mobil Oil Corp.* v. *FPC* [citation omitted]. In the Mobil Oil case there was no adequate notice, and much of the data relied upon by the Commission was provided in an informal and to some extent ex parte conference, as distinguished from an adversary setting. Id. at 723.

In view of the differing constructions the courts have placed on statutory provisions for review—using the "substantial evidence on the record" criterion—the Commission will not attempt to indicate here what information-collecting method it believes would be adequate under the new provisions of the statute concerning small post office closings. While the Postal Service may be exempt from the APA, the courts have viewed APA procedures (either formal or informal) as the benchmark for testing "fairness" and "due process." Therefore, certain safeguard procedures may have to be followed in order to provide this Commission with a record on review which contains support by substantial evidence for the Postal Service determination. In the event the Postal Service's determination to close or consolidate a post office is unsubstantiated on the record, we will be constrained to remand the record for additional evidence. At this time, however, it would be premature to lay down any firm procedures until experience is gained under this new law. Such procedures are to be considered and implemented—in the first instance—by the Service; our function is one of review.

In accordance with our decision to delete the requirement of a hearing on the record from the rules, we shall change the second sentence of § 3001.110 to remove "the opportunity for a hearing on the record" and substitute "the opportunity for such persons to present their views." In addition § 3001.112 shall be modified to make clear that formal proceedings are not required. We shall adopt the language proposed by the Service, i.e., the record on review shall include "the notices to local patrons and the evidence contained in the entire administrative record before the Postal Service * * *."

III. Who May Appeal—Standing

Another issue raised by the Postal Service and by NAPUS in the comments they submitted is whether NAPUS should be permitted to appeal a determination to close or consolidate a post office under 39 U.S.C. 404(b)(5). NAPUS stated that the postmaster of an affected post office is indirectly affected by action taken to close or consolidate it and that he is in a unique position to provide pertinent and helpful information to the Postal Service and the Commission to assist them in their determinations. However, NAPUS added, the individual postmaster is personally restrained by his position with the Postal Service from making his views known; and, thus may be precluded from exercising his right under the statute as "a person served by such office" to appeal or to intervene in an ongoing appellate proceeding concerning a determination to close or to consolidate his post offices. NAPUS asserts that the only way to protect his right of appeal is to permit the organizational representative of the postmasters to assert the right to appeal on behalf of an individual. NAPUS adds that it should not be limited to sponsoring appeals on behalf of named individuals, but rather, should be permitted to initiate an appeal as the representative of the interests of the postmasters generally.

The Postal Service's response to NAPUS stated that the appellate provision of section 404(b) is intended to be limited strictly to customers served by the post office. The implicit interest of the postmasters' association, it contended, is to represent postmasters' employment interests in maintaining jobs for its members. Such interests could potentially conflict with the local customers' interests and could be entirely self-serving. The Postal Service further argued that the employment rights of postmasters involved in the closing of post offices are already statutorily protected. 39 U.S.C. 1004(b).

It is the Commission's view that the right to appeal a determination to close or consolidate a post office may be asserted only by a person served by such office. That interpretation would permit an appeal by the postmaster of the affected post office in his capacity as a customer of that post office as well as by other locally served patrons. This construction of the statute would preclude NAPUS from taking an appeal as the representative of postmasters generally, but would not necessarily preclude participation by NAPUS as an intervener in Commission appellate review proceedings. The Commission notes that the language of the statute itself provides in section 404(b)(5) that:

> [a] Determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Rate Commission * * *.

In addition, the Conference Report accompanying H.R. 8603 provides the following statement that appeal is limited to local patrons: [11]

> The Managers intended that an appeal to the Commission under this new provision (Section 9(a)) may be made only by a regular patron of a post office which has been ordered to be closed or consolidated.

However, where an appellate review pursuant to section 404(b)(5) has been initiated before the Commission, it would be appropriate for NAPUS (and other similarly situated parties) to seek leave to intervene in that proceeding. We believe that NAPUS, although statutorily prohibited from initiating an appeal, may possess certain general, collective information which would assist us in reviewing the decision of the Postal Service.[12] Accordingly, the Commission encourages NAPUS to seek intervention, as appropriate, in section 404(b)(5) appeals and to address common issues of policy and to provide general information relevant to these proceedings. In light of the adopted procedures, we shall strike proposed § 3001.116 which provides for the submittal of amicus curiae briefs to the Commission by nonpatrons. Such persons should seek intervention pursuant to § 3001.111(b). Accordingly, the first sentence of that provision will be changed to state that:

> A person served by the post office to be closed or consolidated pursuant to the Postal Service written determination under review who desires to intervene in the proceeding, or any other interested person, or any counsel, agent or other person authorized or recognized by the Postal Service as his representative or the representative of his recognized group, such as Postmasters, shall file with the Secretary of the Commission and serve upon all parties, a petition for leave to intervene in a form prescribed by § 3001.20.

IV. Other Modifications to Original Proposal

The Postal Service opposes the Commission's proposal to assign postmasters, of affected post offices, the responsibility for posting the Commission documents in a prominent place. Posting in this manner would provide customers with access to appellate documents even though they are not parties to the Commission's proceeding. Instead, it stated that the Postal Service itself should be named, subject to the delegation of its responsibility, particularly where the postmaster or a member of his or her family may be appellants in the proceeding. Further, the Service observes, the affected facility may no longer be in service. Therefore, the Postal Service suggested that it would be sufficient, in place of the proposed amendment to § .12 and the present language proposed for § .117, for § .117 to state that during any proceeding conducted pursuant to Subpart H:

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[10] American Public Gas Association v. Federal Power Commission, 498 F.2d 718 (D.C. Cir. 1974). This was a proceeding involving an appeal challenging the procedures utilized by the FPC in determining certain rates under the Natural Gas Act in which the Court found that the Commission's decision was based on substantial evidence, considering the record as a whole, and that the petitioners had not demonstrated they should have been afforded the right to cross-examination to test the underlying bases for the submitted data.

[11] H.R. Rep. No. 94-15, 94th Cong., 2nd Sess. 18 (1976).

[12] Cf., *National Automatic Laundry and Cleaning Council* v. *Shultz*, 443 F.2d 689, 693-94 (D.C. Cir. 1971).

* * * the Postal Service shall cause to be displayed in the post office or offices serving the patrons affected by the determination to close or consolidate a post office which is under review, a copy of the service list and of all pleadings, notices, orders, briefs, and opinions filed in such proceeding.

The Commission finds that the Postal Service's suggestions are appropriate. Accordingly, § 3001.12(d) will not be amended as originally proposed. Rather, it shall be the duty of the Postal Service, under new § 3001.116 (§ 3001.117 in Notice of Proposed Rulemaking) to cause the Commission documents to be displayed and available for inspection by affected patrons.

The Postal Service also stated in its comments that the proposed rules should express more clearly the parties' responsibilities with respect to the filing of documents and the service thereof, in a manner similar to the requirements under the general rules. (See §§ 3001.9 through 3001.12.) Except to the extent specific responsibilities of the parties in these matters are set forth in the new rules, the Commission intends that the general rules contained in §§ 3001.9 through 3001.12 will govern. Accordingly, it is not necessary to repeat here the provisions of those sections.

The Postal Service proposed that the time for filing an answer to an application for suspension pending review be measured from the service of the application with the Postal Service, rather than from its time of filing with the Commission, in order to conform with the similar provision in § 3001.113(a). We agree that those sections should be consistent. However, we are changing § 3001.113(a) to require the Postal Service to file the record within 15 days from the date on which the petition for review is filed with the Commission based on our belief that it is more precise and the accepted practice to measure procedural dates from the time a document is recorded as received by the reviewing agency.

Further, the Postal Service pointed out that the requirement in § 3001.114 that the appellant file "such parts of the record as are relevant to the relief sought" where the appellant seeks suspension of a closing pending review is inconsistent with proposed § 3001.112 which makes it clear that the Postal Service has the custody of and responsibility for filing the record on review. The Postal Service suggested that proposed § 3001.114(a) be changed to require that the Postal Service file the parts of the record relevant to the relief sought and its answer accompanied by an affidavit. The Commission concurs in this recommendation and is changing the new rules to require the Postal Service to file the record within 10 days from the date the application for suspension is filed with the Commission.

The Postal Service also recommended that the definition of the term "party" in § 3001.5(g) be amended to include "appellant" after the word "complainant." The Commission also believes this suggestion is sound and is incorporating it into the new rules.

Finally, we have decided sua sponte to expand the notice provision in § 3001.110 to ensure that local patrons are aware of their appellate rights under the new law. The affected portion of § 3001.110 will read as follows:

* * * Pursuant to section 404(b) of the Act any decision to close or consolidate a post office must be preceded by 60 days notice to persons served by such post office, the opportunity for such persons to present their views, and a written determination based upon consideration of each of the factors listed in section 404(b)(2) of the Act. This notice must include a provision stating that, pursuant to Pub. L. 94-421, a final Postal Service determination to close or consolidate a post office may be appealed to the Postal Rate Commission at 2000 L Street, NW., Washington, D.C. 20268, within 30 days after the issuance of a written determination by the Postal Service.

Accordingly, in consideration of the foregoing findings and for the reasons given in the Notice of Proposed Rulemaking, Part 3001 of Chapter III of Title 39 of the Code of Federal Regulations is amended, effective March 16, 1977, as follows:

Subpart A—Rules of General Applicability

1. Amend § 3001.5 (g) and (m) to read as follows:

§ 3001.5 Definitions.

* * * * *

(g) "Party" means the Postal Service, a complainant, an appellant, or a person who has been permitted to intervene in a proceeding before the Commission.

* * * * *

(m) "Appellant" means a person who as permitted by 39 U.S.C. 404(b) appeals to the Commission a determination of the Postal Service to close or consolidate a post office.

* * * * *

2. Amend § 3001.7(a) to read as follows:

§ 3001.7 Ex parte communications.

(a) *Prohibition.* To avoid the possibility or appearance of impropriety or of prejudice to the public interest and persons involved in proceedings pending before the Commission, no person who is a party to any on-the-record proceeding, or a proceeding conducted pursuant to Subpart H of this part, or who is granted limited participation in accordance with § 3001.19a or his counsel, agent, or other person acting on his behalf or a commenter under § 3001.19b, nor any interceder, shall volunteer or submit to any member of the Commission or member of his personal staff, to the presiding officer, or to any employee of the Commission, any ex parte off-the-record communication regarding any matter, either substantive or procedural, which is at issue, or any substantive matter which is likely to be at issue in the on-the-record proceeding, except as authorized by law; and no Commissioner, member of his personal staff, presiding officer, or employee of the Commission, shall request or entertain any such communication. For the purposes of this section, the term "on-the-record proceeding" means a proceeding notice pursuant to § 300.17. The prohibitions of this paragraph shall apply from the date of issuance of such notice. The prohibitions of this section do not apply to a communication between a participant, a limited participator, or a commenter and the Officer of the Commission designated to represent the interest of the general public (or his staff or the technical staff designated to support him), if such communication relates to matters of procedure only, including matters arising in the course of requests for interrogatories or discovery and informal requests for clarification of evidentiary material. Said Officer shall file with the Commission a monthly report briefly describing any ex parte communication received pursuant to this exception, and this report, which shall be a public record of the Commission, shall identify the individuals involved and the nature of the subject matter discussed.

* * * * *

3. Revise § 3001.17 (b), (c) and (d) to read as follows:

§ 3001.17 Notice of proceeding.

* * * * *

(b) *Appellate proceedings under 39 U.S.C. 404(b).* The Commission shall issue a notice of proceeding to be determined on a record compiled by the Postal Service whenever:

(1) An appeal of a determination of the Postal Service to close or consolidate a post office is taken to the Postal Rate Commission pursuant to Subpart H of this part; or

(2) An application to suspend the effective date of a determination of the Postal Service to close or consolidate a post office pending appeal to the Postal Rate Commission is made pursuant to Subpart H of this part.

(c) *Publication and service of notice.* Each notice of proceeding shall be published in the FEDERAL REGISTER and served on the Postal Service, the complainant in a complaint proceeding, and the appellant in the appeal of a Postal Service determination to close or consolidate a post office.

(d) *Contents of notice.* The notice of a proceeding shall include the following:

(1) The general nature of the proceeding involved in terms of categories listed in paragraphs (a) and (b) of this section;

(2) A reference to the legal authority under which the proceeding is to be conducted;

(3) A concise description of proposals for changes in rates or fees, proposals for the establishment of or changes in the mail classification schedule, proposals for changes in the nature of postal services, in the case of a complaint, an identification of the complainant and a concise description of the subject matter of the complaint or, in the case of an appeal, an identification of the appellant and a summarization of the Postal Service determination to close or consolidate under review;

(4) The date by which petitions for leave to intervene and requests for hearing must be filed; and

(5) Such other information as the Commission may desire to include.

4. Add a new Subpart H, initially containing §§ 3001.110 through 3001.116, to read as follows:

Subpart H—Rules Applicable to Appeals of Postal Service Determinations To Close or Consolidate Post Offices

Sec.
3001.110 Applicability.
3001.111 Initiation of review proceedings.
3001.112 The record on review.
3001.113 Filing of the record.
3001.114 Suspension pending review.
3001.115 Briefs on appeal.
3001.116 Posting of documents by Postal Service for inspection by affected postal patrons.

AUTHORITY: Secs. 404(b), 3603, Postal Reorganization Act; (30 U.S.C. 404(b)), 90 Stat. 1303; (39 U.S.C. 3603), 84 Stat. 759, (5 U.S.C. 553), 80 Stat. 383.

Subpart H—Rules Applicable to Appeals of Postal Service Determinations To Close or Consolidate Post Offices

§ 3001.110 Applicability.

Rules in this subpart govern the procedure regarding the appeal of a determination of the Postal Service to close or consolidate a post office by patrons of the post office in question. Pursuant to section 404(b) of the Act any decision to close or consolidate a post office must be preceded by 60 days notice to persons served by such post office, the opportunity for such persons to present their views, and a written determination based upon consideration of each of the factors listed in section 404(b)(2) of the Act. This notice must include a provision stating that, pursuant to Pub. L. 94-421, a final Postal Service determination to close or consolidate a post office may be appealed to the Postal Rate Commission at 2000 L Street, NW., Washington, D.C. 20268, within 30 days after the issuance of a written determination by the Postal Service. The rules of general applicability in Subpart A of this part, which do not relate solely to evidentiary proceedings on the record, are also applicable to proceedings subject to this subpart.

§ 3001.111 Initiation of review proceedings.

(a) *Petition for review.* Review of a determination of the Postal Service to close or consolidate a post office shall be obtained by filing a petition for review with the Secretary of this Commission within 30 days after the Service has made available to persons served by that post office the written determination to close or consolidate required by 39 U.S.C. 404(b)(3)-(4). The petition shall specify the parties seeking review, all of whom must be persons served by the post office proposed to be closed or consolidated and shall identify the Postal Service as respondent. A copy of the Postal Service written determination shall be appended to the petition for review as an exhibit thereto. If two or more persons are entitled to petition for review of the same determination and their interests are such as to make joinder practicable, they may file a joint petition for review and may thereafter proceed as a single petitioner.

(b) *Intervention.* A person served by the post office to be closed or consolidated pursuant to the Postal Service written determination under review who desires to intervene in the proceeding, or any other interested person, or any counsel, agent or other person authorized or recognized by the Postal Service as his representative or the representative of his recognized group, such as Postmasters, shall file with the Secretary of the Commission and serve upon all parties a petition for leave to intervene in a form prescribed by § 3001.20. The petition shall contain a concise statement of the interest of the moving party and the grounds upon which intervention is sought. A petition for leave to intervene shall be filed within 20 days of the date on which the petition for review is filed. The provisions of § 3001.20(c)-(f) of Subpart A of this part shall apply to petitions for leave to intervene in review proceedings.

§ 3001.112 The record on review.

The written determination sought to be reviewed or enforced, the conclusions and findings upon which it must be based under section 404(b)(3) of the Act, the notices to local patrons and the evidence contained in the entire administrative record before the Postal Service shall constitute the record on review. The record shall contain all evidence considered by the Postal Service in making its determination and shall contain no evidence not previously considered by the Postal Service.

§ 3001.113 Filing of the record.

(a) *Time for filing of the record by the Postal Service.* The Postal Service shall file the record with the Secretary of the Commission within 15 days after the date on which the petition for review is filed with the Commission. The Commission may shorten or extend the time prescribed above. The Secretary shall give notice to all parties of the date on which the record is filed.

(b) *Composition of the filing.* The Postal Service may file the entire record or such parts thereof as the parties may designate by stipulation filed with the Postal Service. The original papers in the Postal Service proceeding or certified copies thereof may be filed. All parts of the record retained by the Postal Service shall be a part of the record on review for all purposes.

§ 3001.114 Suspension pending review.

(a) *Application.* Application for suspension of a determination of the Postal Service to close or consolidate any post office pending the outcome of an appeal to the Postal Rate Commission shall be made at the time of the filing of a petition for review or of the filing of a petition for leave to intervene in an extant appellate proceeding. The application shall show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by affidavits or other sworn statements or copies thereof. The applicant must be a person served by the affected post office. Immediate notice of the application shall be given to all parties to the proceeding. The application shall be filed with the Secretary of the Commission.

(b) *Answer and filing of the relevant record by the U.S. Postal Service.* Within 10 days after the application for suspension is filed, the Postal Service shall file with the Secretary of the Commission and serve on the petitioners an answer to the application supported by affidavits or other sworn statements or copies thereof. The Postal Service, within 10 days from the date of filing of the application, shall file with the Secretary such parts of the record as are relevant to the relief sought.

§ 3001.115 Briefs on appeal.

(a) *Appellant's initial brief.* The initial brief of the appellant shall be filed with the Secretary of the Commission and served on all parties 30 days after the filing of the petition for review of a decision to close or consolidate a post office. The brief will be limited in length to 30 pages, typewritten and double spaced, and shall include the following in the order indicated:

(1) A subject index with page references, and a list of all cases and authorities relied upon, arranged alphabetically, with references to the pages where the citation appears (which need not be included in the page count);

(2) A concise statement of the case from the viewpoint of the filing participant;

(3) A clear, concise and definitive statement of the position of the author as to the merits of the determination under review;

(4) A discussion of the evidence, reasons, and authorities relied upon with exact references to the record and the authorities; and

(5) Proposed holding with appropriate references to the record or the prior discussion of the evidence and authorities relied upon, and to the appellate criteria of section 404(b)(5) of the Act.

Briefs before the Commission shall be completely self-contained and shall not incorporate by reference any portion of any other brief, pleading or document. Testimony and exhibits shall not be quoted or included in briefs except for short excerpts pertinent to the argument presented.

(b) *Answering brief of The Postal Service.* The answering brief of the Postal Service shall be filed 15 days after the date designated for filing of the appellant's brief and shall follow the format detailed in paragraph (a) of this section.

(c) *Reply brief.* The appellant may file a brief in reply to the brief of the Postal Service 15 days after the date designated for filing of that brief, which shall be strictly limited in content to reply to arguments made by the Postal Service. It shall conform to the format detailed in paragraph (a) of this section.

(d) *Intervenor briefs.* An intervenor shall file its brief within the time allowed for initial and reply, or answering, briefs, as appropriate and shall follow the format detailed in paragraph (a) of this section.

§ 3001.116 Posting of Documents by Postal Service for Inspection by Affected Postal Patrons.

In all proceedings conducted pursuant to this Subpart H, the Postal Service shall cause to be displayed prominently, in the post office or offices serving the patrons affected by the determination to close or consolidate a post office which is under review, a copy of the service list and all pleadings, notices, orders, briefs and opinions filed in such proceedings. Failure by the Postal Service to display prominently any such document shall be deemed sufficient reason to suspend the effectiveness of the Postal Service determination under review until final disposition of the appeal.

(Secs. 404(b), 3603, Postal Reorganization Act; (39 U.S.C. 404(b)), 90 Stat. 1303; (39 U.S.C. 3603), 84 Stat. 759; (5 U.S.C. 553), 80 Stat. 383.)

By the Commission.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-5759 Filed 2-24-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Tennessee: Revised SO_2 Emission Limits

On August 8, 1974 (39 FR 28528), the Administrator approved, with certain exceptions, revised SO_2 emission limits for the Tennessee implementation plan. These were contained in Chapter XIV of the Tennessee air pollution control regulations, which was rewritten by the State to include all its SO_2 emission limiting rules, including those for sulfuric acid plants. Chapter XIV sets the following SO_2 emission limits for fuel combustion and process sources respectively: Polk County (Class IA)—1.6#/10^6 Btu and 500 ppm; Maury, Roane, and Sullivan Counties (Class I)—1.6#/10^6 Btu and 1000 ppm; Humphreys County (Class II)—3#/10^6 Btu and 1000 ppm; and all other Counties (Class III)—4#/10^6 Btu and 2000 ppm. The administrator at that time disapproved these revised limits as they applied to large fuel combustion sources (heat input of 1000 million Btu or more per hour) in Humphreys and Roane Counties, leaving in effect for these sources the Tennessee plan's original SO_2 emission limit of 1.2#/10^6 Btu.

The State has now deleted the existing Chapter XIV of its regulations and replaced it with a new one, styled Chapter 1200-3-14. This was adopted after notice and public hearing on October 23, 1975, became State law on March 20, 1976, and was submitted to EPA as a proposed plan revision on April 30, 1976. In support of the proposed SO_2 revision, the State of Tennessee also submitted a revised SO_2 control strategy which shows that the revised limits will not interfere with the attainment and maintenance of national ambient air quality standards. The provisions of Chapter 1200-3-14 were described in a notice of proposed rulemaking in the FEDERAL REGISTER of August 13, 1976 (41 FR 34322). Public comment on the revision was asked, and two comments were received, both favoring approval of the revision. The purpose of the present notice is to announce the Administrator's approval of Chapter 1200-3-14, which represents both a tightening and a relaxation of previous SO_2 emission limiting regulations, and which places the burden of control on the sources most likely to cause air quality problems.

A new County classification system is established which applies throughout Chapter 1200-3-14. There are six classifications and the Counties in them are as follows: Class I—Polk; Class II—Humphreys, Maury, and Roane; Class III—Sullivan; Class IV—Shelby; Class V—Anderson, Davidson, Hamilton, Hawkins, Knox, and Rhea; Class VI— all others.

Paragraph (1) of rule .02 deals with fuel burning sources in operation prior to April 3, 1972, the date on which the original regulations of the Tennessee plan became effective. For Shelby County, allowable emissions depend on the fuel burned: coal—4#SO_2/10^6 Btu; No. 5 and 6 fuel oil and solid fuels other than coal—2.7#SO_2/10^6 Btu; and other fuels—0.5#SO_2/10^6 Btu. In all other counties, the emission limits depend on source size and/or County classification. In Sullivan County, the limit is 2.4#SO_2/10^6 Btu for all sources; in Class V Counties, 4#SO_2/10^6 Btu; and in Class VI Counties, 5#SO_2/10^6 Btu. For larger sources, those with a rated capacity of more than 1000 million Btu/hr. input, the limit is 1.2#SO_2/10^6 Btu in Polk, Humphreys, Maury, and Roane Counties; for sources with a rated capacity of less than 1000 million Btu/hr., the limit is 1.6#SO_2/10^6 Btu in Polk County, and 5#SO_2/10^6 Btu in Humphreys, Maury, and Roane Counties. In addition to meeting these emission limits, owners or operators of larger sources must demonstrate that their SO_2 emissions, either alone or in combination with emissions from other sources, will not interfere with the attainment and maintenance of the national ambient air quality standards; the same sources must also conduct ambient air quality monitoring in a manner prescribed by the State. Finally, for sources subject to paragraph (1), allowable emissions will be calculated on the basis of maximum rated capacity of all fuel combustion units at a plant.

Paragraph (2) of rule .02 provides emission limits for units constructed after April 3, 1972. For units with a rated capacity of more than 250 million Btu per hour, limits are set which are equivalent to those set forth at 40 CFR 60.43 in the Agency's New Source Performance Standards—0.8#SO_2/10^6 Btu when liquid fossil fuel is burned; 1.2#SO_2/10^6 Btu when solid fossil fuel is burned. For smaller units, limits are set as follows: Class I County—1.6#SO_2/10^6 Btu; Class II and VI Counties—5#SO_2/10^6 Btu; Class III County—2.4#SO_2/10^6 Btu; and Class IV and V Counties—4#SO_2/10^6 Btu.

Rule .03 sets forth emission limits for process sources, which include thermal oxidizers, incinerators, and sulfuric acid plants. In Polk County the limit is 500 ppm; in Humphreys, Maury, Roane, and Sullivan Counties, 1000 ppm; in all others, 2000 ppm. Process sources in Shelby County may request to be regulated on an alternative basis rather than meet the 2000 ppm standard; this alternative involves not exceeding the sources SO_2 emission capacity as of 1974, and is limited by certain safeguards. (These 1974 emission limits are contained in Table 9-F of the revised control strategy.) To be approvable, such alternatives must be based on an identifiable emission limit. An additional requirement is that sources which emitted more than 1000 tons of SO_2 during calendar year 1972 or during any succeeding calendar year must perform ambient air quality monitoring and satisfy the State that their emissions, either alone or in combination with those of other sources, will not interfere with the attainment and maintenance of national ambient air quality standards. All new process sources must use best available control technology as determined by the State.

All emission limits set forth in rules .02 and .03 are expressed as one-hour averages.

The materials submitted by Tennessee are available for public inspection during normal business hours at the following locations:

Air and Hazardous Materials Division, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30308.

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Division of Air Pollution Control, Tennessee Department of Public Health, Room 256, Capitol Hill Building, 301 Seventh Avenue, Nashville, Tennessee 37219.

The Administrator's review of these materials indicates that implementation of the present revision will have no adverse effect on the attainment and maintenance of the national ambient air quality standards. More specifically, maintenance of SO_2 standards should not be a major problem for most of the State. Modelling indicates that ambient SO_2 concentrations, even under worst conditions, will not approach the national standards. Therefore an adequate margin for normal growth exists. In isolated cases, the introduction of a major new source may have to be accompanied by a tightening of regulations or by a trade-off in emissions from existing sources.

Accordingly, this revision is approved. Conditional approval only is given to the alternative process emission limit provided for Shelby County; any use of this alternative must be embodied in a subsequent implementation plan revision and submitted for the Agency's approval.

Since the present revision provides, for large fuel combustion sources in Humphreys and Roane Counties, an emission limit which is adequate to attain national standards, the disapproval action set forth at 40 CFR 52.2231 is hereby revoked, along with a portion of 40 CFR 52.2223(a) dealing with compliance schedules for the sources in question. Also the language of 40 CFR 52.2223(a) is revised to reference Chapter 1200–3–14 of the Rules and Regulations of Tennessee rather than Chapter XIV of the State's air pollution control regulations.

These actions are effective March 28, 1977.

(Sec. 110(a), Clean Air Act (42 U.S.C. 1857–c5(a)).)

Dated: February 18, 1977.

JOHN QUARLES,
Acting Administrator.

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

Subpart RR—Tennessee

1. Section 52.2220, is amended by adding paragraph (c)(27) as follows:

§ 52.2220 **Identification of plan.**

* * * * *

(c) * * *

(27) Revised emission limits for combustion and process sources of sulfur dioxide, submitted on April 30, 1976, by the Division of Air Pollution Control of the Tennessee Department of Public Health. (The provision for an alternative basis for regulating process sources in Shelby County is given conditional approval; any exercise of this provision must be made the subject of a plan revision.)

§ 52.2223 [Amended]

2. Section 52.2223 is amended by replacing all mention in paragraphs (a)(1), (a)(2)(vii), (a)(3)(v), and (a)(4) of "Chapter XIV of the Tennessee air pollution control regulations" with the mention "Chapter 1200–3–14 of the Rules and Regulations of Tennessee", and by deleting paragraph (a)(8).

§ 52.2231 [Revoked]

3. Section 52.2231 is revoked.

[FR Doc.77–5672 Filed 2–24–77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICES, GENERAL SERVICES ADMINISTRATION

MISCELLANEOUS AMENDMENTS

Correction

In FR Doc. 77–2485, appearing at page 5054, in the issue for Thursday, January 27, 1977, the following corrections should be made:

1. On page 5057, in the second column, in § 5A–7.103–56, under the first section entitled "Minimum Order Limitation" under the paragraph designated (a), the fourth line should read, "(Percent [2]), but such deliveries may be".

2. On page 5057, in the second column, in § 5A–7.103–56, under the second section entitled, "Minimum Order Limitation under the paragraph designated (a), the fourth line should read, "less than (Percent [2]), but such deliveries".

3. On page 5057, in the third column, in § 5A–7.103–56 under the second section entitled "Minimum Order Limitation" immediately under the paragraph designated (c), the first line of the footnote should read, "[2] Enter the minimum economical quantity".

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[FRA Docket No. HS–4, Notice No. 6]

HOURS OF SERVICE ACT

Signal Service; Interim Statement of Agency Policy and Interpretation

Correction

In FR Doc. 77–2197, appearing at page 4464, in the issue for Tuesday, January 25, 1977, the following corrections should be made:

1. On page 4465, in the third column, under the section entitled "Covered Service," first paragraph, the twelfth line should read, "derstanding of the term "signal systems"."

2. On page 4467, in the first column, first full paragraph, the third line should read, "3:00 p.m., and rides or drives to work site".

3. On page 4467, first column, 3rd full paragraph, the 4th line should read, "the work for which he was called will be".

4. On page 4467, first column, 3rd full paragraph, the 18th line should read, "on rails), prior to receiving an off-duty pe-".

5. On page 4467, second column, under section entitled "Example B", there should be a space between the 2nd and 3rd paragraphs.

6. On page 4467, second column, third full paragraph, the 8th line should read, "continuity of service. Conversely, periods of".

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER D—TARIFFS AND SCHEDULES

[No. 36331]

PART 1306—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES OF MOTOR CARRIERS

Posting and Filing of Round-Trip Excursion Fares

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 27th day of January 1977.

It appearing, that the Commission, by notice and order served April 19, 1976, instituted this rulemaking proceeding under the provisions of the Interstate Commerce Act and section 553 of the Administrative Procedure Act for the purpose of considering whether or not the facts and circumstances warrant the amendment of § 1306.4(a) of Title 49 of the Code of Federal Regulations (rule 4(a) of Tariff Circular MP No. 3);

It further appearing, that by said notice of proposed rulemaking all interested parties were invited to make representations with regard to the proposed amendments; and that notice to all interested parties was given through publication in the FEDERAL REGISTER of April 21, 1976;

It further appearing, that initial statements were filed by Continental Trailways, Inc. (Continental), on June 23, 1976, and Greyhound Lines, Inc., on July 1, 1976; that a reply statement was filed by Continental on July 22, 1976; and that the Commission, upon consideration of all the comments filed, has, on the date hereof, made and filed its report setting forth its conclusions, findings, reasons therefor, and its decision that the regulations set forth in appendix A thereof should be adopted, which report is hereby referred to and made a part hereof;

Wherefore:

It is ordered, That the regulations, as set forth in said appendix A, be, and they are hereby adopted.

It is further ordered, That Part 1306 of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding the regulations as set forth in said appendix A.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Division 2.

ROBERT L. OSWALD,
Secretary.

§ 1306.4 **Round trip excursion fares.**

(a) *Sale of tickets.* Fares for round trip excursions may be established, without further notice, upon posting tariffs in advance in a public and conspicuous place where tickets for such round trip excursions are to be sold, and filing two copies thereof with the Commission, as follows:

(1) For a round trip excursion limited to a designated period of not more than 3 days, including the first date any ticket to be sold under the tariff may be used for the going journey and the last date any ticket to be sold under the tariff may be used for the return journey, upon posting and filing with the Commission on not less than 1 workday's notice.

(2) For a round trip excursion limited to a designated period of more than 3 days but not more than 30 days, including the first date any ticket to be sold under the tariff may be used for the going journey and the last date any ticket to be sold under the tariff may be used for the return journey, upon posting and filing with the Commission on not less than 3 workdays' notice;

(3) For a series of round trip excursions, such series covering a period not to exceed 30 days, including the first date any ticket to be sold under the

tariff may be used for the going journey and the last date any ticket to be sold under the tariff may be used for the return journey, upon posting and filing with the Commission on not less than 3 workdays' notice as to the entire series.

(4) For the purposes of this section, a workday shall be considered any day except Saturday, Sunday, or a legal holiday in the District of Columbia. A legal holiday of less than 1 day shall be considered a workday within the meaning of this section.

[FR Doc.77-5806 Filed 2-24-77;8:45 am]

Title 7—Agriculture

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

PART 26—GRAIN STANDARDS

United States Standards for Triticale

Correction

In FR Doc. 77-4826 appearing at page 9377 in the issue of Wednesday, February 16, 1977, on page 9379, the footnotes to the table were designated incorrectly. For the convenience of the reader, the table is hereby being republished in its entirety.

Grade	Minimum test weight per bushel	Maximum limits of—					
		Damaged kernels		Foreign material		Shrunken & broken kernels	Defects (Total) 3/
		Heat-damaged	Total 1/	Material other than wheat or rye	Total 2/		
	Pounds	Percent	Percent	Percent	Percent	Percent	Percent
U.S. No. 1	48.0	0.2	2.0	1.0	2.0	5.0	5.0
U.S. No. 2	45.0	0.2	4.0	2.0	4.0	8.0	8.0
U.S. No. 3	43.0	0.5	8.0	3.0	7.0	12.0	12.0
U.S. No. 4	41.0	3.0	15.0	4.0	10.0	20.0	20.0
U.S. Sample grade	U.S. Sample grade shall be triticale which: (a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4; or (b) Contains a quantity of smut so great that one or more of the grade requirements cannot be determined accurately; or (c) Contains 8 or more stones, 2 or more pieces of glass, 3 or more crotalaria seeds (Crotalaria spp.), 3 or more castor beans (Ricinus communis), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), or 2 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth per 1,000 grams of triticale; or (d) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or (e) Is heating or otherwise of distinctly low quality.						

1/ Includes heat-damaged kernels.
2/ Includes material other than wheat or rye.
3/ Defects (total) includes damaged kernels (total), foreign material (total) and shrunken and broken kernels. The sum of these three factors may not exceed the limit for "defects (total)" for each numerical grade.

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 725—FLUE-CURED TOBACCO

Subpart—Proclamations, Determinations and Announcements of National Marketing Quotas and Referendum Results

1977 MARKETING QUOTA REFERENDUM RESULTS FOR FLUE-CURED TOBACCO

Basis and purpose. Section 725.3 of Title 7, Code of Federal Regulations, is revised pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, to proclaim the results of the flue-cured tobacco marketing quota referendum for the three marketing years beginning July 1, 1977. The Secretary proclaimed national marketing quotas for flue-cured tobacco for the 1977-78, 1978-79, 1979-80 marketing years, and announced the amount of the national marketing quota for the 1977-78 marketing year (41 FR 52430). The Secretary announced (41 FR 53035) that a referendum would be held on December 16, 1976, to determine whether flue-cured tobacco producers were in favor of or opposed to marketing quotas for the three marketing years beginning July 1, 1977. Since the only purpose of this proclamation is to announce the results of the referendum, it is hereby found and determined that compliance with the notice, public participation procedure and effective date provisions of 5 U.S.C. 553 is unnecessary. Accordingly, this revision is being made effective without compliance with such procedure.

1. 7 CFR 725.3 is revised to read as follows:

§ 725.3 Results of the flue-cured tobacco marketing quota referendum for the three-year period beginning July 1, 1977.

In a referendum of farmers engaged in the production of the 1976 crop of flue-cured tobacco held on December 16, 1976, 143,488 farmers voted. Of those voting, 141,353 or 98.5 percent favored quotas for a period of three years beginning July 1, 1977, and 2,135 or 1.5 percent were opposed to quotas. Therefore, the national marketing quota of 1,116 million pounds for flue-cured tobacco proclaimed (41 FR 52430) for the 1977-78 marketing year will be in effect for such year, and marketing quotas on such kind of tobacco will be in effect for the three years beginning July 1, 1977.

§ 725.4 [Deleted]

2. 7 CFR 725.4 is deleted.

The material previously appearing in §§ 725.3 and 725.4 remains in full force and effect as to the crops to which each was applicable.

(Secs. 312, 317, 375; 52 Stat. 46, as amended, 79 Stat. 66, 52 Stat. 66, as amended (7 U.S.C. 1312, 1314c, 1375).)

NOTE.—Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Signed at Washington, D.C., on February 17, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-5598 Filed 2-24-77;8:45 am]

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

[Lemon Reg. 81]

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 Feb. 27-Mar. 5, 1977. 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.

§ 910.381 Lemon Regulation 81.

(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 expected to remain steady this week. Average f.o.b. price was $4.90 per carton the week ended February 19, 1977, compared to $4.98 per carton the previous week. Track and rolling supplies at 140 cars were up 15 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 section 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 section is based became available and the time when this section 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 section 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 February 22, 1977.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period February 27, 1977 through March 5, 1977, is hereby fixed at 210,000 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: February 23, 1977.

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

[FR Doc.77-6035 Filed 2-24-77;12:00 m]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Reg., 1976 Crop Barley Supplement, Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1976 Crop Barley Loan and Purchase Program

LOAN AND PURCHASE RATES

On October 13, 1976, Acting Secretary Knebel announced the 1977-crop barley loan rate, an increase over the 1976-crop barley loan rate. He further announced that the 1977-crop barley loan rate would be immediately applicable to the 1976-crop of barley. Premiums and discounts will remain unchanged.

Additional disbursements on the 1976-crop barley loans already made will be available retroactively for those producers who want their loans increased to the new rates.

Producers who wish to secure loans or adjust present loans at the new rate for 1976 barley can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

Under conditions of exceptionally heavy demand for credit in a very limited and overly tight money market, the new loan rates will bettter assist the producers in holding barley for improved market prices. In light of this current trend, the 1976-crop national average loan and purchase rate revision is being made now to give farmers timely assistance in the orderly marketing of this year's crop of barley.

7 CFR 1421.75 published in the FEDERAL REGISTER at 41 FR 35695 and effective as to the 1976 crop of barley, is amended as follows:

1. Paragraph (a) is revised, in order to show the new loan rates, and

2. The schedule of discounts in paragraph (b) is amended, in order to add a footnote. As amended § 1421.75 reads as follows:

§ 1421.75 Loan and purchase rates.

(a) *Basic loan and purchase rates (counties).* Basic county rates (marketing area in the case of Alaska) for loan and settlement purposes for barley (except mixed barley on warehouse receipts issued prior to November 1, 1976) grading U.S. No. 2 or better are established as follows:

ALABAMA

County	Rate per bushel
All Counties	$1.19

ALASKA [1]

County	Rate per bushel	County	Rate per bushel
Delta	$1.54	Kenai-Sold	$1.66
Fairbanks	1.53	Palmer	1.72
Glenallen	1.63	Talkeetna	1.72
Homer	1.59		

ARIZONA

All Counties	$1.39

ARKANSAS

All Counties	$1.19

CALIFORNIA

Alameda	$1.57	Riverside	$1.52
Alpine	1.40	Sacramento	1.57
Amador	1.53	San Benito	1.49
Butte	1.48	San Bernardino	1.53
Calaveras	1.53	San Diego	1.57
Colusa	1.52	San Francisco	1.57
Contra Costa	1.54	San Joaquin	1.57
El Dorado	1.52	San Luis Obispo	1.49
Fresno	1.51	San Mateo	1.54
Glenn	1.49	Santa Barbara	1.48
Humboldt	1.37	Santa Clara	1.53
Imperial	1.51	Santa Cruz	1.50
Inyo	1.39	Shasta	1.37
Kern	1.52	Sierra	1.39
Kings	1.50	Siskiyou	1.35
Lake	1.47	Solano	1.54
Lassen	1.37	Sonoma	1.52
Los Angeles	1.57	Stanislaus	1.55
Madera	1.53	Sutter	1.51
Marin	1.54	Tehama	1.48
Mariposa	1.51	Tulare	1.49
Mendocino	1.41	Tuolumne	1.51
Merced	1.53	Ventura	1.52
Modoc	1.35	Yolo	1.54
Monterey	1.49	Yuba	1.51
Napa	1.52		
Orange	1.57		
Placer	1.50		
Plumas	1.40		

COLORADO

All Counties	$1.25

CONNECTICUT

All Counties	$1.19

DELAWARE

All Counties	$1.19

FLORIDA

All Counties	$1.20

GEORGIA

All Counties	$1.20

IDAHO

Ada	$1.26	Gem	$1.26
Adams	1.26	Gooding	1.26
Bannock	1.26	Idaho	1.30
Bear Lake	1.23	Jefferson	1.22
Benewah	1.33	Jerome	1.26
Bingham	1.25	Kootenai	1.33
Blaine	1.26	Latah	1.33
Boise	1.26	Lemhi	1.22
Bonner	1.29	Lewis	1.32
Bonneville	1.23	Lincoln	1.26
Boundary	1.28	Madison	1.23
Butte	1.25	Minidoka	1.27
Camas	1.26	Nez Perce	1.33
Canyon	1.26	Oneida	1.26
Caribou	1.23	Owyhee	1.26
Cassia	1.25	Payette	1.26
Clark	1.22	Power	1.26
Clearwater	1.32	Shoshone	1.21
Custer	1.26	Teton	1.23
Elmore	1.26	Twin Falls	1.27
Franklin	1.27	Valley	1.26
Fremont	1.23	Washington	1.26

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

ILLINOIS

County	Rate per bushel	County	Rate per bushel
Alexander	$1.25	Saint Clair	$1.24
Cook	1.20	All Other Counties	1.15
Madison	1.24		

INDIANA

All Counties	$1.15

IOWA

Pottawattamie	$1.21	All Other Counties	$1.17

KANSAS

Wyandotte	$1.22	All Other Counties	$1.18

KENTUCKY

All Counties	$1.16

LOUISIANA

East Baton Rouge	$1.37	West Baton Rouge	$1.37
Jefferson	1.37	All Other Counties	1.20
Orleans	1.37		
Saint Charles	1.37		

MAINE

All Counties	$1.19

MARYLAND

Baltimore City	$1.37	All Other Counties	$1.19

MASSACHUSETTS

All Counties	$1.19

MICHIGAN

All Counties	$1.11

MINNESOTA

Aitkin	$1.25	Martin	$1.27
Anoka	1.28	Meeker	1.26
Becker	1.16	Mille Lacs	1.26
Beltrami	1.18	Morrison	1.23
Benton	1.25	Mower	1.27
Big Stone	1.20	Murray	1.24
Blue Earth	1.28	Nicolette	1.28
Brown	1.26	Nobles	1.24
Carlton	1.29	Norman	1.15
Carver	1.29	Olmsted	1.28
Cass	1.21	Otter Tail	1.17
Chippewa	1.25	Pennington	1.14
Chisago	1.28	Pine	1.29
Clay	1.15	Pipestone	1.21
Clearwater	1.15	Polk	1.14
Cottonwood	1.25	Pope	1.23
Crow Wing	1.21	Ramsey	1.29
Dakota	1.29	Red Lake	1.14
Dodge	1.28	Redwood	1.26
Douglas	1.20	Renville	1.25
Faribault	1.27	Rice	1.29
Fillmore	1.25	Rock	1.20
Freeborn	1.28	Roseau	1.12
Goodhue	1.28	Saint Louis	1.29
Grant	1.18	Scott	1.29
Hennepin	1.29	Sherburne	1.28
Houston	1.24	Sibley	1.28
Hubbard	1.18	Stearns	1.25
Isanti	1.27	Steele	1.29
Itasca	1.24	Stevens	1.20
Jackson	1.25	Swift	1.24
Kanabec	1.26	Todd	1.20
Kandiyohi	1.25	Traverse	1.18
Kittson	1.10	Wabasha	1.28
Koochiching	1.22	Wadena	1.19
Lac Qui Parle	1.24	Waseca	1.29
Lake of the Woods	1.17	Washington	1.29
Le Sueur	1.29	Watonwan	1.27
Lincoln	1.21	Wilkin	1.17
Lyon	1.24	Winona	1.26
McLeod	1.28	Wright	1.29
Mahnomen	1.14	Yellow Medicine	1.23
Marshall	1.13		

MISSISSIPPI

County	Rate per bushel	County	Rate per bushel
All Counties	$1.19		

MISSOURI

Buchanan	$1.21	Saint Louis	$1.23
Clay	1.21	All Other Counties	1.19
Jackson	1.21		

MONTANA

Beaverhead	$1.15	Madison	$1.21
Big Horn	1.11	Meagher	1.15
Blaine	1.06	Mineral	1.23
Broadwater	1.18	Missoula	1.23
Carbon	1.11	Musselshell	1.10
Carter	1.03	Park	1.19
Cascade	1.14	Petroleum	1.08
Chouteau	1.10	Phillips	1.03
Custer	1.05	Pondera	1.12
Daniels	1.02	Powder River	1.05
Dawson	1.05	Powell	1.21
Deer Lodge	1.21	Prairie	1.05
Fallon	1.03	Ravalli	1.19
Fergus	1.12	Richland	1.02
Flathead	1.26	Roosevelt	1.02
Gallatin	1.21	Rosebud	1.06
Garfield	1.06	Sanders	1.23
Glacier	1.13	Sheridan	1.01
Golden Valley	1.11	Silver Bow	1.21
Granite	1.19	Stillwater	1.11
Hill	1.09	Sweet Grass	1.14
Jefferson	1.21	Teton	1.12
Judith Basin	1.11	Toole	1.12
Lake	1.19	Treasure	1.06
Lewis and Clark	1.12	Valley	1.03
Liberty	1.11	Wheatland	1.12
Lincoln	1.26	Wibaux	1.03
McCone	1.05	Yellowstone	1.11

NEBRASKA

Douglas	$1.22	All Other Counties	$1.14

NEVADA

All Counties	$1.39

NEW HAMPSHIRE

All Counties	$1.19

NEW JERSEY

All Counties	$1.19

NEW MEXICO

All Counties	$1.29

NEW YORK

Albany	$1.37	New York City	$1.37
All Other Counties			1.19

NORTH CAROLINA

All Counties	$1.20

NORTH DAKOTA

Adams	$1.04	Hettinger	$1.02
Barnes	1.12	Kidder	1.07
Benson	1.07	La Moure	1.10
Billings	1.02	Logan	1.07
Bottineau	1.03	McHenry	1.05
Bowman	1.02	McIntosh	1.08
Burke	1.02	McKenzie	1.01
Burleigh	1.07	McLean	1.05
Cass	1.15	Mercer	1.04
Cavalier	1.07	Morton	1.04
Dickey	1.11	Mountrail	1.02
Divide	1.02	Nelson	1.09
Dunn	1.02	Oliver	1.05
Eddy	1.08	Pembina	1.09
Emmons	1.04	Pierce	1.06
Foster	1.09	Ramsey	1.08
Golden Valley	1.02	Ransom	1.12
Grand Forks	1.12	Renville	1.02
Grant	1.02	Richland	1.15
Griggs	1.11	Rolette	1.04
		Sargent	1.15

NORTH DAKOTA—Continued

County	Rate per bushel	County	Rate per bushel
Sheridan	1.06	Towner	1.05
Sioux	1.04	Traill	1.12
Slope	1.02	Walsh	1.10
Stark	1.02	Ward	1.03
Steele	1.12	Wells	1.08
Stutsman	1.12	Williams	1.02

OHIO

All Counties	$1.13

OKLAHOMA

All Counties	$1.20

OREGON

Baker	$1.31	Lake	$1.27
Benton	1.36	Lane	1.35
Clackamas	1.40	Lincoln	1.35
Clatsop	1.46	Linn	1.37
Columbia	1.46	Malheur	1.25
Coos	1.27	Marion	1.38
Crook	1.35	Morrow	1.39
Curry	1.25	Multnomah	1.46
Deschutes	1.35	Polk	1.38
Douglas	1.29	Sherman	1.41
Gilliam	1.40	Tillamook	1.41
Grant	1.35	Umatilla	1.36
Harney	1.22	Union	1.34
Hood River	1.42	Wallowa	1.31
Jackson	1.28	Wasco	1.42
Jefferson	1.38	Washington	1.42
Josephine	1.28	Wheeler	1.37
Klamath	1.28	Yamhill	1.40

PENNSYLVANIA

Philadelphia	1.37	All Other Counties	$1.19

RHODE ISLAND

All Counties	$1.19

SOUTH CAROLINA

Charleston	$1.35	All Other Counties	$1.20

SOUTH DAKOTA

Aurora	$1.12	Jackson	$1.05
Beadle	1.15	Jerauld	1.12
Bennett	1.05	Jones	1.10
Bon Homme	1.15	Kingsbury	1.18
Brookings	1.19	Lake	1.17
Brown	1.14	Lawrence	.99
Brule	1.10	Lincoln	1.16
Buffalo	1.12	Lyman	1.10
Butte	.99	McCook	1.12
Campbell	1.08	McPherson	1.12
Charles Mix	1.13	Marshall	1.15
Clark	1.15	Meade	1.02
Clay	1.16	Mellette	1.09
Codington	1.18	Miner	1.13
Corson	1.05	Minnehaha	1.16
Custer	1.04	Moody	1.17
Davison	1.12	Pennington	1.04
Day	1.16	Perkins	1.03
Deuel	1.21	Potter	1.12
Dewey	1.07	Roberts	1.19
Douglas	1.13	Sanborn	1.12
Edmunds	1.12	Shannon	1.04
Fall River	1.00	Spink	1.14
Faulk	1.13	Stanley	1.10
Grant	1.21	Sully	1.12
Gregory	1.12	Todd	1.09
Haakon	1.05	Tripp	1.10
Hamlin	1.18	Turner	1.16
Hand	1.12	Union	1.17
Hanson	1.13	Walworth	1.09
Harding	1.01	Washabaugh	1.05
Hughes	1.11	Yankton	1.16
Hutchinson	1.13	Ziebach	1.04
Hyde	1.12		

TENNESSEE

Shelby	$1.25	All Other Counties	$1.19

TEXAS

County	Rate per bushel	County	Rate per bushel
Chambers	$1.39	Nueces	$1.39
Galveston	1.39	San Patricio	1.39
Harris	1.39	All Other Counties	1.23
Jefferson	1.39		

UTAH

All Counties	$1.29

VERMONT

All Counties	$1.19

VIRGINIA

Chesapeake (Norfolk)	$1.37	All Other Counties	$1.19

WASHINGTON

Adams	$1.36	Lewis	$1.40
Asotin	1.36	Lincoln	1.35
Benton	1.38	Mason	1.33
Chelan	1.40	Okanogan	1.34
Clallam	1.26	Pacific	1.35
Clark	1.46	Pend Oreille	1.29
Columbia	1.37	Pierce	1.46
Cowlitz	1.46	San Juan	1.34
Douglas	1.35	Skagit	1.34
Ferry	1.31	Skamania	1.41
Franklin	1.37	Snohomish	1.39
Garfield	1.37	Spokane	1.33
Grant	1.36	Stevens	1.30
Grays Harbor	1.35	Thurston	1.40
Island	1.39	Wahkiakum	1.43
Jefferson	1.31	Walla Walla	1.37
King	1.46	Whatcom	1.32
Kitsap	1.39	Whitman	1.35
Kittitas	1.38	Yakima	1.37
Klickitat	1.39		

WEST VIRGINIA

All Counties	$1.19

WISCONSIN

Douglas	$1.26	All Other Counties	$1.16

WYOMING

All Counties	$1.23

(b) *Premiums and discounts.* The basic rates shall be adjusted by premiums or discounts as follows (all footnotes at end of paragraph).

	Discount (cents per bushel)
Class-mixed barley[1]	2
Grade:	
U.S. No. 3	3
U.S. No. 4	6
U.S. No. 5	15
Garlicky	10
Weed control law (where required by § 1421.25)	10

[1] Applicable where receipts are issued prior to November 1, 1976. Not applicable after November 1, 1976.

Since the 1976 crop of barley has already been harvested in the barley producing area and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the procedure for notice of proposed rulemaking and public participation would be impracticable and contrary to the public interest. Therefore, this amendment is issued without following such procedure.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, c); secs. 105, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441 note, 1421).)

Effective date: February 25, 1977.

Signed at Washington, D.C., on February 17, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-5703 Filed 2-24-77;8:45 am]

SUBCHAPTER C—EXPORT PROGRAMS

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM–5)

On January 21, 1977, there was published in the FEDERAL REGISTER (42 FR 3849) a notice of proposed rulemaking setting forth the proposed revision of the CCC Export Credit Sales Program regulations. The revision included minor editorial changes and the following proposed major changes:

1. The filing of financing applications and the issuance of financing approvals are eliminated.

2. The interest rate applicable to a particular sale will be the interest rate in effect on the date CCC receives the sale registration request.

Interested parties were given the opportunity to submit before February 22, 1977, data, views, and recommendations regarding the above proposals. No unfavorable comments have been received, and the proposals are hereby adopted without change and are set forth below:

Effective date: March 7, 1977.

Signed at Washington, D.C., on February 23, 1977.

JAMES L. HUTCHINSON,
Vice President, Commodity Credit Corporation and General Sales Manager, Office of the General Sales Manager.

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM–5)

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Authority: Sec. 5(f), 62 Stat. 1072 (15 U.S.C. 714c), and sec. 4, 80 Stat. 1538 (7 U.S.C. 1707a).

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM–5)

GENERAL

§ 1488.1 General statement.

(a) Except as otherwise provided in this paragraph (a), the regulations and the supplements thereto contained in this Subpart A supersede the regulations and supplements revised April 1975, and set forth the terms and conditions governing the CCC Export Credit Sales Program (GSM–5). The maximum financing period shall be three years. The regulations and supplements as revised in April 1971 and April 1975, shall remain in effect for all transactions under financing approvals issued thereunder.

(b) Subject to the terms and conditions set forth in this Subpart A, CCC will purchase for cash, after delivery, the exporter's account receivable arising from the export sale.

(c) The provisions of Pub. L. 83–664 are not applicable to shipments under this program.

(d) The regulations contained in this Subpart A may be supplemented by additional terms and conditions applicable to specified agricultural commodities and, to the extent that they may be in conflict or inconsistent with any other provisions of this Subpart A, such additional terms and conditions shall prevail.

§ 1488.2 Definition of terms.

As used in this Subpart A and in the forms and documents related thereto, the following terms shall have the meanings assigned to them in this section:

(a) "Account receivable" means the contractual obligation of the foreign importer to the exporter for the port value of the commodity delivered for which the exporter is extending credit to the importer. The account receivable shall be evidenced by documents, in form and substance satisfactory to CCC, establishing the contractual obligation between the U.S. exporter and the foreign importer. The account receivable shall provide for (1) payment of principal and interest in U.S. dollars in the United States, (2) interest in accordance with § 1488.14 and (3) acceleration of payment there-

under in accordance with these regulations.

(b) "Agency or branch bank" means an agency or branch of a foreign bank, supervised by New York State banking authorities or the banking authorities of any other State providing similar supervision, and approved by the Controller, CCC.

(c) "Assistant Sales Manager" means the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager.

(d) "Bank obligation" means an obligation, acceptable to CCC, of a U.S. bank, a foreign bank, an agency or branch bank, to pay to CCC in U.S. dollars the amount of the account receivable, plus interest in accordance with § 1488.14. The bank obligation shall be in the form of an irrevocable letter of credit issued by a U.S. bank or a branch bank, or confirmed or advised by a U.S. bank or any agency or branch bank in accordance with § 1488.12. The bank obligation shall provide for payment under the terms and conditions of the financing agreement and shall be payable not later than the date of expiration of the financing period or of the bank obligation, whichever occurs first, if payment is not received from other sources.

(e) "CCC" means the Commodity Credit Corporation, U.S. Department of Agriculture.

(f) "Carrying charges" means storage, insurance, and interest charges involved in the cost of storing the commodity before delivery as provided for in the sales contract, and other incidential costs as may be approved by the Assistant Sales Manager.

(g) "Commercial risk" means risk of loss due to any cause other than a political risk.

(h) "Date of delivery" means the onboard date of the ocean bill of lading, or the date of airway bill, or, if exported by rail or truck, the date of entry shown on an authenticated landing certificate or similar document issued by an official of the government of the importing country, or, if delivery is before export, the date(s) of the warehouse receipts or other evidence, acceptable to CCC, of delivery of the commodity to a warehouse.

(i) "Date of sale" means the earliest date the exporter has knowledge that a contractual obligation exists with the foreign buyer under which a firm dollar and cent price has been established or a mechanism to establish the price has been agreed upon.

(j) "Delivery" means the delivery required by the export sale contract to transfer to the importer full or conditional title to the agricultural commodity. Delivery before export shall be at a warehouse in the U.S. acceptable to CCC. Delivery at point of export shall be f.a.s. or f.o.b. export carrier at U.S. ports, at U.S. airports, at U.S. border points or exit or, if transshipped though Canada, at ports on the Great Lakes and on the St. Lawrence River.

(k) "Eligible commodities" means agricultural commodities, including eligible cotton, produced in the United States and designated as eligible for export under CCC's Export Credit Sales Program in a USDA announcement. Commodities which have been purchased from CCC are eligible for export as private stocks. Exports of commodities pursuant to any CCC barter contract, Pub. L. 480, AID agreement, or direct loan by the Export-Import Bank are not eligible for financing under this program. Commodities delivered prior to CCC receiving the sale registration request in accordance with § 1488.4 are not eligible for financing under this program unless such financing is determined by the Vice President, CCC, or the Assistant Sales Manager to be in the interest of CCC.

(l) "Eligible cotton" means Upland and Extra long staple cotton grown in the United States: *Provided, however,* That reginned or repacked cotton, as defined in regulations of the U.S. Department of Agriculture under the U.S. Cotton Standards Act (7 CFR 28.40), by-products of cotton such as cotton mill waste, motes, and linters, and any cotton that contains any by-products of cotton are not eligible for export financing hereunder. CCC's determination as to the eligibility of cotton shall be final.

(m) "Eligible destination" means the country which is named in the financing agreement and which meets the licensing requirements of the U.S. Department of Commerce.

(n) "Eligible exporter" or "exporter" means a person (1) who is engaged in the business of buying or selling commodities and for this purpose maintains a bona fide business office in the United States, its territories or possessions, and has someone on whom service of judicial process may be had within the United States, (2) who is financially responsible, and (3) who is not suspended or debarred from contracting or participating in any program financed by CCC on the date of issuance of the financing agreement.

(o) "OGSM" means the Office of the General Sales Manager, U.S. Department of Agriculture.

(p) "Financing agreement" means the exporter's request for a sale registration as approved by the Assistant Sales Manager, including the terms and conditions of the regulations in effect on the date of approval.

(q) "Financing period" means the specified number of months over which repayment is to be made. Such period shall start on the date of delivery or the weighted average delivery date of the commodities to be exported under the financing agreement and shall expire on the expiration of the bank obligation or the specified period over which repayment is to be made, whichever occurs first.

(r) "Foreign bank" means a bank which is not a U.S. bank or an agency or branch bank, but includes a foreign branch of a U.S. bank.

(s) "Foreign importer" or "importer" means the foreign buyer who purchases the commodities to be exported under a financing agreement and executes the documents evidencing the account receivable assigned to CCC.

(t) "GSM-5" means the regulations contained in this Subpart A, and supplements thereto, setting forth the terms and conditions governing the CCC Export Credit Sales Program.

(u) "Political risk" means risk of loss due to (1) inability of the foreign bank through no fault of its own to convert foreign currency to dollars, or (2) nondelivery into the eligible destination of the commodity covered by a financing agreement through no fault of the foreign bank or importer or exporter, because of the cancellation by the government of the eligible destination of the previously issued valid authority to import such shipment into the eligible destination, or because of the imposition of any law or of any order, decree, or regulation having the force of law which prevents the import of such shipment into the eligible destination, or (3) inability of the foreign bank to make payment due to war, hostilities, civil war, rebellion, revolution, insurrection, civil commotion, or other like disturbance occurring in the eligible destination, or expropriation, confiscation, or other like action by the government of the eligible destination country, or (4) failure of the foreign bank to make payment for any reason, if it is an instrumentality of or is wholly owned by the foreign government.

(v) "Port value" means the net amount of the exporter's sale price of the commodity to be exported under the financing agreement, basis f.a.s. or f.o.b. export carrier at U.S. ports, at U.S border points of exit, at U.S. airports if shipped by air, or if transshipped through Canada, at ports on the Great Lakes or on the St. Lawrence River. The port value shall not include ocean freight for a c.&f. sale or ocean freight and marine and war risk insurance for a c.i.f. sale but may include carrying charges as provided for in the sales contract. The net amount of the exporter's sales price means the exporter's contract price for the commodities, on the basis stated above, less any payments made to the exporter and less any discounts, credits, or allowances by the exporter.

(w) "Sale" means a contract to sell on credit U.S. agricultural commodities to be financed under GSM-5.

(x) "United States" means the 50 States, the District of Columbia, and Puerto Rico.

(y) "U.S. bank" means a bank organized under the laws of the United States, a State, or the District of Columbia.

(z) "USDA announcement" means an announcement published monthly by the U.S. Department of Agriculture (USDA), and which includes the list of eligible commodities and interest rates under GSM-5.

(aa) "Vice President, CCC" means the Vice President who is the General Sales Manager, Office of the General Sales Manager.

FINANCING EXPORT SALES

§ 1488.3 General.

When considering the extension of CCC credit for the purpose of financing agricultural commodities, CCC will take into account the extent to which CCC credit financing will:

(a) Permit U.S. exporters to meet competition from other countries.

(b) Prevent a decline in U.S. commercial export sales.

(c) Substitute commercial dollar sales for sales made pursuant to Pub. L. 480 or other concessional programs.

(d) Result in a new use of the agricultural commodity in the importing country.

(e) Permit expanded consumption of agricultural commodities in the importing country and thereby increase total commercial sales of agricultural commodities to the importing country.

§ 1488.4 Submission of requests for sale registrations.

(a) An eligible exporter shall submit a request for a sale registration for financing to the office specified in § 1488.22.

(b) Requests for sale registrations shall be in writing. If such a request is made by telephone, it must be confirmed by letter or wire.

(c) The total amount requested to be registered under a sale shall not exceed the sale contract value, including the upward tolerance, if any.

(d) Requests for sale registration shall incorporate by reference all terms and conditions of GSM–5. The following information shall also be included in the exporter's request for a sale registration:

(1) The name, class, grade, or quality, as applicable, and quantity of the commodity to be exported.

(2) The country of destination.

(3) The port value of the commodity to be exported and the sale contract tolerance, if applicable.

(4) The date of sale and exporter's sale number.

(5) The date of delivery or the period for delivery and the month in which application for payment will be submitted.

(6) The financing period.

(7) Whether the bank obligation assuring payment of the account receivable will be issued by a U.S. bank, branch bank, or foreign bank. If it will be issued by a foreign bank, its name and address, and the name of the confirming U.S. bank, branch bank, or agency bank (if approved as provided in § 1488.12b), and the percentage of confirmation.

(8) The name and address of the foreign importer.

(9) If delivery of the commodity to be exported is before export, the name and address of the warehouse to which delivery is to be made.

(10) If the commodity will be sold through an intervening purchaser, the name and address of the intervening purchaser, and a statement that the sale of the commodity is or will be conditioned on its resale by the intervening purchaser and that the commodity will be shipped directly to the foreign importer in the destination country specified in paragraph (d)(2) of this section pursuant to a contract in which the foreign importer agrees to pay the U.S. exporter the amount to be financed in accordance with the terms of GSM–5 financing agreement.

(11) Any additional information as determined by CCC.

§ 1488.5 Acceptance of sale registrations.

(a) Upon receiving a request for a sale registration complying with the applicable provisions of this Subpart, the Assistant Sales Manager may approve the registration of the sale. If approved, the exporter will be notified in writing of the financing agreement number which will constitute notice that the sale is registered and eligible for financing.

(b) A sale entered into prior to the date that financing becomes available will not be eligible for financing unless such sale is made contingent upon the availability of CCC credit or unless CCC determines that acceptance of such sale would be in the interest of the program objectives.

(c) CCC reserves the right to reject any and all requests for sale registration.

(d) The registration of a sale shall create a financing agreement between the exporter and CCC which shall consist of the exporter's request for a sale registration, CCC's acceptance of the sale registration, the applicable terms and conditions of this Subpart, including amendments and supplemental announcements hereunder which are in effect on the date of approval.

(e) The financing agreement may contain such terms and conditions, not inconsistent with GSM–5, as are deemed necessary in the interest of CCC.

(f) An exporter shall promptly notify the Assistant Sales Manager when he is unable to fulfill his obligations under any sale registered with CCC.

§ 1488.6 Amendments to financing agreement.

The financing agreement may be amended provided such amendment is in conformity with GSM–5 at the time of amendment and is determined to be in the interest of CCC. Amendments may include extension of the period for delivery or the period for export, and change in the interest rate. After the commodity has been delivered, CCC will consider requests to increase the amount of the sale registration value for any quantity within the tolerance in the sales contract and for carrying charges provided such requests relate to the same sale as originally registered with CCC.

§ 1488.7 Expiration of period(s) for delivery and/or export.

(a) Unless delivery by the exporter to the importer is made within such period as may be provided in the financing agreement or any amendment thereof, or under paragraph (b) of this section, the financing agreement will no longer be valid.

(b) If the Assistant Sales Manager determines that delay in delivery was due solely to causes without the fault or negligence of the exporter, the period for delivery may be extended by CCC by the period of such delay.

(c) If delivery is made before export under the terms of the financing agreement, failure to export within the period specified therefor in the financing agreement shall constitute a breach of the financing agreement. In such case, if full payment under the bank obligation or account receivable has not been received, the account receivable and the bank obligation shall, at the option of the Assistant Sales Manager, become immediately due and payable, and liquidated damages shall be payable in accordance with § 1488.11.

DOCUMENTS REQUIRED FOR FINANCING

§ 1488.8 Document required after delivery.

(a) CCC will purchase an exporter's account receivable only if the Treasurer, Commodity Credit Corporation, United States Department of Agriculture, Washington, D.C. 20250, receives the documents specified in paragraphs (b) through (e) of this section within forty-five days, or any extension thereof by the Treasurer or Assistant Treasurer, CCC, after date of delivery of commodities exported or to be exported under the financing agreement.

(b) The exporter shall submit a "Combined Application for Disbursement, Assignment of Account Receivable and Certification" which shall include:

(1) A written application for disbursement, showing the financing agreement number and the port value of the commodity delivered.

(2) An assignment of the account receivable arising from the export sale, in form and substance acceptable to CCC.

(3) The exporter's certification (i) that he has entered into a contract to sell an eligible commodity; (ii) of the date of sale, the grade, quality, quantity, agreed upon price for the commodity and payment terms and interest in accordance with the financing agreement; (iii) that he has in his files documents evidencing the export sale contract and the obligation of the importer to him for the financed portion of the export sale and will retain and furnish them to CCC on demand until 3 years after the end of the financing period; (iv) that agricultural commodities of the grade, quality, and quantity called for in the exporter's sale as registered with CCC have been delivered to the foreign importer; and (v) that he knows of no defenses to the account receivable assigned to CCC.

(c) A copy of the sales invoice to the foreign importer, or, if the commodity has been sold through an intervening purchaser, a copy of the exporter's sales invoice to the intervening purchaser and of the intervening purchaser's sales invoice to the foreign importer.

(d) Either (1) a copy of the document evidencing export provided for in § 1488.9 and, if the consignee is other than the foreign importer named in the financing agreement, such additional information as CCC may request to show

that export was made in accordance with the instructions of, or the export sale contract with, the foreign importer, or (2) if delivery is before export, documents acceptable to CCC evidencing delivery of the commodity to the importer or his agent.

(e) A bank obligation or obligations in accordance with § 1488.7(c), § 1488.10, § 1488.12 and paragraph (i) of this section, naming CCC as beneficiary, in form and substance acceptable to CCC, covering the amount of the application for disbursement, citing the financing agreement number; and providing for the payment of interest in accordance with § 1488.14.

(f) On receipt of the documents described in paragraphs (b) through (e) of this section, the Treasurer, CCC will pay promptly to the exporter the amount of the account receivable or the dollar amount of sales registered in accordance with § 1488.5, whichever is the lesser.

(g) If an acceptable application for disbursement and the supporting documents described in paragraphs (b) through (e) of this section have not been received by CCC within 45 days from the date of the delivery, or any extension thereof by the Treasurer or Assistant Treasurer, CCC, the financing agreement shall be void.

(h) If, under the financing agreement, delivery is made before export, documents evidencing export as provided in § 1488.9 shall be submitted to the Assistant Sales Manager within 20 days after delivery to export carrier.

(i) If for any reason a draft drawn under a foreign bank obligation is dishonored or if the issuing bank is insolvent, in bankruptcy, in receivership, or in liquidation, or has made an assignment for the benefit or creditors, or for any other reason discontinues or suspends payments to depositors or creditors, or otherwise ceases to operate on an unrestricted basis, any balance due on the account receivable assured by the obligation issued by such bank shall, at the option of CCC, become immediately due and payable. CCC may permit the substitution of another acceptable foreign bank obligation covering such balance due if confirmed in accordance with § 1488.12.

§ 1488.9 Evidence of export.

(a) If the commodity is exported by rail or truck, the exporter shall furnish to the Treasurer, CCC, one copy of the bill of lading covering the commodity exported, certified by the exporter as being a true copy, and an authenticated landing certificate or similar document issued by an official of the government of the country to which the commodity is exported, showing the quantity, the gross landed weight of the commodity, the place and date of entry, and the name and address of both the exporter and the importer.

(b) If the commodity is exported by ocean carrier, the exporter shall furnish to the Treasurer, CCC, one non-negotiable copy or photo copy or other type of copy of either (1) an on-board ocean bill of lading or (2) an ocean bill of lading with an onboard endorsement, dated and signed or initialed on behalf of the carrier. The bill of lading must be certified by the exporter as being a true copy and must show the quantity, the date and place of loading the commodity, the name of the vessel, the destination of the commodity and the name and address of both the exporter and the importer.

(c) If the commodity is exported by aircraft, the exporter shall furnish to the Treasurer, CCC, one non-negotiable copy of an airway bill, dated and signed or initialed on behalf of the carrier. The airway bill must be certified by the exporter as being a true copy and must show the date and place of loading the commodity, the name of the airline, the destination of the commodity, and the name and address of both the exporter and the importer.

(d) If the exporter is unable to supply documentary evidence of export as specified in this section, he shall submit such other documentary evidence as may be acceptable to CCC.

(e) For commodities transshipped through Canada via the Great Lakes or the St. Lawrence River, the exporter shall certify that the commodity transshipped was produced in the United States.

DOCUMENTS REQUIRED AFTER FINANCING

§ 1488.10 Evidence of entry into country of destination.

(a) Commodities exported under a financing agreement must enter the destination country specified in the financing agreement.

(b) For a financing agreement under which the financing period is in excess of 12 months, within 90 days, or such extension of time as may be granted in writing by the Assistant Sales Manager, following shipment from the United States of any agricultural commodity exported under the financing agreement, the exporter shall furnish to the office specified in § 1488.22, documentary evidence verifying entry of the commodity into the country of destination specified in the financing agreement. The documentary evidence must (1) identify the agricultural commodity (or permit identification through supplementary documents also furnished) as that exported under the financing agreement, (2) state the quantity and date of entry of the commodity into the destination country, and (3) be signed by (i) a customs official of the destination country, or (ii) the importer, or (iii) a representative of an independent superintending or controlling firm.

(c) When the commodity enters the country of destination in bond, a statement by the importer will be acceptable which (1) identifies the commodity as that exported under the financing agreement, (2) states the quantity of the commodity entered under bond and date of entry into the destination country, and (3) certifies that the commodity will be withdrawn from bonded storage at a later date for consumption in the destination country.

(d) If the evidence of entry is in other than the English language, the exporter shall also provide an English translation thereof.

(e) Failure to furnish, within the time specified, evidence of entry of the commodity into the country of destination shall constitute prima facie evidence of failure to enter or to cause the entry of the commodity into such country as required. In such case, the financing agreement may be terminated by the Assistant Sales Manager, and if full payment under the bank obligation or account receivable has not yet been received, the bank obligation and the account receivable shall at the option of CCC, become due and payable and liquidated damages shall be payable in accordance with § 1488.11. The remedy herein provided shall not be exclusive of other rights available to the Federal Government if the commodity enters a country other than that specified in the financing agreement.

DELIVERY REQUIREMENTS

§ 1488.11 Liquidated damages.

Failure of the exporter to export or cause to be exported, within the period provided therefor, any agricultural commodity financed, when delivery is made before export under the terms of the financing agreement, or failure of the exporter to enter or cause the entry of, such commodity into the country of destination, shall constitute a breach of the financing agreement which will result in serious and substantial damage to CCC and to its program. Since it will be difficult, if not impossible, to prove the exact amount of such damage, the exporter shall pay to CCC promptly on demand, as reasonable compensation and not as a penalty, liquidated damages in lieu of probable actual damages, as follows: (a) For each day of delay in exportation after the final date for exportation, when delivery is made before export under the terms of the financing agreement, .15 percent of the amount financed under the financing agreement for the commodity not exported; (b) for failure to export or cause exportation, when delivery is made before export under the terms of the financing agreement, 5 percent of the amount financed under the financing agreement for the commodity not exported; (c) for failure, after exportation, to enter or cause the entry of the commodity into the country of destination, at the rate of 5 percent a year of the amount financed under the financing agreement for such commodity from the start of the financing period until payment to CCC of the amount financed; *Provided however*, That the aggregate of all amounts assessed under this § 1488.11 with respect to the same commodity shall not exceed 5 percent of the amount financed for such commodity. Liquidated damages shall not be assessed: under paragraph (a) of this section if the Assistant Sales Manager determines that the delay was

due to such causes as acts of God or government or public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather; under paragraph (b) of this section if the Assistant Sales Manager determines that failure to export was due to loss, damage, destruction or deterioration of the commodity or act of God or government or public enemy; and under paragraph (c) of this section if the Assistant Sales Manager determines that failure to enter or cause the entry of the commodity into the country of destination was due to loss, damage, destruction or deterioration of the commodity or act of God or government or public enemy.

BANK OBLIGATIONS AND REPAYMENT

§ 1488.12 Coverage of bank obligations.

(a) U.S. banks and branch banks shall be liable without regard to risk for payment of bank obligations issued by them.

(b) An obligation issued by a foreign bank must be confirmed and advised, as provided in paragraphs (c), (d), (e), and (f) of this section, by a U.S. bank or a branch bank, or may be confirmed by an agency bank when determined by the President or Vice President, CCC, after consultation with the Controller, CCC, to be in the interest of CCC.

(c) A U.S. bank must confirm the full amount of an obligation issued by its foreign branch. CCC will hold the U.S. bank liable for payment without regard to risks.

(d) If a branch bank confirms an obligation issued by its home office, or by another branch of its home office, it must confirm the full amount thereof. CCC will hold the branch bank liable for payment without regard to risks.

(e) If CCC accepts an agency bank confirmation of a foreign bank obligation, it must be for the full amount thereof without regard to risks and will be subject to such terms and conditions as may be contained in the financing agreement. CCC will not accept an agency bank confirmation of an obligation issued by its home office, or by a branch of its home office.

(f) Except as provided in paragraphs (c) and (d) of this section, if a U.S. bank or a branch bank confirms an obligation issued by a foreign bank, it must confirm at least 10 percent pro rata and must advise the remainder of the foreign bank obligation. The percentage of confirmation shall be the same for both the account receivable and the interest portions of the obligation. For the confirmed amount, CCC will hold the U.S. bank or branch bank liable for commercial risks but not for political risks. For the advised amount, CCC will not hold the U.S. bank or branch bank liable without regard to risks for all amounts not recovered from the U.S. or branch bank.

(g) Under special circumstances, on application in writing, the Vice President, CCC, may reduce or waive requirement for 10 percent confirmation by a U.S. or branch bank, but a bank will not be relieved of any obligation it undertakes.

(h) Any bank obligation which provides for a bank acceptance of a time draft by CCC (banker's acceptance) shall not be acceptable to CCC.

(i) CCC will consent to cancellation or reduction of a bank obligation to the extent of any payment it receives from other sources of amounts otherwise payable under such bank obligation.

(j) Collection of accounts receivable purchased under GSM–5 will be effected through the issuance by CCC of sight drafts against the bank obligations, but this method of collection shall not be exclusive of any other collection procedures or rights available to CCC.

§ 1488.13 CCC drafts.

CCC will draw one draft for each payment due under bank obligations. If any portion of a CCC draft is dishonored, the U.S. bank or branch bank shall return the dishonored draft together with its statement of the reason for nonpayment. If a draft which is drawn under a partially confirmed bank obligation is dishonored, CCC will replace the draft with separate drafts for the confirmed and unconfirmed portions at the request of the confirming bank. Such replacement shall not alter the confirming bank's obligation for timely payment to CCC of the confirmed portion of the credit. For confirmed amounts, except as provided in § 1488.12 (c) and (d), a U.S. or branch bank may request refund from CCC of the amount paid if it certifies to CCC that it is unable to recover funds from the foreign bank due to a stipulated political risk which existed on the date payment was made to CCC under the draft. If CCC finds that inability to recover funds was due to such a political risk, the refund shall be promptly made together with interest at the Federal Reserve Bank of New York discount rate from and including the date payment was originally made to CCC but not include the date of refund by CCC. For unconfirmed amounts, remittance to CCC shall be considered final, and the U.S. bank or branch bank shall not thereafter have recourse to CCC.

§ 1488.14 Interest charges.

The account receivable assigned to CCC and the related bank obligation(s) shall bear interest as specified in this section. Rates of interest applicable to financing agreements shall be published in a USDA announcement. The interest rate applicable to that portion of an account receivable for which payment is assured by a bank obligation issued or prorata confirmed by a U.S. bank shall be lower than the interest rate applicable for the remainder of the account receivable. The interest rate applicable to that portion of an account receivable the payment of which is assured by a bank obligation issued or prorata confirmed by a branch bank shall, when determined by the President or Vice President, CCC, after consultation with the Controller, CCC, to be in the interest of CCC, be lower than the interest rate applicable for the remainder of the account receivable. The interest rates applicable to accounts receivable the payment of which is assured by an agency bank confirmation may, when determined by the President or Vice President, CCC, after consultation with the Controller, CCC, to be in the interest of CCC, be lower than the interest rate applicable for the remainder of the account receivable. The interest rate applicable will be the rate in effect on the date CCC receives the sale registration request under § 1488.4. Interest shall accrue on the account receivable from the date of delivery or the weighted average delivery date of the agricultural commodities delivered under the financing agreement to the date of payment, or to the date of expiration of the financing period, or to the date of expiration of the bank obligation, whichever occurs first, and shall be payable as specified in the financing agreement. Thereafter, interest shall accrue on any unpaid part of both the principal and interest due as of such expiration date.

§ 1488.15 Advance payment.

If, before expiration of the financing period, the exporter or the U.S. bank or the agency or branch bank accepts payment from or on behalf of the foreign importer of any part of the account receivable, it shall be remitted promptly to CCC. Such prepayment shall be applied first to interest on the unpaid balance of the account receivable to the date CCC receives such prepayment and then to the principal.

§ 1488.16 Liability for payment.

If delivery is made within the coverage of the bank obligation(s) submitted in accordance with § 1488.8, CCC will look to the obligating bank or banks and the foreign importer, rather than to the exporter or intervening purchaser, for payment of all amounts due at maturity of the account receivable and of the bank obligation(s), but the exporter and the intervening purchaser shall remain liable for any loss arising from breach of any contractual obligation, certification or warranty made by them pursuant to the financing agreement, and the exporter shall remain liable for any amounts not covered by the bank obligation which are owing to CCC, and any remittance or refund required by § 1488.15 and § 1488.18, together with interest thereon at the rate specified in the documents evidencing the account receivable, as well as for any liquidated damages provided for in § 1488.11. The liability of the bank and the importer under their respective obligations shall be several.

MISCELLANEOUS PROVISIONS

§ 1488.17 Assignment.

The exporter shall not assign any claim or rights or any amounts payable

under the financing agreement, in whole or in part, without written approval of the Vice President, CCC, or the Controller, CCC.

§ 1488.18 Covenant against contingent fees.

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the financing agreement on an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right, without limitation on any other rights it may have, to annul the financing agreement without liability to CCC. Should the financing agreement be annulled, CCC will promptly consent to the reduction or cancellation of related bank obligations except for amounts outstanding under a financing agreement. Such amounts shall, on demand, be refunded to CCC by the exporter.

§ 1488.19 Shipment of commodities on vessels calling at Cuban and North Vietnamese ports.

Any commodity exported under a financing agreement shall not be shipped from the United States, or transshipped through Canada via ports on the Great Lakes or on the St. Lawrence River, on a vessel which has called at a Cuban port on or after January 1, 1963, or at a North Vietnamese port on or after January 25, 1966, unless a special waiver is granted by the Maritime Administration. Commodities shipped on such vessel shall not be considered to have been exported under the financing agreement.

§ 1488.20 Officials not to benefit.

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the financing agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the financing agreement if made with a corporation for its general benefit.

§ 1488.21 Exporter's records and accounts.

CCC shall have access to and the right to examine any directly pertinent books, documents, papers and records of the exporter involving transactions related to the financed export credit sale until the expiration of three years after the end of the financing period.

§ 1488.22 Communications.

(a) Unless otherwise provided, written requests, notifications, or communications by the applicant pertaining to the financing agreement shall be addressed to the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENT I—BEEF BREEDING CATTLE

Section

A. Additional definitions.
B. Submission of requests for sale registrations.
C. Additional documents required after delivery.
D. Miscellaneous (identification, quality, certification).
E. Dual purpose breeds (standards applicable).
Exhibit I—Females (general breed and health requirements).
Exhibit II—Bulls (general breed and health requirements).
Appendix I—Performance Testing.
Appendix II—Specification for Official U.S. Standards for Grades.

A. ADDITIONAL DEFINITIONS

1. "Port value" means the net amount of the exporter's sales price for beef breeding cattle to be exported under the financing agreement, basis f.a.s. or f.o.b. export carrier at U.S. ports, at U.S. border points of exit, or at U.S. airports if shipped by air. The point of exportation for animals shall be designated by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture. The port value shall not include the ocean freight for a c. & f. sale or ocean freight and marine and war risk insurance for a c.i.f. sale, and shall also not include any animal care or servicing cost incurred after such animals are loaded aboard the export carrier. The net amount of the exporter's sales price means the contract price for the animals less any payments made by the importer and less any discounts credits, or allowances to the importer. Such net amount shall not exceed (a) for registered bulls, $2000 each or, with prior approval of the Assistant Sales Manager for commercial Export Programs, $5,000 if performance has been superior to the performance records specified in Exhibit II to this supplement; (b) for registered females, $1,000 each or, with prior approval of the Assistant Sales Manager for Commercial Export Programs, $1,500 if performance has been superior to the performance records specified in Exhibit I to this supplement; (c) for nonregistered females, and average, for the sale, of $750 each or, with prior approval of the Assistant Sales Manager for Commercial Export Programs, $1,000 if performance has been superior to the performance records specified in said Exhibit I. The difference, if any, between the maximum net amount specified in (a), (b), or (c) of this paragraph A.1. and the contract price for the individual animal, if registered, or the average contract price for the individual animal, if nonregistered, shall not be included as part of the port value.

2. "Producer" means the person holding legal title to the animal at time of birth and who has had continuous ownership of such animal until sold for export under an approved financing agreement.

3. "Bred female" means either a bred heifer or bred cow as set forth in Exhibit I, Option B, which has been certified to as pregnant at the time of inspection.

4. "Breeder" means the person holding legal title to the female animal at the time she was served to qualify such animal hereunder as a bred female.

5. "Eligible animal" means an animal which meets all the following requirements:

(a) The animal must be the progeny of a nationally recognized beef cattle breed (Exhibits I and II);

(b) The animal must have been owned by a person who had continuous title to such animal for a period of at least 90 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal.

(c) The animal must, at the time of export, be individually identified by an eartag, a legible ear tattoo symbol, or a firebrand and ranch holding brand symbol acceptable to USDA testing authority as an authentic identification symbol for such animal. The term "identification number(s)" as used herein shall also include ear tattoo symbol and firebrand and ranch holding brand symbol.

(d) The animal must qualify under the specifications of Exhibit I for females and Exhibit II for bulls.

6. "Registered animal" means an eligible animal which the appropriate national breed association has officially registered or otherwise classified as a purebred animal of that breed. Such animal must be marked with a legible tattoo or brand which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association.

7. "Nonregistered animal" means an eligible animal, whether or not purebred, which is predominantly of the color characteristics and body conformation of the beef breed stated in the contract between the exporter and the importer. (See Exhibits I and II.)

B. SUBMISSION OF REQUESTS FOR SALE REGISTRATIONS

1. In addition to the information required by § 1488.4(c) (1) through (11), the request for a sale registration for financing export credit sales of beef breeding cattle shall include the following:

(a) A general description by breed of the animals to be exported, separately describing the animals under the following classes:

(1) Registered bulls;
(2) Registered bred females;
(3) Registered unbred females;
(4) Nonregistered bred females; and
(5) Nonregistered unbred females.

(b) A statement that such animals will conform to the general specification requirements set forth in Exhibits I or II, as applicable to the class of animals to be exported.

2. In addition to the considerations specified in § 1488.3, a financing period in excess of 12 months but not in excess of 36 months for beef breeding cattle may be justified when it will result in the use by the importer, or by purchasers from the importer, of the animals in the destination country under conditions which will promote expanded demand for additional breeding animals or feed stuffs from the United States.

C. ADDITIONAL DOCUMENTS REQUIRED AFTER DELIVERY

In addition to the documents specified in § 1488.8 (b) through (e), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

1. Separate animal identification lists for registered animals and for nonregistered animals, containing the following information:

(a) Identification number;

(b) For each registered animal, shown separately opposite the identification number, the sales price as specified in the sales invoice;

(c) For nonregistered animals, shown for each lot group by identification number, the average sales price per animal based on the sales invoice for such nonregistered animals.

2. Performance records for animals for which a higher maximum port value has been approved by the Assistant Sales Manager for

Commercial Export Programs as provided in paragraph A.1.

3. A certification by the exporter that animals of the description in the exporter's sales contract have been delivered, and that the exporter knows of no defenses to the account receivable assigned to CCC.

4. A certification by the exporter that the documents specified in paragraph D. of this Supplement have been furnished to the importer.

D. MISCELLANEOUS

The following documents or certifications, as applicable, shall be furnished to the importer by the exporter:

1. The certificates issued by an agent of the Agricultural Marketing Service (AMS), U.S. Department of Agriculture, as to official registration of the animal(s) and listing the identification number(s) and corresponding registration certificate number(s) for each registered animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. A certification by the breeder of females sold as "bred females" showing the identification numbers and stating that the service bull was a registered bull of the same beef cattle breed as the female to which bred. (See Exhibit I.)

3. The certificate issued or endorsed by Veterinary Services, Animal and Plant Health Inspection Service, listing the identification number(s) and showing that such animal has been inspected for compliance with "Health" requirements. (See Exhibit I or II.)

4. The certificates issued by the Agricultural Marketing Service listing the identification number(s) for each animal showing for such animal compliance with breed, age, weight, and conformation grade, for the class, as shown in Exhibit I or II, as applicable.

5. Certificates issued by a veterinarian accredited by the Animal and Plant Health Inspection Service, showing that bred females, sold as such, were examined and found to be with calf at time of inspection.

6. A semen certification by a veterinarian accredited by the Animal and Plant Health Inspection Service, for bulls over one year of age, except that for Santa Gertrudis and Brahman cattle the certification shall be for bulls over 18 months of age.

E. DUAL PUEPOSE BREEDS

When dual purpose breeds [1] are eligible for financing under the provisions of both Supplement I and Supplement II to GSM-5, as revised, the exporter has the option of qualifying such animals under the provisions of either supplement. Such option must be stated in the request for a sale registration filed pursuant to § 1488.4. In the event such dual purpose breeds are approved for export hereunder, the provisions of this supplement shall apply.

EXHIBIT I TO SUPPLEMENT I

USDA Approved Beef Breeding Cattle Export Specifications—Females, Option A (to be specified by purchaser):

1. Registered. [1a]

BREED

a. Angus.
b. Hereford.
c. Polled Hereford.
d. Charolais.
e. Santa Gertrudis.
f. Shorthorn.
g. Polled Shorthorn.
h. Brahman.
i. Milking Shorthorn.[2]
j. Red Poll.[2]
k. Other beef cattle breeds having a registry Association in the U.S.

2. Nonregistered.[3]

PREDOMINANT BREED

Specify from breed above.

Option B (to be specified by purchaser):

AGE [4]

1. Calf—(7 to 12 months).
2. Yearling Open—(12 to 18 months).
3. Heifer Open—(18 to 24 months).
4. Bred Heifer—(18 to 36 months).
5. Bred Cow—(24 to 48 months).
6. Mature Cow—(24 to 48 months).[5]

General Requirements:

A. *Health.*[6]

1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier, or is an official vaccinate under 30 months of age.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected, and found sound (including freedom of blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks and ringworm or freed from the same.

B. *Minimum Weight.*[7]

1. Calf—(7 to 12 months), 400 pounds.

2. Yearling Open—(12 to 18 months), 500 pounds.

3. Heifer Open—(18 to 24 months), 600 pounds.

4. Bred Heifer—(18 to 24 months), 700 pounds; (24 to 36 months), 800 pounds.

5. Bred Cow—(24 to 36 months), 800 pounds; (36 to 48 months), 950 pounds.

6. Mature Cow—(24 to 36 months), 800 pounds; (36 to 48 months), 950 pounds.[8]

C. *Minimum Conformation:* Choice.[7]

All nonregistered females must be dehorned or naturally polled unless otherwise specified in the request for a sale registration. Horn stubs in excess of one inch will not be acceptable on dehorned cattle.

D. *Performance Records.*[9] (Optional, unless specified.) (See attached Appendix I to Exhibits I and II.)

1. Minimum adjusted daily gain to weaning 1.6 pounds/day.

2. Minimum adjusted daily gain to weaning of offspring 1.6 pounds/day (if appropriate).

E. *Statement of Service or Other Requirement.* 1. Bred females must have been bred to a registered bull of the same breed and the calf from a registered female must be eligible for registration.[9]

2. Bred females must be at least two months but no more than six months pregnant at time of inspection when being shipped by vessel. If shipped by air, bred females must be at least two months pregnant but may be up to eight months pregnant with veterinarian approval.[10]

3. Mature cows not qualifying as "bred cows", to be eligible for financing hereunder, must be lactating and have their offspring not in excess of approximately five months of age at side at time of inspection by AMS. Such calves, though not eligible for financing, may be supplied along with the parent cow if facilities for their care and safe transportation to destination point are adequate.

EXHIBIT II TO SUPPLEMENT I

USDA Approved Beef Breeding Cattle Export Specifications—Bulls, Option A (to be specified by purchaser):

BREED [1]

1. Angus.
2. Hereford.
3. Polled Hereford.
4. Charolais.
5. Santa Gertrudis.
6. Shorthorn.
7. Polled Shorthorn.
8. Braham.
9. Milking Shorthorn.[2]
10. Red Poll.[2]
11. Other beef cattle breeds having a registry Association in the U.S.

Option B (to be specified by purchaser):

AGE [3]

1. Bull Calf—(7 to 12 months).
2. Yearling Bull—(12 to 18 months).
3. Bull—(18 to 24 months).
4. Mature Bull—(24 to 48 months).

General Requirements:

A. *Health.*[4]

1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected, and found sound (including freedom from blindness, structual defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks, ringworm or freed from the same.

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[1] Milking Shorthorn and Red Poll.

[1a] Animals must be officially registered with the appropriate National Breed Association and be so certified by AMS agent.

[1] Dual Purpose Breeds (see paragraph E, Supplement I or II).

[2] Nonregistered animals will be certified for breed by the AMS agent.

[3] Certification by AMS agent.

[4] See E3 of this Exhibit I.

[5] Certification or endorsement furnished by Veterinary Services, Animal and Plant Health Inspection Service, USDA.

[6] Certification furnished by Livestock Division, AMS, USDA. Conformation grade to be based on the muscling requirements of the official USDA Feeder Cattle Standards. (See Appendix II attached.)

[7] Official State records or National Breed Association records, or Performance Registry International records.

[8] Must be certified to by the breeder of the female at time of sale to exporter.

[9] Certification of pregnancy shall be issued by an accredited veterinarian.

[10] All animals for delivery under these specifications must be officially registered with the appropriate National Breed Association and be so certified by AMS agent.

[1] Dual Purpose Breeds (see paragraph E, Supplement I or II).

[2] Certification by AMS agent.

[3] Certification or endorsement furnished by Verterinary Services, Animal and Plant Health Inspection Service, USDA.

B. *Minimum Weight.*[5]
1. 7 to 12 months, 470 pounds.
2. 12 to 18 months, 790 pounds.
3. 18 to 24 months, 1100 pounds.
4. Over 24 months, 1350 pounds.
C. *Minimum Conformation:* Prime.[5]
D. *Performance Records.*[6] (optional, unless specified). (See attached Appendix I to Exhibits I and II.).
1. Minimum adjusted daily gain to weaning, 1.9 pounds per day.
E. A semen check indicating at least 60 percent sperm motility must be supplied for bulls over one year of age,[7] except that for Santa Gertrudis and Brahman cattle the certification shall be for bulls over 18 months of age.

APPENDIX I TO EXHIBITS I AND II—PERFORMANCE TESTING

Performance testing is known by several names in the United States, but practically all organizations evaluate similar characteristics in beef cattle. The principal factors used in evaluating performance are growth rate and conformation, but not necessarily both. Animals which are tested are weighed at birth and again at weaning. The weaning weight is adjusted to an equivalent of 205 days of age and is also adjusted depending on the age of the dam. This is done to make weights of calves from first-calf heifers comparable to weights of calves from older cows. The adjusted daily gain from birth to weaning is indicative not only of inherited gaining ability but also of the milking ability of the dam.

APPENDIX II TO EXHIBITS I AND II—SPECIFICATIONS FOR OFFICIAL UNITED STATES STANDARDS FOR GRADES OF CATTLE (STEERS, HEIFERS, AND COWS) [1]

PRIME

Cattle which possess typical minimum qualifications for the Prime grade are very thickly muscled throughout. They are wide through the chest with well sprung ribs and are moderately wide and thick through the crops, back and loin. The rounds tend to be thick and the twist is moderately deep. They have large, rugged frames with moderately large but refined bone.

CHOICE

Cattle which possess typical minimum qualifications for the Choice grade are thickly muscled throughout. They are moderately wide through the chest with a moderate spring of ribs and are slightly wide and thick through the crops, back and loin. The rounds are slightly thick and the twist is slightly deep. They have moderately large, rugged frames, and the bone usually is moderately large, but may be slightly fine or slightly large and coarse.

SUPPLEMENTAL II—DAIRY BREEDING CATTLE

Sec.
A. Additional definition.
B. Submission of requests for sale registrations.
C. Additional documents required after delivery.
D. Miscellaneous (identification, quality, certification).
E. Dual purpose breeds (standards applicable).

EXHIBIT I—Females (general breed and health requirements). Appendix to Exhibit I.

EXHIBIT II—Bulls (general breed and health requirements). Appendix to Exhibit II.

A. ADDITIONAL DEFINITIONS

1. "Port value" means the net amount of the exporter's sales price for dairy breeding cattle to be exported under the financing agreement, basis f.a.s. or f.o.b. export carrier at U.S. ports, at U.S. border points of exit, or at U.S. airports if shipped by air. The point of exportation for animals shall be designated by the Animal and Plant Health Inspection Service, U.S. Department of Agriculture. The port value shall not include the ocean freight for c. & f. sale or ocean freight and marine and war risk insurance for a c.i.f. sale, and shall also not include any animal care or servicing cost incurred after such animals are loaded aboard the export carrier. The net amount of the exporter's sales price means the contract price for the animals less any payments made by the importer and less any discounts, credits, or allowances to the importer. Such net amount shall not exceed (a) $4,500 each for registered bulls which have an Acceptable performance index as set out in paragraph D.1., Exhibit II to this supplement, or, with prior approval of the Assistant Sales Manager for Commercial Export Programs, $7,500 if such animal has a Superior performance index as set out in paragraph D.2. of Exhibit II; (b) $1,500 each for registered females which have an Acceptable performance index as set out in paragraph D.1., Exhibit I to this supplement, or with prior approval of the Assistant Sales Manager for Commercial Export Programs, $3,000 if such animal has a Superior performance index as set out in paragraph D.2. of Exhibit I; (c) with prior approval of the Assistant Sales Manager for Commercial Export Programs, $5,000 each for registered mature cows which have a Superior performance index asest out in paragraph D.3. of Exhibit I; (d) with prior approval of the Assistant Sales Manager for Commercial Export Programs, $1,500 each for nonregistered mature cows which have a Superior performance index as set out in paragraph D.3. of Exhibit I; or (e) $1,200 average for the sale of nonregistered females, other than mature cows with a Superior performance index, if each such animal has an Acceptable performance index as set out in paragraph D.1. of Exhibit I. The difference, if any, between the maximum net amount specified in (a), (b), (c), (d), or (e) of this paragraph A.1. and the contract price for individual registered animals or nonregistered mature cows with a Superior performance index, or the average contract price for nonregistered females, other than mature cows with a Superior performance index, shall not be included as a part of the port value.

2. "Producer" means the person holding legal title to the animal at time of birth and who has had continuous ownership of such animal until sold for export under an approved financing agreement.

3. "Bred female" means either a bred heifer or bred cow as set forth in Exhibit I, Option B, which has been certified to as pregnant at the time of inspection.

4. "Breeder" means the person holding legal title to the female animal at the time she was served to qualify such animal hereunder as a bred female.

5. "Eligible animal" means an animal which meets all the following requirements:

(a) The animal must be the progeny of a nationally recognized dairy cattle breed (Exhibits I and II);

(b) The animal must have been owned by a person who had continuous title to such animal for a period of at least 90 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal;

(c) The animal must, at the time of export, be individually identified by an eartag, a legible ear tattoo symbol, or a firebrand and ranch holding brand symbol acceptable to USDA testing authority as an authentic identification symbol for such animal. The term "identification number(s)" as used herein shall also include ear tattoo symbol and firebrand and ranch holding brand symbol.

(d) The animal must qualify under the specifications of Exhibit I for females and Exhibit II for bulls.

6. "Registered animal" means an eligible animal which the appropriate national breed association has officially registered or otherwise classified as a purebred animal of that breed. Such animal must be marked with a legible tattoo or brand which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association.

7. "Nonregistered animal" means an eligible animal, whether or not purebred, which is predominately of the color characteristics and body conformation of the dairy breed stated in the contract between the exporter and the importer. (See Exhibits I and II).

B. SUBMISSION OF REQUESTS FOR SALE REGISTRATIONS FOR FINANCING

1. In addition to the information required by § 1488.4(c) (1) through (11), the request for a sale registration for financing export credit sales of dairy breeding cattle shall include the following:

(a) A general description by breed of the animals to be exported, separately describing the animals under the following classes:
(1) Registered bulls;
(2) Registered bred females;
(3) Registered unbred females;
(4) Nonregistered bred females; and
(5) Nonregistered unbred females.

(b) A statement that such animals will conform to the general specification requirements set forth in Exhibits I or II, as applicable to the class of animals to be exported.

2. In addition to the considerations specified in § 1488.3 a financing period in excess of 12 months but not in excess of 36 months for dairy breeding cattle may be justified when it will result in the use by the importer, or by purchasers from the importer, of the animals in the destination country under conditions which will promote expanded demand for additional breeding animals or feed stuffs from the United States.

C. ADDITIONAL DOCUMENTS REQUIRED AFTER DELIVERY

In addition to the documents specified in § 1488.8 (b) through (e), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

1. Separate identification lists for each group of animals described in paragraphs A.1. (a), (b), (c), (d), and (e) of this supplement, containing the following information:

(a) Identification number;

(b) For each registered animal or nonregistered mature cow with a Superior performance index, shown separately opposite

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[5] Certification furnished by Livestock Division, AMS, USDA. Conformation grade based on the muscling requirements of the official USDA Feeder Cattle Standards. (See Appendix II attached.)

[6] Official State records or National Breed Association records, or Performance Registry International records.

[7] Certification must be issued by an accredited veterinarian.

[1] Adapted from Service and Regulatory Announcement AMS 183, issued March 1965. A copy of this publication and charts picturing the grades of feeder cattle may be obtained upon request from the Livestock Division, AMS, USDA, Washington, D.C. 20250.

the identification number, the sales price as specified in the sales invoice;

(c) For nonregistered females other than mature cows with a Superior performance index, shown for each lot group by identification list, the average sales price per animal based on the sales invoice for such nonregistered animals.

2. Production Performance Index records as follows: (a) For registered bulls the applicable Acceptable or Superior performance index records of Sire and Dam as described in paragraph D. 1. or D. 2. of Exhibit II;

(b) For registered females if applicable, the Superior performance index records of Sire and Dam as described in paragraph D. 2. of Exhibit I;

(c) For registered or nonregistered mature cows if applicable, the Superior performance index records of Sire and Dam as described in paragraph D. 3. of Exhibit I.

3. A certification by the exporter that animals of the description in the exporter's sales contract have been delivered and that the exporter knows of no defenses to the account receivable assigned to CCC.

4. A certification by the exporter that the documents specified in paragraph D of this Supplement have been furnished to the importer.

D. MISCELLANEOUS

The following documents or certifications, as applicable, shall be furnished to the importer by the exporter.

1. The certificates issued by an agent of the Agricultural Marketing Service, U.S. Department of Agriculture, as to official registration of the animal(s) and listing the identification number(s) and corresponding registration certificate number(s) for each registered animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. A certification by the breeder of females sold as "bred females" showing the identification number and stating that the service bull was a registered bull of the same dairy cattle breed as the female to which bred. (See Exhibit I.)

3. The certificates issued or endorsed by Veterinary Service, Animal and Plant Health Inspection Service, listing the identification number(s) and showing that such animal has been inspected for compliance with "Health" requirements. (See Exhibit I or II.)

4. The certificates issued by the Agricultural Marketing Service listing the identification number(s) for each animal showing for such animal compliance with breed, age, weight, and conformation specifications, for the class, as shown in Exhibit I or II, as applicable.

5. Certificates issued by a veterinarian accredited by Animal and Plant Health Inspection Service, showing that bred females, sold as such, were examined and found to be with calf at time of inspection.

6. A semen certification by a veterinarian accredited by Animal and Plant Health Inspection Service, for bulls over one year of age.

E. DUAL PURPOSE BREEDS

When dual purpose breeds[1] are eligible for financing under the provisions of both Supplement I and Supplement II to GSM-5, as revised, the exporter has the option of qualifying such animals under the provisions of either supplement. Such option must be stated in the request for a sale registration filed pursuant to Section 1488.4. In the event such dual purpose breeds are approved for export hereunder, the provisions of this supplement shall apply with the exception that the Assistant Sales Manager for Commercial Export Programs is authorized, at the request of the applicant, to establish a minimum weight schedule and DHIR Milk Production Breed Average.

EXHIBIT I TO SUPPLEMENT II

USDA Approved Dairy Cattle Export Specifications—Females, Option A (to be specified by purchaser):

1. Registered.[1]

1. Calf—(6 to 12 months)

BREED

a. Ayrshire.
b. Brown Swiss.
c. Guernsey.
d. Holstein.
e. Jersey.
f. Milking Shorthorn.[2]
g. Red Poll.[2]
2. Nonregistered.[3]

PREDOMINANT BREED

Specify from above.

Option B (to be specified by purchaser).

AGE[4]

2. Yearling Open—(12 to 18 months)
3. Heifer Open—(18 to 30 months)
4. Bred Heifer—(18 to 30 months)
5. Mature Cow—(24 to 48 months)

General Requirements:

A. Health[5]

1. Tested negative for tuberculosis within 30 days of loading export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier, or is an official vaccinate under 24 months of age.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks and ringworm or freed from the same.

6. Mature cows must be physically examined at time of inspection for the presence of mastitis by manipulating and stripping the udder and found not to have evidence of such infection. The exporter, at his option, may require the person from whom he purchases a mature cow to supply additional evidence of non-mastitis infection as he sees fit.

B. Minimum Weights.[6]

1. Registered Animals.

Age[1] (in months)	Holstein and Brown Swiss	Guernsey and Ayrshire	Jersey
a. 6	360	295	260
b. 8	470	385	340
c. 10	565	455	410
d. 12	640	525	470
e. 14	710	585	520
f. 16	775	635	555
g. 18	835	685	600
h. 20	900	745	645
i. 22	970	790	695
j. 24	1,015	845	735
k. 26	1,045	870	760
l. 28	1,070	895	780
m. 30	1,090	910	790
n. 36 and over	1,180	990	865

[1] Minimum weights for ages between the ages shown shall be determined proportionately.

2. *Non-registered Animals*

Class	Holstein and Brown Swiss	Guernsey and Ayrshire	Jersey
a. Calf	360	295	260
b. Yearling Open	640	525	470
c. Heifer Open	835	685	600
d. Heifer Bred	835	685	600
e. Mature Cow	1,015	845	735

C. Minimum Conformation.[6]

All animals must meet the minimum body conformation specifications as described in Appendix to this Exhibit I.

D. Production Performance Index.[7]

1. *Acceptable.* An acceptable performance index for *Registered* or *Nonregistered Females* will be considered to exist if such animals meet the minimum conformation of Item C above.

2. *Superior.* A Superior performance index for a *Registered Female* will be considered to exist if:

(a) *Sire* has a Plus (+) USDA Predicted Difference[8] equal to two percent of DHI breed average as shown in Item E below, or in the event the Sire does not have a summary, his Sire has a predicted difference (+500 pounds)[8] and

(b) *Dam* has a DHI or DHIR record[9] equal to 10 percent above the DHI breed average as shown in Item E below.

3. *Superior.* A superior performance index for a *Registered* or *Nonregistered Mature Cow* will be considered to exist if such animal has a DHI production record[9] 15 percent above the DHI breed average as shown in Item E below.

E. DHI Milk Production Breed Average (Mature Equivalent)

The following breed averages are applicable to these specifications.

[1] Milking Shorthorn and Red Poll.

[1] Animals must be officially registered with the appropriate National Breed Association and be so certified by AMS agent.

[2] Dual purpose breeds (See paragraph E, Supplement I or II).

[3] Nonregistered animals will be certified for breed by AMS agent.

[4] Certification by AMS agent.

[5] Certification or endorsement furnished by Veterinary Service, Animal and Plant Health Inspection Service, USDA.

[6] Certification or endorsement furnished by Livestock Division, AMS, USDA. Conformation specifications to be based on standards as set out in Appendix to Exhibit I attached. Weights may be determined by weighing or by estimates using a girth measurement tape.

[7] DHI or DHIR milk production records mature equivalent based on 305-day, two times day milking.

[8] Source: USDA-DHI Sire Summary Records—Animal and Plant Health Inspection Service.

[9] Source: Breed Association, or Dairy Records Processing Center Serving the DHI Association where tested.

Breed	Breed average	2 pct of breed average	10 pct of breed average	15 pct of breed average
	(Pounds)	(Pounds)	(Pounds)	(Pounds)
Ayrshire	11,112	222	1,111	1,666
Brown Swiss	12,203	244	1,220	1,830
Guernsey	9,632	192	963	1,444
Holstein	13,943	278	1,394	2,091
Jersey	8,853	177	885	1,328

F. STATEMENT OF SERVICE

1. Bred females must have been bred to a registered bull of the same breed.[10]

2. Bred females must be at least two months pregnant but no more than six months pregnant at time of inspection when being shipped by vessel. If shipped by air, bred females must be at least two months pregnant but may be up to eight months pregnant with veterinarian approval.[11]

APPENDIX TO EXHIBIT I—MINIMUM BODY CONFORMATION SPECIFICATION FOR FEMALES

In addition to meeting the minimum weight for the breed as specified in Exhibit I, the animal shall possess femininity, normal breed conformation, quality and body capacity. She shall have the general appearance of thrift and vitality with eyes bright and ears alert. The feet and legs shall be well formed with the legs straight, strong and well set. The mammary system, if sufficiently developed, shall be strongly attached, well balanced and of fine texture. The teats shall be of acceptable size. There shall be no evidence of lameness or other serious body defects. She shall possess normal dairy character by showing a lack of obvious excess fatty condition for the age class. Females officially classified by the respective breed association as "Good Plus" (or equivalent) or higher shall be acceptable if found at time of inspection not to have developed a physical defect in conflict with the above-stated conditions.

EXHIBIT II

USDA Approved Dairy Cattle Export Specifications—Bulls, Option A (to be specified by purchaser):

BREED.[1]

a. Ayrshire.
b. Brown Swiss.
c. Guernsey.
d. Holstein.
e. Jersey.
f. Milking Shorthorn.[2]
g. Red Poll.[2]

Option B (to be specified by purchaser):

AGE.[3]

a. Calf—(6 to 12 months).
b. Yearling—(12 to 18 months).
c. Young Bull—(18 to 24 months).
d. Mature Bull—(24 to 48 months).

General Requirements:

A. Health.[4]

1. Tested negative for tuberculosis and brucellosis within 30 days of loading aboard export carrier.

2. Animals come from farms that have not been under quarantine for any communicable disease during the past year.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals have been inspected and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto and free of mites, ticks and ringword or freed from the same.

B. *Minimum Weight.*[5]

Age [1] (in months)	Holstein and Brown Swiss	Guernsey and Ayrshire	Jersey
a. 6	450	370	315
b. 8	585	480	410
c. 10	710	555	490
d. 12	820	655	565
e. 14	930	755	645
f. 16	1,040	840	745
g. 18	1,155	920	815
h. 21	1,320	1,065	950
i. 24	1,455	1,210	1,050
j. 27	1,570	1,310	1,140
k. 30	1,670	1,395	1,215
l. 36 and over	1,840	1,545	1,350

[1] Minimum weights for ages between the ages shown shall be determined proportionately.

C. *Minimum Conformation.*[5]

All animals must meet the minimum body conformation as described in Appendix to Exhibit II.

D. *Production performance Index.*[6]

1. *Acceptable.* An Acceptable performance index for a *Registered Bull* will be considered to exist if:

(a) *Sire* has a Plus (+) USDA Predicted Difference[7], and

(b) *Dam* has a DHI or DHIR record[8] 10 percent above the DHIR breed average as shown in item E below.

2. *Superior.* A Superior performance index for a *Registered Bull* will be considered to exist if:

(a) *Sire* has a Plus (+) USDA Predicted Difference[7] equal to two percent of DHIR breed average as shown in item E below, and

(b) *Dam* has a DHI or DHIR record[8] 20 percent above the DHIR breed average as shown in item E below.

E. *DHIR Milk Production Breed Averages (Mature Equivalent).*

The following breed averages are applicable to these specifications:

Breed	Breed average	2 pct of breed average	10 pct of breed average	20 pct of breed average
	(Pounds)	(Pounds)	(Pounds)	(Pounds)
Ayrshire	12,556	251	1,255	2,511
Brown Swiss	13,187	264	1,318	2,637
Guernsey	10,483	210	1,048	2,096
Holstein	15,204	304	1,520	3,040
Jersey	9,465	189	946	1,893

F. A semen check indicating at least 60 percent sperm motility must be supplied for bulls over one year of age.[9]

APPENDIX TO EXHIBIT II—MINIMUM BODY CONFORMATION SPECIFICATIONS FOR BULLS

In addition to meeting the minimum weight for the breed as specified in Exhibit II, the animal shall possess masculinity, normal breed conformation, quality, and body capacity. He shall have the general appearance of thrift and vitality with eyes bright and ears alert. The feet and legs shall be well formed with legs straight, strong, and well set. There shall be no evidence of lameness or other serious body defects. He shall possess normal dairy character by showing a lack of obvious excess fatty condition for the age class. Bulls officially classified by the respective breed association as "Good Plus" (or equivalent) or higher shall be acceptable if found at time of inspection not to have developed a physical defect in conflict with the above-stated conditions.

SUPPLEMENT III—BREEDING SWINE

Section

A. Additional definitions.
B. Submission of requests for sale registrations.
C. Additional documents required after delivery.
D. Miscellaneous.
Exhibit I—Females.
Exhibit II—Boars.
Appendix I—Health Requirements.
Appendix II—Specifications for Official U.S. Standards for Grades.

A. ADDITIONAL DEFINITIONS

1. "Port value" means the net amount of the exporters sales price for breeding swine to be exported under the financing agreement, basis f.a.s. or f.o.b. export carrier at U.S. ports, at U.S. border points of exit, or at U.S. points of flight if transported by air freight. The point of exportation for animals shall be designated by the Animal and Plant Health Inspecton Service, U.S. Department of Agriculture. The port value shall not include the ocean freight for c.&f. sale or ocean freight and marine and war risk insurance for a c.i.f. sale, and shall also not include any animal care or servicing cost incurred after such animals are loaded aboard the export carrier. The net amount of the exporter's sales price means the contract price for the animals less any payments made by the importer and less any discounts, credits, or allowances to the importer. Such net amount shall not exceed (a) for boars, $750 each; (b) for bred females, $500 each; and (c) for unbred females $400 each, unless approved by the Assistant Sales Manager for Commercial Export Programs. The difference, if any, between the maximum net amount specified in (a) (b), or (c) of this paragraph A. 1. and the contract price for the individual animal shall not be included as part of the port value.

2. "Producer" means the person holding legal title to the animal at time of birth and who has had continuous ownership of such animal until sold for export under an approved financing agreement.

3. "Bred female" means a bred gilt as set forth in Exhibit I, Option B, and must be accompanied by a breeding certificate provided by the breeder.

4. "Breeder" means the person holding legal title to the female animal at the time she was served to qualify such animal hereunder as a bred female.

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[10] Must be certified to by the breeder of the female at time of sale to exporter.

[11] The certification of pregnancy shall be by an accredited veterinarian.

[1] All animals for delivery under these specifications must be officially registered with the appropriate National Breed Association and be so certified by AMS agent.

[2] Dual purpose breeds (See paragraph E, Supplement I or II).

[3] Certified by AMS agent.

[4] Certification or endorsement furnished by Veterinary Services, Animal and Plant Health Inspection Service, USDA.

[5] Certification or endorsement furnished by Livestock Division, AMS, USDA. Conformation specifications to be based on standards as set out in Appendix to Exhibit II attached. Weights may be determined by weighing or by estimates using a girth measurement tape.

[6] Certification or endorsement furnished by Livestock Division, AMS, USDA. Conformation specifications to be based on standards as set out in Appendix to Exhibit II attached. Weights may be determined by weighing or by estimates using a girth measurement tape.

[7] DHI or DHIR milk production records. Mature equivalent based on 305-day, two times day milking.

[7] Source: USDA-DHI Sire Summary Records, Animals and Plant Health Inspection Service.

[8] Source: Breed Association or Dairy Records Processing Center Serving the DHI Association where tested.

[9] Certification must be issued by an accredited veterinarian.

5. "Registered animal" means an eligible animal which the appropriate national breed association has officially registered, declared eligible for registry or otherwise classified as a purebred animal of that breed.

6. "Eligible animal" means a registered animal which meets all of the following requirements:

(a) The animal must have been owned by a person who had continuous title to such animal for a period of at least 60 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal;

(b) The animal must, at the time of export, have two eartags acceptable to USDA as an authentic identifying symbol for such animal and must be marked with a legible ear notch which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association;

(c) The animal must qualify under the specifications of Exhibit I for females and Exhibit II for boars.

B. SUBMISSION OF REQUESTS FOR SALE REGISTRATIONS

1. In addition to the information required by § 1488.4(c) (1) through (11), the request for a sale registration for financing export credit sales of breeding swine shall include the following:

(a) A list of the animals to be exported including the identification number, breed, and price under the following classes:

1. Boars.
2. Bred females.
3. Unbred females.

(b) If applicable, a statement of justification for prices over the maximum limits specified in A.1.(a), (b), or (c).

(c) A statement that such animals will conform to the general specification requirements set forth in Exhibit I or II, as applicable to the class of animals to be exported.

2. In addition to the consideration specified in § 1488.3, a financing period in excess of 12 months but not in excess of 36 months for breeding swine may be justified when it will result in the use by the importer, or by purchasers from the importer, of the animals in the destination country under conditions which will promote expanded demand for additional breeding animals or feed stuffs from the United States.

C. ADDITIONAL DOCUMENTS REQUIRED AFTER DELIVERY.

In addition to the documents specified in § 1488.8 (b) through (e), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

1. An animal identification list containing the following information:

(a) Identification number.

(b) For each animal, shown separately opposite the identification number, the sales price as specified in the sales invoice.

2. A certification by the exporter that animals of the description in the exporter's sales contract have been delivered, and that the exporter knows of no defenses to the account receivable assigned to CCC.

D. MISCELLANEOUS

The following documents or certifications, as applicable, shall be furnished to the importer by the exporter:

1. The certificates issued by an agent of the Agricultural Marketing Service, U.S. Department of Agriculture, as to official registration of the animal(s) and listing the identification number(s) and corresponding registration certificate number(s) for each animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. A certification by the breeder of females sold as "bred females" showing the identification number of both the female and boar and stating that the service boar was a registered boar of the same breed. In addition the breeder will certify that the bred females have missed at least one heat period since last service. It will also be certified by the breeder that the bred females will not be more than three months pregnant at time of departure from point of exit.

3. The certificates issued or endorsed by Veterinary Services, Animal and Plant Health Inspection Service, listing the identification number and showing that such animal has been inspected for compliance with "Health" requirements. (See Appendix I to Exhibits I and II.)

4. The certificates issued by the Agricultural Marketing Service listing the identification number for each animal and showing for such animal compliance with breed registration, number of teats, and USDA grade, for the class, as shown in Exhibit I or II, as applicable.

5. The certificates signed by the breeder listing, for each animal, the individual identification number, breed, and age and a statement that the animal was from a litter of at least seven pigs.

EXHIBIT I TO SUPPLEMENT III

USDA Approved Breeding Swine Export Specifications—Females, Option A (to be specified by purchaser):

1. Registered.[1]

BREED

a. Poland China.
b. Chester White.
c. Yorkshire.
d. Hampshire.
e. Berkshire.
f. Duroc.
g. Tamworth.
h. Landrace.
i. Hereford.
j. Spotted Swine.

Option B (to be sepcified by purchaser):

AGE[1]

1. Unbred female—10 weeks-7 months.[2]
2. Bred female—7-14 months.

General Requirements:

A. *Health.* (See Appendix I)

B. *Minimum USDA Grade—U.S. No. 2.*[3]

C. Eligible females must be out of a litter of at least seven pigs.[4] Also, they must have at least six functional teats on each side of the underline with no inverted nipples.[5]

D. *Statement of Service or Other Requirements.*

Bred females must have been bred to a registered boar of the same breed. In addition, bred females shall have missed at least one heat period since last service and be not more than three months pregnant at time of departure from point of exit.[1]

EXHIBIT II TO SUPPLEMENT III

USDA Approved Breeding Swine Export Specifications—Boars, Option A (to be specified by purchaser):

[1] All animals for delivery under these specifications must be certified by AMS agent as officially registered with the appropriate National Breed Association.

BREED[1]

(a) Poland China.
(b) Chester White.
(c) Yorkshire.
(d) Hampshire.
(e) Berkshire.
(f) Duroc.
(g) Tamworth.
(h) Landrace.
(i) Hereford.
(j) Spotted Swine.

Option B (to be specified by purchaser)

AGE[2]

1. Boar pigs—10-16 weeks.[3]
2. Boars—4-8 months.
3. Boars—8-12 months.

General Requirements:

A. *Health.* (See Appendix I).

B. *Minimum USDA grade—U.S. No. 1.*[4]

C. Eligible boars must be from a litter of at least seven pigs.[5]

APPENDIX I TO EXHIBITS I AND II

HEALTH REQUIREMENTS[1]

Swine financed for export under the CCC Export Credit Sales Program shall be certified by the appropriate USDA inspectors as follows:

1. U.S. is free of foot-and-mouth disease, African swine fever, Teschen disease and vesicular exanthema.

2. The swine originate from a free area[2] where hog cholera is not known to exist according to Title 9, Part 76 of the U.S. Department of Agriculture regulations.

3. Animals have been inspected and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, lice, and ticks or freed from the same.

Export inspection and certification requirements of the U.S. Department of Agriculture must be met.

APPENDIX II TO EXHIBITS I AND II

Specifications for Official United States Standards for Grades of Feeder Pigs:

U.S. NO. 1

Feeder pigs in this grade near the borderline of the U.S. No. 2 grade are long and have thick muscling throughout. Thickness of muscling is particularly evident in thick and full hams and shoulders. The hams and shoulders are thicker than the back, which is well-rounded. They usually present a well-balanced appearance.

[1] Certification by breeder.

[2] Female pigs in this class must weigh at least 60 pounds. Certification furnished by Livestock Division, AMS, USDA.

[3] Certification furnished by Livestock Division, AMS, USDA. Grade to be based on the official U.S. standards for grades of feeder pigs. (See Appendix II.)

[4] Certification by Livestock Division, AMS, USDA.

[5] All animals for delivery under these specifications must be certified by AMS agent as officially registered with the appropriate National breeder.

[1] Certification by Breeder.

[2] Boar pigs must weigh at least 60 pounds. Certification furnished by Livestock Division, AMS, USDA.

[3] Certification furnished by Livestock Division, AMS, USDA Grade to be based on the official U.S. standards for grades of feeder pigs. (See Appendix II.)

[4] Certification by breeder

[5] Certification or endorsement furnished by Veterinary Services, Animal and Plant Health Inspection Service, USDA.

U.S. NO. 2

Feeder pigs in this grade near the borderline of the U.S. No. 3 grade are moderately long and have moderately thick muscling throughout. Thickness of muscling is particularly evident in moderately thick and full hams and shoulders. The back usually appears slightly full and well-rounded. They usually present a well-balanced appearance.

NOTE.—The recordkeeping and reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

[FR Doc.77-5960 Filed 2-24-77;9:58 am]

Title 45—Public Welfare

CHAPTER V—FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

PART 504—PRIVACY ACT AND GOVERNMENT IN THE SUNSHINE REGULATIONS

Meetings of Foreign Claims Settlement Commission

AGENCY: Foreign Claims Settlement Commission.

ACTION: Final Rule.

SUMMARY: This rule sets forth the procedures which will be followed by the Commission in conducting meetings, as prescribed by the Government in the Sunshine Act (5 U.S.C. 552b).

FOR FURTHER INFORMATION CONTACT:

Francis T. Masterson, Executive Director, Foreign Claims Settlement Commission Washington, DC 20579 (202/653-6156).

EFFECTIVE DATE: March 12, 1977.

SUPPLEMENTAL INFORMATION: On January 21, 1977, at 42 FR 3872, the Foreign Claims Settlement Commission issued proposed additions to its regulations to implement the provisions of the Government in the Sunshine Act (5 U.S.C. 552b). The Commission gave notice that the proposed additions would (1) define terms used therein, (2) request notification from the public of intention to attend an open meeting, (3) clarify that this addition applies only to meetings of the Commission, (4) declare that, unless otherwise specified, every meeting of the Foreign Claims Settlement Commission shall be open to the public, (5) state the basis for closing a meeting to the public, (6) provide for the announcement of meetings, (7) state how a meeting shall be closed, (8) require the keeping of records of closed meetings, (9) state to whom requests for information shall be addressed.

Prior to adoption of the proposed additions, the Commission opened the record for comment. Comments were received and considered, and pursuant thereto, the Commission now publishes in final form the following regulations, effective March 12, 1977.

Chapter V of Title 45 of the Code of Federal Regulations is amended by changing the title "Part 504—Privacy Act Regulations" to "Part 504—Privacy Act and Government in the Sunshine Regulations", changing the title of § 504.1 from "General Policies" to "General Policies—Privacy Act", changing the title of § 504.2 from "Definitions" to "Definitions—Privacy Act", designating §§ 504.1–504.12 as Subpart A "Privacy Act Regulations", and creating a new Subpart B "Government in the Sunshine Regulations" consisting of new §§ 504.20–504.29 as set forth below:

Subpart B—Government in the Sunshine Regulations

Sec.

504.20 Definitions—Government in the Sunshine Act (Meetings of the Foreign Claims Settlement Commission).
504.21 Notice of public observation.
504.22 Scope of application.
504.23 Open meetings.
504.24 Grounds for closing a meeting.
504.25 Announcement of meetings.
504.26 Procedure for closing of meetings.
504.27 Reconsideration of opening or closing, or rescheduling a meeting.
504.28 Record of closed meetings or closed portion of a meeting.
504.29 Requests for information.

AUTHORITY: 5 U.S.C. 552b.

Subpart B—Government in the Sunshine Regulations

§ 504.20 Definitions.

For purposes of this part:

(a) The term "agency" means any agency, as defined in 5 U.S.C. 552b(e), which includes the Foreign Claims Settlement Commission, headed by a collegial body composed of two or more individual members, a majority of whom are appointed by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

(b) The term "Commission" means the Foreign Claims Settlement Commission, which is a collegial body that functions as a unit composed of three individual members, appointed by the President with the advice and consent of the Senate;

(c) The term "member" means any one of the three members of the Commission;

(d) The term "meeting" means the deliberations of at least two (quorum) members of the Commission where such deliberations determine or result in joint conduct or disposition of official Commission business;

(e) The terms "closed meeting" and "closed portion of a meeting" mean, respectively, a meeting or that part of a meeting designated as provided in § 504.26 as closed to the public by reason of one or more of the closure provisions listed in § 504.24;

(f) The term "open" meeting means a meeting or portion of a meeting which is not a closed meeting or a closed portion of a meeting; and

(g) The term "public observation" means the right of any member of the public to attend and observe, but not participate or interfere in any way in an open meeting of the Commission within the limits of reasonable and comfortable accommodations made available for such purpose by the Foreign Claims Settlement Commission.

§ 504.21 Notice of public observation.

(a) A member of the public is not required to give advance notice to the Commission of an intention to exercise the right of public observation of an open meeting of the Commission. However, in order to permit the Commission to determine the amount of space and number of seats which must be made available to accommodate individuals who desire to exercise the right of public observation, such individuals are requested to give notice to the Commission at least two business days before the start of the open meeting of the intention to exercise such right.

(b) Notice of intention to exercise the right of public observation may be given in writing, in person, or by telephone to the official designated in § 504.29.

(c) Individuals who have not given advance notice of intention to exercise the right of public observation will not be permitted to attend and observe the open meeting of the Commission if the available space and seating are necessary to accommodate individuals who gave advance notice of such intention to the Commission.

§ 504.22 Scope of application.

The provisions of this part 504, §§ 504.20 through 504.29, apply to meetings of the Commission, and do not apply to conferences or other gatherings of employees of the Foreign Claims Settlement Commission who meet or join with others, except at meetings of the Commission to deliberate on or conduct official agency business.

§ 504.23 Open meetings.

Every meeting of the Commission shall be open to public observation except as provided in § 504.24.

§ 504.24 Grounds for closing a meeting.

(a) Except in a case where the Commission determines otherwise, a meeting or portion of a meeting may be closed to public observation where the Commission determines that the meeting or portion of the meeting is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552) provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained

from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Foreign Claims Settlement Commission;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Foreign Claims Settlement Commission, provided the Commission has not already disclosed to the public the content or nature of its proposed action, or is not required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpoena or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Commission of a particular case of formal agency adjudication pursuant to the procedures in section 554, of Title V or otherwise involving a determination on the record after opportunity for a hearing.

(b) If the Commission determines that the public interest would require that a meeting be open, it may nevertheless so hold.

§ 504.25 Announcement of meetings.

(a) The Commission meets beginning at 10:30 a.m. in the offices of the Foreign Claims Settlement Commission, 1111 20th Street, NW, Washington, DC, on each Wednesday, unless notice to the contrary is given.

(b) At any duly called meeting held previous to any meeting scheduled as provided in paragraph (a) of this section, the Commission may fix a different time and place for a subsequent meeting.

(c) For any meeting of the Commission which is fixed as provided in (b) of this section, the Foreign Claims Settlement Commission shall, at the earliest practicable time, make information available for public inspection in its offices, or pursuant to telephonic or written requests, concerning the time and place fixed for such subsequent meeting.

(d) At the earliest practicable time, which is estimated to be not later than eight days before the beginning of a meeting of the Commission the Foreign Claims Settlement Commission shall make available for public inspection in its offices, or pursuant to telephonic or written requests, the subject matter of the meeting except to the extent that such information is exempt from disclosure under the provisions of § 504.24.

§ 504.26 Procedures for closing of meetings.

(a) The closing of a meeting shall occur when:

(1) A majority of the membership of the Commission votes to take such action. A separate vote of the Commission members shall be taken with respect to each Commission meeting a portion or portions of which are proposed to be closed to the public pursuant to § 504.24, or with respect to any information which is proposed to be withheld under § 504.24. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commission member participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in § 504.24 (e), (f) or (g), the Commission upon request of any one of its Commission members, shall take a recorded vote, whether to close such portion of the meeting.

(b) Within one day of any vote taken, the Commission shall make publicly available a written copy of such vote reflecting the vote of each member on the question and full written explanation of its action closing the entire or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation.

(c) The Commission shall announce the time, place and subject matter of the meeting at least 8 days before the meeting.

(d) For every closed meeting, before such meeting is closed, the General Counsel of the Commission shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall state each relevant closure provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Commission.

§ 504.27 Reconsideration of opening or closing, or rescheduling a meeting.

The time or place of a Commission meeting may be changed following the public announcement only if the Commission publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement only if a majority of the Commission members determines by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and the Commission publicly announces such change and the vote of each member upon such change at the earliest practicable time.

§ 504.28 Record of closed meetings or closed portion of a meeting.

(a) The Foreign Claims Settlement Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each closed meeting or closed portion of a meeting, except that in the case of a meeting or portion of a meeting closed to the public pursuant to § 504.24 (d), (h), or (j), the Foreign Claims Settlement Commission shall maintain either such transcript, recording, or a detailed set of minutes.

(b) Any minutes so maintained shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any action shall be identified in the minutes.

(c) The Foreign Claims Settlement Commission shall promptly make available to the public, in its offices, the transcript, electronic recording, or minutes, of the discussion of any item on the agenda of a closed meeting, or closed portion of a meeting, except for such item or items of discussion which the Foreign Claims Settlement Commission determines to contain information which may be withheld under § 504.24. Copies of such transcript or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(d) The Foreign Claims Settlement Commission shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each closed meeting or closed portion of a meeting for a period of two years after the date of such closed meeting or closed portion of a meeting.

(e) All actions required or permitted by this section to be undertaken by the Foreign Claims Settlement Commission shall be by or under the authority of the Chairman, Foreign Claims Settlement Commission.

§ 504.29 Requests for information.

Requests to the Foreign Claims Settlement Commission for information about the time, place, and subject matter of a meeting, whether it or any portion thereof is closed to the public, and any requests for copies of the transcript or minutes or of a transcript of an electronic recording of a closed meeting, or closed portion of a meeting, to the extent not exempt from disclosure by the provisions of § 504.24, shall be addressed to the Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, NW, Washington, DC 20579, telephone 202/653-6156.

Dated at Washington, DC, on February 22, 1977.

J. RAYMOND BELL,
Chairman.

[FR Doc.77-5681 Filed 2-24-77;8:45 am]

CHAPTER XIX—NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

PART 1904—STATE MEETINGS, RULES OF PROCEDURE

Organization and Conduct of State Meetings

On February 8, 1977, a document was published in the FEDERAL REGISTER (42 FR 7970) proposing the establishment of Part 1904, State Meetings, Rules of Procedure, in Chapter XIX, National Commission on the Observance of International Women's Year. All comments received were given due consideration.

As a result of comments received, a new § 1904.23 is added to the proposed Part 1904. The new section allows the Coordinating Committee in certain limited areas to provide exceptions or provide alternatives to the published rules. The added section gives more flexibility to the Coordinating Committee with respect to its internal organizing procedures and the conduct of workshops at the State Meeting. In addition, § 1904.16(a) is reworded for clarification. Comments have not been received on any other areas of the procedural rules.

Interested persons may submit additional written comments, suggestions, data, or arguments relating to these procedures contained in this Part to Judge Elizabeth Athanasakos, Presiding Officer, National Commission on the Observance of International Women's Year, D/IWY, Department of State, Washington, D.C. 20520, attention: General Counsel. Material thus submitted will be evaluated and considered for possible revisions or amendments to these rules.

Until such time as further changes are made, however, 45 CFR 1904.1-1904.23 is hereby established and the rules of procedure are hereby adopted by the Commission as set forth below and are uniformly applicable to State Meetings.

Effective date: These rules shall be effective as of February 25, 1977.

Signed on February 23, 1977

ELIZABETH ATHANASAKOS,
Presiding Officer, National Commission on the Observance of International Women's Year.

Subpart A—Coordinating Committee Organization

Sec.
1904.1 Initial exploratory meeting.
1904.2 Organizing meeting.
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Subpart B—State Meeting Organization

1904.5 Call to the State Meeting.
1904.6 State Meeting program.
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Subpart C—Selection of State Representatives to the National Conference

1904.13 Entitlement.
1904.14 Composition.
1904.15 Advance notices.
1904.16 Nominating Committee.
1904.17 Election.

Subpart D—Conduct of the State Meeting

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1904.19 Doorkeepers and timekeepers.
1904.20 Credentials Committee.
1904.21 Minutes.
1904.22 Parliamentary authority.
1904.23 Exceptions to Rules.

AUTHORITY: E.O. 11832, 3 CFR 106, 40 FR 2415, January 18, 1975, Pub. L. 94-167, 89 Stat. 1003, December 23, 1975.

Subpart A—Coordinating Committee Organization

§ 1904.1 Initial Exploratory Meeting.

(a) The Temporary convenor of the Coordinating Committee, appointed by the Commission, shall call and preside over an initial exploratory meeting of the Committee, upon 10 days advance written notice to all members. The exploratory meeting shall:

(1) Indoctrinate all members as to the law and the regulations;

(2) Assess the talents of committee members with a view to designating them for services as officers and committee assignments;

(3) Give preliminary consideration to structuring the work of the Committee;

(4) Issue a call for an organizing meeting and fix the time and place for such meeting; and

(5) Appoint a Nominating Committee of not less than three members charged with presenting a slate of nominees for permanent offices for action by the Organizing Meeting.

(b) However, if, in the combined judgment of the Temporary Convenor and the Regional Coordinator, time limitations and/or travel distances render it impossible or impracticable to hold the initial meeting provided for in paragraph (a) of this section, the Temporary Convenor, with approval of the Regional Coordinator, shall appoint a Nominating Committee, shall supply all its members with full data respecting members of the Coordinating Committee as a guide in making nominations, and shall call a meeting of the Nominating Committee preceding the opening of the Organizing Meeting. Indoctrination, assessment of talents, and structuring must then be deferred to the Organizing Meeting.

§ 1904.2 Organizing meeting.

The Organizing Meeting of the Committee shall be held as expeditiously as possible, and upon at least 10 days written notice to all members as to the time and place as well as the Nominating Committee's procedure. The following actions, among others, shall be taken at such meeting:

(a) Decide upon preliminary structure and assignment of functions leading up to the State Meeting;

(b) Receive the report of the Nominating Committee, call for nominations from the floor, and elect Committee officers by ballot;

(c) Authorize the opening of a bank account and notify the Fiscal Officer of her responsibilities for administering funds in accordance with Commission requirements;

(d) Consider the place for holding the State Meeting to be held prior to July 10, 1977, unless prior approval of the Commission is secured;

(e) Appoint such Committees as are immediately needed, for example, arrangements, finances, program, et cetera;

(f) Work out a calendar of action for future meetings;

(g) Issue a call for the succeeding meeting.

§ 1904.3 Coordinating Committee officers.

The Committee shall elect the following officers from among its members: A Chair and one or more Vice Chairs, a Fiscal Officer, a Recording Secretary and a Correspondence Secretary. These elected officers shall constitute the Executive Committee. The Executive Committee is authorized to act on routine and emergency matters between meetings of the Coordinating Committee, subject to ratification by the Coordinating Committee.

§ 1904.4 Coordinating Committee duties.

The Coordinating Committee shall have overall responsibility for the planning and conduct of the State Meeting in accordance with the purposes of the Act, including the following enumerated duties, among others:

(a) Fixing the time and place for the Meeting, issuing a call thereto, and providing notice of these in accordance with § 1904.5;

(b) Electing a Presiding Officer for the State Meeting and appointing all Chairs or officials deemed necessary for the proper and efficient functioning and orderly conduct of the Meeting, including, for example, Credentials and Registration Committee, Nominating Committee, Elections Committee, a Recorder,

a Parliamentarian, Timekeepers, Floor Tellers, Election Committee Tellers, Doorkeepers, Sergeant-at-Arms, et cetera.

(c) Submitting to the National Commission promptly and in accordance with Commission instructions, a listing of elected State Representatives to the National Conference;

(d) Rendering a final Report to the IWY Commission which shall set forth all the recommendations or significant actions taken at the State Meeting;

(e) Budget and finance accountability to the Commission.

Subpart B—State Meeting Organization

§ 1904.5 Call to the State meeting.

Notices of the time, place and purposes of the State Meeting shall be mailed to State and local organizations which work to advance the rights of women, and publicity shall be given to the Meeting through all media (including newspapers, radio and television) with special efforts to reach all sections of the public.

§ 1904.6 State Meeting Program.

The program content for the State Meeting shall conform to the requirements of Public Law 94–167 and § 1903.2 of this Chapter.

§ 1904.7 Voting body.

(a) The voting body of the Meeting shall consist of: (1) Members of the Coordinating Committee; (2) bona fide residents aged 16 or over of the State who have been registered upon acceptable proof of residence, and (3) persons, aged 16 or over, who are enrolled in educational institutions in the State and are duly registered at the Meeting.

(b) Persons who desire merely to audit the proceedings, without vote, may register as observers upon compliance with registration requirements.

§ 1904.8 Registration.

(a) All persons shall be required to register in accordance with prescribed identification and fee requirements. A registration badge shall be issued to each registrant and will be necessary for admission to the Meeting. Badges shall identify each person as a voter or as an observer.

(b) A non-transferable voting card shall be issued each registrant who is qualified to vote.

§ 1904.9 Seating.

Designated seating spaces will be reserved for members of the Coordinating Committee, Committee Chairs, special guests, the Voting Body, and for non-voting registered observers.

§ 1904.10 Discussion.

(a) In order to address the Meeting, a registrant must address the chair, await recognition, give her name and identification, and state whether she is speaking in the affirmative or negative. In the discretion of the Presiding Officer, an observer may participate in the discussion by the same procedure.

(b) Except by unanimous consent of the Meeting, no person may speak more than two minutes on a motion, nor speak a second time until all others have had an opportunity to do so, nor speak more than twice to a given question.

§ 1904.11 Motions.

(a) Only persons duly registered as members of the voting body may make motions or vote. All motions, except on procedural matters, shall be written and signed by the proponent. The Presiding Officer may require such written motion before action is taken.

(b) The Presiding Officer shall require a showing of voting cards upon the taking of a vote.

(c) A motion to table or postpone indefinitely shall require a two-thirds vote.

§ 1904.12 Voting requirement.

(a) The State Meeting shall indicate its action on substantive questions by consensus or by majority vote.

(b) There shall be no proxy voting.

Subpart C—Selection of State Representatives to the National Women's Conference

§ 1904.13 Entitlement.

Each State shall be entitled to a minimum of 10 representatives plus twice the number of Congressional Districts in the State. It may elect up to five persons available as alternate representatives to serve in the event of the absence or incapacity of a prior ranking representative. The alternate must either be registered as a delegate, or must have in her possession the badge of the temporarily absent representative she is replacing, in order to cast a vote at the National Women's Conference.

§ 1904.14 Composition.

The State Meeting shall select representatives to the National Conference on the principle of balanced representation as set forth in Pub. L. 94–167, Sec. 3(a) (1) and (2), reading as follows:

SEC. 3(a) The Conference shall be composed of—(1) representatives of local, State, regional, and national institutions, agencies, organizations, unions, associations, publications, and other groups which work to advance the rights of women; and (2) members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups, and women of all ages.

§ 1904.15 Advance notices.

The Coordinating Committee shall include in its call to the Meeting the information as to the number of State Representatives to the National Conference allotted to the State, and the balanced representation requirements of the law.

§ 1904.16 Nominating committee.

(a) A State Nominating Committee shall be elected by the Coordinating Committee consisting of five persons, at least three of whom shall be members of the Coordinating Committee. Two additional persons shall be appointed as alternates to serve in the event of the absence or incapacity of any of the five members. Not less than four persons, three of whom shall have been named as members, shall constitute a quorum.

(b) The Nominating Committee shall hold its initial meeting upon call of the Chair of the Coordinating Committee, at the earliest possible date.

(c) The Nominating Committee shall prepare and present a balanced list of nominees for the State's Representatives with name, address, statement of willingness to serve and other data specified by the Commission.

(d) The list of nominees shall be presented to the Coordinating Committee not less than 10 days prior to the State Meeting, and shall be made available immediately to any inquiring person or group. The Nominating Committee shall also present its report during the first plenary session of the State Meeting, which shall be followed by the call for nominations from the floor.

(e) Nominations from the floor shall require prior consent of the nominee and submission of the data required from all nominees.

(f) Immediately following the close of nominations, the Chair of the Nominating Committee shall post in the Meeting hall and at the delegate registration desk, the names of all nominees, together with a brief statement of their background and affiliations according to Commission instructions.

(g) The Nominating Committee shall prepare ballots listing the names of all Nominating Committee candidates, with appropriate spaces for write-in votes or for names of floor nominees.

§ 1904.17 Election.

(a) The Coordinating Committee shall appoint an Elections Committee which shall have charge of elections, with authority to decide any challenge to the validity of a ballot or compliance with the rules. Every ballot shall be counted where the intent of the voter is clear.

(b) The Coordinating Committee shall fix the hours for nomination and for the elections, including the hour for closing the polls. This information shall be included in the printed program.

(c) Election shall be by ballot. No ballots shall be distributed prior to the closing of nominations. Ballots will be issued only to those wearing voter registration badges, and each voter's badge will be marked upon the casting of her ballot.

(d) A plurality vote shall elect. The allowable number of persons receiving the highest number of votes shall be the elected representatives. In the event of a tie vote for the finally allotted post, there shall be a further ballot to resolve this selection, the loser to be designated as first alternate. A total of five alternates shall be allowed, ranked according to votes received, who shall be named to serve as representative in the event of the absence or incapacity of an elected representative.

(e) The Elections Committee shall supervise and direct the work of the tellers in the counting of ballots. Several sets

of tellers shall be named, each set to consist of four persons, two to look over each ballot together while one reads it aloud, and two to record the vote on the tally sheet. The Elections Committee Chair shall combine the results from the tellers into a final election report which shall be announced to the Meeting. Tellers shall maintain strict secrecy as to the outcome of the voting until such time as the final report is given to the Meeting.

(f) The Elections Committee Chair shall be responsible for the safety and custody of the ballots along with tally sheets, and turn them over to the Presiding Officer to be held for at least 24 hours.

(g) Each State Representative and alternate elected to attend the National Conference shall be issued a certificate attesting thereto which shall be signed by the Chair of the Coordinating Committee and the Recording Secretary of the State Meeting.

Subpart D—Conduct of the State Meeting

§ 1904.18 Discussion groups.

(a) Workshops or other scheduled discussion groups shall have a Chair and a Recorder and shall be conducted under the procedures set out in §§ 1904.10–1904.12.

(b) Recommendations for action by the Meeting may be made by the scheduled work groups or by the Coordinating Committee. Proposals for action from any other source may be entertained only after a majority vote to consider.

§ 1904.19 Doorkeepers and Timekeepers.

Doorkeepers shall require the showing of registration badges for admission to the Meeting. The timekeepers shall indicate to each speaker the expiration of the time allowed.

§ 1904.20 Credentials Committee.

The Credentials Committee shall be responsible for requiring proper information for registration, and shall have authority to decide any registration question. It shall report the registration to the State Meeting as scheduled in the printed program or as requested by the Presiding Officer.

§ 1904.21 Minutes.

(a) Accurate and detailed minutes shall be kept on the plenary sessions, which shall be submitted to the Commission.

(b) The Recording Secretary, the Chair of the Coordinating Committee, and the Presiding Officer shall be authorized to give final approval to the minutes. The Chair of the Coordinating Committee shall be responsible for furnishing a copy of the minutes to the Presiding Officer of the Commission within 30 days after the close of the State Meeting.

§ 1904.22 Parliamentary authority.

In matters not covered by these rules, Roberts Rules of Order, Newly Revised, shall be the parliamentary authority.

§ 1904.23 Exceptions to Rules.

(a) The Coordinating Committee shall have the authority to make exceptions to, or provide alternative rules for, those rules set forth in §§ 1904.1 through 1904.3 and 1904.18(a) except that all workshops or other scheduled discussion groups shall have a Chair and a Recorder. Exceptions or alternatives to the rules may be made for the meetings of the Coordinating Committee, or the State Meeting or any part thereof where applicable. Unless the Coordinating Committee votes on the record to provide such exception or alternative, §§ 1904.1–1904.3, 1904.18(a) shall apply as set forth above.

(b) The Coordinating Committee shall have no authority to make exceptions to or provide alternatives for any rules other than as set forth in paragraph (a) of this section.

[FR Doc.77-5971 Filed 2-24-77;9:00 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 AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 729]

PEANUTS

Notice of Proposed Determinations To Be Made with Respect to the Supply of Any Type or Types of Peanuts for 1977–78 Marketing Year

Pursuant to Section 358(c) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1358(c)), the Secretary of Agriculture is preparing to determine whether the supply of any type or types of peanuts for the 1977–78 marketing year will be insufficient to meet the estimated demand for cleaning and shelling purposes. Section 358(c)(2) of the Act, as amended, reads in part as follows:

"Notwithstanding any other provision of law, if the Secretary of Agriculture determines, on the basis of the average yield per acre of peanuts by types during the preceding five years, adjusted for trends in yields and abnormal conditions of production affecting yields in such five years, that the supply of any type or types of peanuts for any marketing year, beginning with the 1951–52 marketing year, will be insufficient to meet the estimated demand for cleaning and shelling purposes at prices at which the Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it, the State allotments for those States producing such type or types of peanuts shall be increased to the extent determined by the Secretary to be required to meet such demand but the allotment for any State may not be increased under this provision above the 1947 harvested acreage of peanuts for such State. The total increase so determined shall be apportioned among such States for distribution among farms producing peanuts of such type or types on the basis of the average acreage of peanuts of such type or types in the three years immediately preceding the year for which the allotments are being determined. The additional acreage so required shall be in addition to the national acreage allotment, the production from such acreage shall be in addition to the national marketing quota, and the increase in acreage allotted under this provision shall not be considered in establishing future State, county or farm acreage allotments."

Prior to determining whether the supply of any type or types of peanuts for the 1977–78 marketing year will be insufficient under Section 358(c) of the Act to meet the estimated demand for cleaning and shelling, consideration will be given to data, views and recommendations relating thereto which are submitted in writing to the Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250. To be sure of consideration, any such submission must be postmarked not later than March 25, 1977.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director, Room 5750, Agriculture Department's South Building, during regular business hours (8:15 a.m. to 4:45 p.m.) (7 CFR 1.27(b)).

Signed at Washington, D.C., on: February 17, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-5487 Filed 2-24-77;8:45 am]

Farmers Home Administration

[7 CFR Part 1804]

[FmHA Instruction 424.5]

PLANNING AND PERFORMING SITE DEVELOPMENT WORK

Proposed Assistance Eligibility Requirement

In the September 29, 1976, issue of the FEDERAL REGISTER (41 FR 42958), the Farmers Home Administration (FmHA) published a notice of proposed rulemaking (7 CFR Part 1804) which deleted the words "Wherever practicable" at the beginning of § 1804.65(c), thereby requiring new and existing subdivisions to be a part of an established rural place, village, or town in order to be eligible for FmHA assistance.

Numerous comments have been received from Federal, State and local agencies, industry and private individuals. Many of the comments opposed adoption of the amendment indicating that it was too restrictive to allow program operation in accordance with legislative mandates. Those recommending adoption pointed out that development in conjunction with an established community would reduce rural sprawl and, in many cases, preclude the irrevocable conversion of prime agricultural lands.

Interested persons interpreted the proposed amendment as taking effect retroactively. FmHA will honor all outstanding commitments and will continue to finance units in subdivisions already approved.

Interested persons interpreted the proposed amendment as stating that eligible subdivisions must be within the limits of an incorporated community. Corporate limits are not a criteria for acceptability.

Because of the number of comments received, this document supplements the notice of proposed rulemaking amending paragraph (c) of § 1804.65 by revising paragraphs (b) and (c) of this section for public comment.

The language proposed for § 1804.65 (b) and (c) reflects a policy which is in accordance with legislative mandates and is consistent with policies of USDA relative to preservation of prime agricultural lands and rural community development. The wording also acknowledges the experience gained during almost 4 years of program operations with the existing wording of § 1804.65 (b) and (c) which indicates that housing subdivisions located distant from communities with established services may not be desirable because of higher utility and transportation costs. The costs associated with remote locations have contributed to numerous delinquencies of FmHA housing loans.

It has also been brought to the attention of FmHA that proliferation of subdivisions in isolated areas contributes to rural sprawl and places an unreasonable burden upon local governments who must provide essential services to these residents.

The proposed amendment has been revised to better describe the policy of FmHA and to prevent misinterpretation by the public.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendment to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250 on or before March 28, 1977.

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.)

Accordingly, the proposed change to better describe the policy of FmHA and prevent misinterpretation thereof is set forth below.

§ 1804.65 Locations.

* * * * *

(b) Shall be located near, adjacent to, within or as a part of a village, city or town so that services such as shopping, schools, churches, employment opportunities, public and private transporta-

tion, police and fire protection, recreation, and communications are convenient in order to provide desirable permanent living conditions for the residents.

(c) Shall be located so as to take advantage of any available facilities such as central water, sewage and solid waste disposal systems.

* * * * *

(42 U.S.C. 1480; 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)

Dated: February 17, 1977.

F. W. NAYLOR, Jr.,
Administrator,
Farmers Home Administration.

[FR Doc.77-5704 Filed 2-24-77;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Proposed Rulemaking on Use of Blanket Bonds

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766, and section 209, 84 Stat. 1014, 12 U.S.C. 1789, proposes to amend § 701.20(e) (12 CFR 701.20(e)). The purpose of the proposed amendment is to provide minimum requirements for a Federal credit union in respect to the amount of in transit coverage afforded by its surety bond. The proposed amendment requires a Federal credit union to increase its minimum limits from those dictated by paragraph (f) of this section to that amount equal to the value of its money, securities, or food stamps in transit. Such increase must be obtained no more than 30 days after the discovery of the need for the increase. For purposes of this regulation, "money or securities" is defined as it is in Credit Union Blanket Bond-NCUA Optional Form No. 581. Money is currency, coin, bank notes, Federal Reserve notes, revenue stamps and postage stamps. Securities are mortgages and instruments in the nature of mortgages, upon real estate or upon chattels and upon interest therein, and assignments of such mortgages and instruments, and abstracts of title held in connection with such mortgages and instruments, money orders, bonds, United States Savings Stamps, debentures, scrip, warrants, checks, coupons, drafts, bills of exchange, acceptances, promissory notes, passbooks held as collateral, certificates of deposit, certificates of stock, warehouse receipts, bills of lading, interim receipts, and all other instruments similar to or in the nature of the foregoing.

Paragraph (e), therefore, will require increased limits for the entire bond when the money, securities or food stamps in transit, or the daily cash fund is found to be in excess of those minimum limits of paragraph (f). Those Federal credit unions that find that their daily cash fund, money or securities or food stamps are below the minimum limits of paragraph (f) are not affected by paragraph (e).

Accordingly, it is proposed that § 701.20(e) be amended: (a) By adding after the parenthetical phrase "change fund plus maximum daily receipts" and before the word "exceeds" the phrase "food stamps, or its money or securities (as defined in NCUA Optional Form No. 581) in transit"; and

(b) By adding the phrase, "food stamps, or money or securities (as defined in NCUA Optional Form No. 581), in transit" to the end of the first sentence of paragraph (e) which previously terminated with "expected daily cash fund."

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Administrator, National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456. Comments received prior to March 18, 1977, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for public inspection during normal business hours at the foregoing address.

C. AUSTIN MONTGOMERY,
Administrator.

FEBRUARY 16, 1977.

The amended paragraph (e) of § 701.20 is to read as follows:

§ 701.20 Surety bond and insurance coverage for Federal Credit Unions.

* * * * *

(e) Where a Federal credit union's daily cash fund (change fund plus maximum anticipated daily receipts), food stamps, or its money or securities (as defined in NCUA Optional Form No. 581) in transit exceeds the minimum limits specified in paragraph (f) of this section, the minimum limits of that Federal credit union shall be increased to be equal to such expected daily cash fund, food stamps, or money or securities (as defined in NCUA Optional Form No. 581) in transit. Such increased limits must be obtained no more than 30 days after the discovery of the need for such increase.

* * * * * *

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1014 (12 U.S.C. 1789))

[FR Doc.77-5758 Filed 2-24-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 292]

[EDR-319, Docket No. 30176, Dated: February 22, 1977]

CLASSIFICATION AND EXEMPTION OF ALASKAN AIR CARRIERS

Proposed Rulemaking

Notice is hereby given that the Civil Aeronautics Board is proposing to amend Part 292 of its Economic Regulations (14 CFR Part 292) to provide specifically that Alaskan air carriers may not perform regular or frequent charter trips and special services between Alaskan points receiving certificated scheduled services by other Alaskan air carriers.

The purpose of the proposal is described in the Explanatory Statement and the proposed amendment is set forth in the Proposed Rule. The amendment is proposed under the authority of sections 204 and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 771; 49 U.S.C. 1324, 1386.

Interested persons may participate in the proposed rulemaking through submission of twenty (20) copies of written data, views, or arguments pertaining thereto, addressed to: Docket 30176, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before April 11, 1977, and reply comments received on or before April 26, 1977, will be considered by the Board before taking final action on the proposed rule. Copies of such documents will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C. upon receipt thereof.

Those persons planning to file comments and/or reply comments who wish to be served with the comments filed by others, and are willing to undertake service of their own comments on others, shall file with the Docket Section at the above address by March 7, 1977, a request to be placed on the service list in Docket 30176. The service list will be prepared by the Docket Section and sent to the persons named thereon.

The persons on the service list are to serve each other with their comments and/or responsive comments at the time of filing, and are to include appropriate proof of service (Rule 8(e), 14 CFR 302.8(e)) with each filing.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the address indicated above, without the necessity of filing additional copies thereof.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

EXPLANATORY STATEMENT

Part 292 of the Board's Economic Regulations (14 CFR Part 292) provides for the classification and exemption of Alaskan air carriers.[1] Section 292.2 defines the on-route and off-route charter authority of Alaskan air carriers, which are otherwise excluded from the general regulations in Part 207 limiting charter

[1] An "Alaskan air carrier" is defined in § 292.1 as an air carrier which engages in air transportation (a) solely between points within the State of Alaska or (b) solely between points within the State of Alaska and between points within the State of Alaska and points in Canada.

services of certificated carriers. Section 292.2 provides that an Alaskan air carrier holding a certificate of public convenience and necessity issued by the Board may make charter trips and render other special services (1) between points on routes which it is authorized by its certificate to serve, and (2) to and from any other points, provided, however, that all off-route charter trips are subject to a limitation not pertinent here,[3] and off-route charter trips "to and from points outside of Alaska" are subject to the further limitation that they be "casual, occasional, or infrequent, and are not made in such manner as to result in establishing a regular or scheduled service."

Wien Air Alaska, Inc., a certificated Alaskan air carrier, has now filed a rulemaking petition to amend Part 292 to expressly provide that regular or frequent off-route charter trips and special services by Alaskan air carriers are also prohibited between any Alaskan points receiving certificated scheduled services by other Alaskan air carriers.

Wien's petition arises from an earlier proceeding, in Docket 27617, in which Wien sought issuance of a Board order which would have the effect of terminating or restricting certain regular off-route charter trips that Alaska Airlines, Inc. (ASA) had been operating on behalf of BP Alaska, Inc. (BP), between Anchorage and the North Slope oil fields (Prudhoe Bay/Sag River), for which Wien has certificated route authority. Wien contended that ASA's thrice-weekly charter trips, in a market in which Wien was providing certificated scheduled services, were not authorized under ASA's certificate or under its exemption to operate as an "Alaskan air carrier."[4] In Orders 75-6-93[5] and 75-8-153 the Board upheld Wien's position and amended ASA's exemption authority to clarify that ASA is not permitted to conduct regular or frequent off-route charter trips in the Anchorage/Fairbanks-Prudhoe Bay/Sag River markets, because these points receive certificated scheduled service from another Alaskan air carrier. On review, the Board's action was reversed by the Court of Appeals for the District of Columbia Circuit, and the case was remanded, on the ground that the Board could not, by "Clarification," so alter the exemption authority of an individual Alaskan air carrier, so that ASA is entitled to an evidentiary hearing if the authority of this carrier alone is to be so amended.[6] Subsequently, by Order 76-11-121, the Board solicited comments from the parties in Docket 27617 as to the appropriate procedures to be followed on remand. In conjunction with its instant petition for rulemaking, Wien has filed comments in Docket 27617, requesting that those proceedings be stayed pending completion of the rulemaking.

Wien contends that a rulemaking proceeding will avoid any dispute as to the necessity of an evidentiary hearing, since the rulemaking will develop a regulatory policy of future applicability to all Alaskan air carriers and thus will clearly be nonadjudicatory. Wien further argues that its proposed amendment of Part 292 is of an interpretative nature, in that it simply makes explicit the Board's existing view of Part 292; that it conforms to the regulatory history and purpose of Part 292; and that it is in accord with the Board's historic policy of protecting certificated scheduled services from unrestricted operations of other carriers in the same markets.

In answers filed as comments in Docket 27617, in response to Wien's petition,[7] ASA and BP both express some support for institution of rulemaking proceedings and for the proposed amendment. ASA tentatively favors Wien's proposed amendment as a general rule, but suggests that a specific provision be included for the expeditious granting of waivers in cases where scheduled service is inadequate. BP does not object to these rulemaking proceedings if the Board additionally provides for an evidentiary hearing on the factual issues in Docket 27617. BP also contends that any amendment of Part 292 should make appropriate provision for the unique air transportation requirements generated by the North Slope oil development.

Trans International Airlines, Inc. (TIA) filed an answer taking no position as to the merits of Wien's rulemaking petition but TIA urges that the Board should clearly state that any such rulemaking proceeding has no bearing on TIA's pending application, in another proceeding (Docket 29237), for intra-Alaska cargo charter authority, or, alternatively, that the Board consolidate Wien's petition into Docket 29237.

Upon consideration of the petition and answers, the Board has determined to institute this rulemaking proceeding and to say further proceedings in Docket 27617. Wien's petition raises important questions of regulatory policy with respect to air transportation in Alaska which we believe are most appropriately addressed in a proceeding designed to prescribe express rules of general applicability to the off-route charter operations of all Alaskan air carriers.

Nor do we believe that, at this time, there has been any showing of a need for an evidentiary hearing to supplement, either as a matter of law or policy, the normal rulemaking procedures for public participation in this proceeding.[8] In this proceeding we will be focusing on the Board's regulatory policy governing the charter operations of Alaskan air carriers, generally, rather than on the operations of a single carrier or market. Consequently, our ultimate disposition of the issues here involved would not appear to require resolution of the types of substantial factual issues which are proper subjects for oral testimony and cross-examination. To the extent that there may prove to be legal and policy disputes between interested parties, we are providing an opportunity for reply comments in addition to initial comments on the proposed rule, so that this informal procedure, while allowing full public participation, should afford all directly affected parties ample opportunity to express their views and arguments. Of course, as is normally the case in rulemaking proceedings, should the written comments disclose the existance of significant factual issues, the Board may in due course consider the need for an appropriate type of hearing.

As to the merit of Wien's petition, we have tentatively concluded that the amendment which it proposes does indeed conform to the Board's intention underlying Part 292 and is in accord with the Board's longstanding policy of protecting the routes of certificated carriers against incursions by regular or frequent offroute charter operations of other carriers.

We are inclined to agree with the petitioner that a review of the legislative history of Part 292 indicates that the Board never intended to permit regular or frequent off-route charter trips by one Alaskan air carrier to be operated in markets receiving certificated scheduled services by another Alaskan air carrier. When originaly adopted, Part 292 restricted all off-route charter trips by Alaskan air carriers to "casual, occasional, or infrequent" operations.[9] Although that express limitation was removed in 1959 with respect to intra-Alaskan markets,[10] the relaxation does not seem to have been intended to sanction unrestricted off-route charter operations in markets actively served by certificated carriers. Rather, the 1959 liberalization of intra-Alaskan charter rules was designed as partial compensation for the Board's

[3] All off-route charter trips are required to originate at or to be destined to a point in Alaska which is named in the carrier's certificate or which is located within 25 miles of the airline course over the carrier's regular route and is actually being served by the carrier as an intermediate point pursuant to a schedule on file with the Board under section 405(b) of the Act.

[4] In 1951, when ASA was awarded certificated route authority between Alaska and Portland/Seattle, the Board granted ASA an exemption from the provisions of § 292.1 to the extent that ASA would otherwise have been excluded from the Part 292 classification of "Alaskan air carriers." United States-Alaska Service Case, 14 C.A.B. 123 (1951).

[5] "Alaska Airlines, Inc. v. C.A.B." No. 75-1670 (D.C. Cir. October 28, 1976).

[6] The comments of both ASA and BP were received after the date set by Order 76-11-121 and were accompanied by motions for leave to file otherwise unauthorized documents. Because the Board wishes to receive the views of each principal party in the Docket 27617 proceeding, we hereby grant the motions of ASA and BP.

[7] The D.C. Circuit Court, in "Alaska Airlines, Inc. v. C.A.B., supra," addressed the need for a hearing only in the context of what the court considered to be an adjudicatory or enforcement proceeding. The court expressed no opinion on the form of participation required in a rulemaking. Slip opinion at 13.

[8] Regulations Serial No. 248, § 292.2(d), adopted October 22, 1942, 7 FR 11108.

[9] ER-270, adopted May 29, 1959, 24 FR 4590.

curtailment of Alaskan air carriers' broad "irregular-route authority," which had allowed Alaskan air carriers to provide scheduled service to off-route points within designated geographical areas in Alaska. As a result of the Intra-Alaska Case, 28 C.A.B. 57 (1958), the Board decided to eliminate irregular-route authority for all Alaskan air carriers because of certain potential abuses, including the likelihood of diversion from the regular routes served by Alaskan air carriers.[9] Thus, the subsequent removal of the requirement that intra-Alaskan off-route charter trips be "casual, occasional, or infrequent" seems to have been meant to allow Alaskan air carriers greater flexibility in meeting any additional charter demand resulting from the elimination of irregular-route authority.[10] In doing so, the Board had no need to expressly limit off-route charter operations in markets regularly served by other certificated carriers because, as we have said, "intra-Alaska traffic conditions at that time made an extensive charter program inconceivable, as a matter of economic reality, in markets receiving regularly scheduled service * * *."[11]

Moreover, in developing its regulatory policy toward off-route charter services generally, the Board has often emphasized that the primary duty of the certificated carrier is to render scheduled services over the routes which it is certificated to serve. Accordingly, the Board has adopted long-standing restrictions on off-route charter operations in the lower 48 States designed to protect scheduled services from undue diversion.[12] While our regulatory scheme for Alaska has consistently reflected our recognition of the need for more liberal charter rules than are applicable in the lower 48 States, it has not been our intention to permit off-route charter operations within Alaska to be so unrestricted as to distract certificated carriers from their primary function of providing scheduled service on their own routes or to unduly impinge on the scheduled services of other certificated carriers. It is therefore our tentative conclusion that, while the unique Alaskan operating environment continues to require relatively liberal charter operations to supplement scheduled services, we should amend Part 292 to state unambiguously that the certificated Alaskan air carriers, like their counterparts in the lower 48 States, are to have their routes protected from unrestricted off-route charter operations of other Alaskan air carriers.[13]

By the same token, we would not expect to apply this rule inflexibly. In cases where unusual elements are present, such as extraordinary demand for air transportation which cannot be adequately met by scheduled service, we would of course be prepared to grant appropriate requests for waiver or exemption from the rule.

With respect to the answer filed by TIA, we see no ned at this time either to comment upon the merits of TIA's pending application for cargo charter authority or to consolidate this rulemaking with that proceeding. TIA's application will be determined upon all relevant considerations, including the demand for such service, the ability of TIA to provide it, and the impact of such service on other certificated carriers.

Accordingly, the Civil Aeronautics Board proposes to amend Part 292 of its Economic Regulations (14 CFR Part 292) as set forth below.

PROPOSED RULE

Amend Part 292 by revising the second proviso of § 292.2 to read as follows:

§ 292.2 Charter trips and special services.

An Alaskan air carrier * * * *And provided further*, That all such trips to and from points outside of Alaska or between points within Alaska between which certificated scheduled services are provided by another Alaskan air carrier are casual, occasional, or infrequent, and are not made in such manner as to result in establishing a regular or scheduled service.

[FR Doc.77-5788 Filed 2-24-77;8:45 am]

[9] 28 C.A.B. at 169.

[10] See discussion to that effect in Draft Release No. 105, 24 FR 437, January 17, 1959, which proposed the role made final in ER-270, *supra*.

[11] Order 75-8-153 at 6, August 29, 1975.

[12] Part 207 contains restrictions on the frequency, regularity, and amount of off-route charter services. These rules are applicable to all air carriers holding certificates of public convenience and necessity, other than Alaskan air carriers and supplemental air carriers.

[13] The Board recently reaffirmed the need to protect scheduled services of Alaskan air carriers when we addressed the issue of air taxi operations in Alaska. Although we liberalized the air taxi weight limitation to conform to the limitation applicable in the lower 48 States, we retained a unique route protection for certificated carriers in § 298.34 (b), which precludes regular air taxi operations between points in Alaska receiving two or more certificated scheduled flights per week. ER-970, adopted October 1, 1976, 41 FR 44033.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 606 and 640]

[Docket No. 75N-0316]

WHOLE BLOOD AND COMPONENTS OF WHOLE BLOOD INTENDED FOR TRANSFUSION

Donor Classification Labeling Requirements

The Food and Drug Administration (FDA) is reproposing to amend its biologics regulations to require that each container of whole blood and blood component (red blood cells, cryoprecipitated antihemophilic factor, platelet concentrate, and single donor plasma) intended for transfusion shall bear the label statement, "Paid Donor", or "Volunteer Donor", as applicable. Interested persons have until April 26, 1977, to submit written comments.

To provide adequate time for printing new labels and, in the case of licensed blood, approval of labels, the Commissioner of Food and Drugs intends to make the proposed labeling requirements effective June 27, 1977.

The Commissioner issued a proposal, published in the FEDERAL REGISTER of November 14, 1975 (40 FR 53040), to require that the labeling for licensed and unlicensed whole blood and red blood cells bear (1) A statement distinguishing blood from volunteer donors and blood from paid donors, and (2) A warning that blood collected from paid donors is associated with a higher risk of transmitting hepatitis than blood from volunteer donors.

In the preamble to the November proposal, the Commissioner stated his conclusion that the proposed labeling requirements would promote the use of blood from donors who are from sectors of society in which transmissible viral hepatitis, type B, is less prevalent, and would thereby reduce the risk of hepatitis associated with transfusion therapy. In support of this conclusion, the Commissioner cited references and discussed published data regarding (1) The incidence of postransfusion hepatitis from use of HB_sAg untested blood, (2) The prevalence of HB_sAg in donor blood, (3) The incidence of posttransfusion hepatitis from use of HB_sAg tested blood and (4) The incidence of posttransfusion hepatitis after eliminating use of blood from paid donors. The Commissioner concluded that the published data demonstrate that blood collected from paid donors is distinguishable from blood collected from volunteer donors in terms of a potential hazard, and that the decreased use of blood from paid donors would have a greater impact in reducing the incidence of posttransfusion hepatitis than any other measure, including HB_sAg testing.

The Commissioner stated his belief that the proposed requirement for label disclosure identifying the source of whole blood and red blood cells (1) Is necessary to provide physicians prescribing blood with the important information, (2) Is consistent with the National Blood Policy objective to encourage, foster and support efforts to establish an all-voluntary blood donation system, (3) Will not interrupt blood services now provided, (4) Will significantly increase the demand for blood from volunteer donors or blood from paid donors collected by blood banks having evidence that their donor population is as safe as a volunteer donor population, and (5) Will reduce the risk of transmitting hepatitis in transfusion therapy.

The Commissioner also discussed in detail, in the preamble of the November proposal, the statutory authority for proposing the labeling requirements.

Interested persons were given until January 13, 1976, to submit written comments. In response, 342 letters were received. A majority of the comments recommended that the proposal be reissued to include a proposed definition for the terms "paid donor" and "volunteer donor."

The Commissioner agreed that the phrases "paid donor" and "volunteer donor" should be defined in the regulations. Therefore, to assure that all forms of compensation are anticipated and considered in developing these definitions, he issued a notice, published in the FEDERAL REGISTER of February 3, 1976 (41 FR 4955), requesting interested persons to submit data and information by March 3, 1976, for use in the formulation of the definition of the phrases, "paid donor," and "volunteer donor." The Commissioner also stated in this notice that a new proposal would be published in the FEDERAL REGISTER affording interested persons an opportunity to comment on the proposed definitions and any other changes made on the basis of the comments received on the November proposal. In response to the February 1976 notice, 331 additional letters were received. The letters provided data and information concerning current blood banking practices relative to compensation for blood donation.

Because of the intense widespread interest and public importance of the proposed labeling requirements, in a notice published in the FEDERAL REGISTER of February 27, 1976 (41 FR 8523), the Commissioner announced and later convened a public meeting on March 18, 1976 to discuss the following subjects:

1. Data documenting the risk of posttransfusion hepatitis associated with blood collected from volunteer and paid donors.

2. Summary of comments received in response to the FEDERAL REGISTER proposal of November 14, 1975.

3. Recommendations for a reproposal, including definitions for "volunteer" and "paid" donors and other suggestions recommended in the comments on the November 1975 proposal.

4. General discussion of various viewpoints on the proposal. Copies of the transcript of the meeting are available upon request from the office of the Hearing Clerk, 5600 Fishers Lane, Rockville, MD 20857.

COMMENTS ON NOVEMBER 1975 PROPOSAL

The Commissioner is now proposing definitions for paid and volunteer donors. He believes that there is little value in setting forth in great detail all the comments received to date because a comment period of 60 days is provided for this new proposal. Therefore, this preamble will discuss only those substantive comments received in response to the November 14, 1975 proposal, and the request for data and information on February 3, 1976, and comments received at the public meeting on March 18, 1976. Summaries of such substantive comments and the Commissioner's responses are as follows:

1. The majority of the comments requested that the phrases "paid donor" and "volunteer donor" be defined. Some comments recommended use of the American Association of Blood Banks' definition which, in essence, distinguishes paid donors from volunteer donors on the basis of monetary payment. Other comments recommended definitions that would preclude a volunteer donor from any sort of compensation, including payment for time away from work or cancellation of a friend's or relative's nonreplacement fee. Many comments also questioned whether the current blood banking practice to motivate donors by offering benefits, such as providing time off from work, free tickets for food, theater, taxi fares, etc., or cancellation of a nonreplacement fee (i.e., free blood to the donor or the donor's family, if the need arises) would make any response donation "paid."

The Commissioner agrees that the phrases "paid donor" and "volunteer donor" should be defined in the regulations. As stated in the preamble of the November proposal, the high risk of posttransfusion hepatitis associated with blood from paid donors is not due to the exchange of money between blood bank and blood donor; rather, it exists because paid donors often come from sectors of society where transmissible hepatitis is more prevalent. Indeed, the use of monetary payment to motivate donors to donate blood is likely to attract certain individuals in unfortunate socioeconomic circumstances in which transmissible hepatitis is particularly prevalent and to attract various addicts who are in desperate need of money to purchase drugs. The published data demonstrating a high risk of posttransfusion hepatitis from paid donor blood are from studies in which blood banks were using monetary payment to motivate high-risk donors to give blood. In addition, the Commissioner is aware of data demonstrating a low risk of hepatitis associated with volunteer donors who receive fringe benefits or nonreplacement fee cancellations.

Accordingly, the Commissioner is proposing to amend § 606.120 (21 CFR 606.120) by adding a new paragraph (b)(2)(i), (ii), and (iii) to define paid blood donors as donors who receive monetary payment for their donations and volunteer donors as donors who do not receive monetary payment for their donations. Benefits, such as time off from work, membership in blood assurance programs, and cancellation of nonreplacement fees that are not readily convertible to cash are not considered monetary payment for blood donations; donors receiving such benefits are not considered paid donors.

The Commissioner advises that blood and blood components will be considered misbranded under sections 201(n) and 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(n) and 352) and subject to regulatory action if they are labeled "volunteer donor" and the donor has received a gift that can be readily converted into cash.

2. A number of comments recommended that the proposed labeling requirements should be extended to include all other blood components, Source Plasma (Human) and plasma derivatives produced from such products. Several comments suggested that blood shipped into this country from overseas should be labeled to identify the country of origin to provide physicians with appropriate warnings concerning unusual risks associated with the population from which the blood is collected.

The Commissioner advises that blood components intended for transfusion, such as Platelet Concentrate (Human), Cryoprecipitated Antihemophilic Factor (Human) and Single Donor Plasma (Human), carry the same risks as whole blood and red blood cells for transmitting hepatitis. In addition, because these products are not pooled by the manufacturer, information regarding source of the product is relevant to a physician's exercise of the best clinical judgment concerning use of the blood in transfusion therapy. Accordingly, the Commissioner proposes to amend § 640.26 (21 CFR 640.26) by adding a new paragraph (b) and § 640.51 (21 CFR 640.51) by adding a new paragraph (c)(1) to require that the donor source of Platelet Concentrate (Human) and Cryoprecipitated Antihemophilic Factor (Human), respectively, be identified as to paid or volunteer donors. In addition, the Commissioner proposes that these labeling requirements shall be applicable to Single Donor Plasma (Human). Additional standards for Single Donor Plasma (Human) were proposed in the FEDERAL REGISTER of November 11, 1975 (40 FR 52619) and the final order is presently being prepared. The additional standards will be amended as may be necessary, consistent with the final order for donor classification labeling requirements.

The Commissioner is not aware of any data to support use of the proposed labeling requirements for Source Plasma (Human) or plasma derivatives produced from such plasma. Indeed, although data have been published demonstrating that a higher prevalence of HS.Ag was found in plasma derivatives made from paid donor plasma than in plasma derivatives made from volunteer donor plasma, there is no published evidence that final plasma derivative products manufactured from volunteer donor plasma are less likely to produce hepatitis in recipients than similar products manufactured from paid donor plasma. Accordingly, the Commissioner rejects the comment recommending that Source Plasma (Human) or the final plasma derivative product, or both, should be labeled to state whether the plasma was collected from a volunteer or paid donor. The Commissioner invites submission of data demonstrating that final plasma derivative products manufactured from volunteer donor plasma are less likely to produce hepatitis in recipients than similar products manufactured from paid donor plasma.

The Commissioner advises that the proposed labeling requirements are ap-

plicable to blood and blood components shipped into this country from overseas. Blood and blood components intended for transfusion may be imported into this country only if the establishment and the product(s) are licensed pursuant to § 601.30 (21 CFR 601.30). Licensed biological products, whether from a foreign or domestic establishment, must meet the same standards of safety, purity, potency and effectiveness and must be labeled in compliance with the law. Currently, blood permitted to enter this country from overseas for transfusion purposes is collected only from volunteer donors in parts of western Europe where the risk of posttransfusion hepatitis associated with blood transfusion is not known to be greater than the risk associated with volunteer blood transfusion in this country. Accordingly, there is no need to label blood to identify the country of origin and therefore the comment is rejected.

3. Many comments objected to the proposed requirement concerning the warning statement that blood collected from paid donors is associated with a higher risk of transmitting hepatitis than blood from volunteer donors. The comments stated that blood from paid donors is not always associated with an increased risk of posttransfusion hepatitis. The comments contended that units of blood collected from paid donors would be misbranded if the donors are shown to belong to a low-risk donor population.

The Commissioner has decided not to repropose the warning statement initially included in the November 1975 proposal. The Commissioner concludes that the designation of blood as to its source, paid or volunteer, is a concise and adequate notification to physicians of the relative risk of hepatitis associated with the blood. The evidence of the association between paid donors and increased risk of hepatitis was set forth in the November 1975 proposal, which also included a bibliography. That proposal was mailed directly to all blood banks registered with FDA, including facilities operating both locally and in interstate commerce. A brief synopsis of the proposal, emphasizing the high risk of hepatitis associated with blood from paid donors, was published in the FDA Drug Bulletin of April–May 1976, which is mailed to all physicians in the United States. A transcript of the public meeting held in March 1976, at which time additional data on this issue were presented, has been available to all persons who request it. The National Blood Policy, announced in the FEDERAL REGISTER of March 8, 1974 (39 FR 9326), and the American Blood Commission, an association within the private sector working towards implementation of the Policy, have urged the creation of an all-voluntary blood donor system because of the statistical association between paid donors and the transmission of hepatitis in blood therapy. The work of the Commission and their policies and publications are well known throughout the entire blood-processing community. For these reasons, the Commissioner concludes that the designation of blood as being "paid" or "volunteer" adequately advises physicians and heads of blood bank establishments of the potential increased risk. In addition, this question has been aired not only in the medical literature but frequently in the lay press and on radio and television.

Three States with effective blood labeling laws—Illinois, California, and Georgia—do not require an additional warning statement, as originally proposed by the Commisioner. And the experiences in these States, particularly in Illinois where this law has been in effect for several years, support the necessity for only a brief descriptive term without an explicit warning of the statistical consequences that may occur.

Whole blood and its derivatives and fractionated products are handled and administered like prescription drugs—the unit as consumed need not bear all adequate directions for use on its label since this information is elsewhere made available to the physician. Notwithstanding these data given to physicians, the Commissioner will propose a warning statement if it appears that responsible heads of blood banks, administrators and purchasing agents of hospitals, physicians, or consumers are not adequately apprised of the facts in this matter.

The Commissioner acknowledges, as asserted in the comments, that blood from paid donors is not always associated with an increased risk of posttransfusion hepatitis since paid donors are capable of being screened for serologic markers associated with carriers of the hepatitis B virus. As stated elsewhere in this preamble, it is not the presentation of money to the donor that affects the quality of the blood, but rather the segments of the population from which paid donors usually come.

Although the statement "paid donor" will imply an increased risk of hepatitis, blood banks may elect to present to the community served evidence that supports their claim that their paid donor population has been screened to be as safe as the volunteer donor population. The burden of demonstrating that paid donors are as safe as volunteer donors will be the responsibility of those blood banks that pay their donors.

4. Several comments objected to the proposed requirement to label blood with the "paid" and "volunteer" donor classificatiorf, alleging that it will produce serious blood shortages in certain areas where monetary payment is essential to ensure an adequate blood supply. The comments stated that shortages will result from a reluctance to use blood from paid donors, even if the blood is collected by blood banks that also exercise stringent control in donor selection. Some comments alleged that the State of Illinois has had to import large quantities of blood since it enacted, in 1973, a law requiring that the labeling for all blood collected or transported into that State must prominently display whether the blood was collected from paid or volunteer donors. On the other hand, some comments stated that when payment to donors from low-risk populations was discontinued, the donors nevertheless continued to give blood. Heightened awareness of the public health risk from blood collected from paid donors, resulting from the Illinois blood labeling legislation, appears to have had a strong positive effect on motivating increased numbers of voluntary blood donations.

The Commissioner reiterates his belief, stated in the preamble of the November proposal, that the proposed requirement to label blood and blood components will the "paid" and "volunteer" donor classification will not interrupt blood services now provided. In addition, labeling the blood with donor classification will help to achieve the National Blood Policy objective to encourage, foster, and support efforts to establish an all-voluntary blood donation system.

The Commissioner emphasizes that the proposed donor classification labeling does not prohibit monetary payment for blood donation. Indeed, monetary payment to selected donors, especially those with rare blood groups or with a long history of blood donation without adverse posttransfusion reactions in recipients, is expected to continue, as long as the need for such blood exists.

The Commissioner is aware that donor classification legislation is now effective in the States of Illinois, California and Georgia. The longest experience with such legislation, in Illinois, does not support the contention that serious shortages in the blood supply will result because of the donor classification requirement. Indeed, the number of units collected from voluntary donors in Illinois increased sufficiently after the enactment of the donor classification legisla tion to provide adequately for all needs for blood within the State. Moreover, in one hospital where carefully monitored studies were conducted, the number of cases of posttransfusion hepatitis decreased significantly following the change from the use of predominantly paid donor blood to volunteer donor blood (Seeff, et al., American Journal of the Medical Sciences, 270:355–362, 1975).

The Commissioner is not aware of any data, nor were any presented by the comments, to substantiate the assertion that the State of Illinois has had to import large quantities of blood to achieve and maintain an almost all-voluntary blood supply. Accordingly, the comments are rejected.

5. Many comments objected to the proposed donor classification requirement, arguing that it will create a medical-legal dilemma for physicians who may have to prescribe blood from paid donors rather than blood from volunteer donors. The comments stated that physicians, patients, and the patients' families may be unduly alarmed by information showing the association of hepatitis with use of paid donor blood.

The Commissioner believes that the law and sound medical practice require that drug labeling contain significant information useful in the physician's eval-

uation of the benefits and risks in the drug therapy. The proposed blood labeling does not change the facts about the statistical correlation between certain donor populations and increased hepatitis-containing blood. These facts would be pertinent and undoubtedly brought to light in any malpractice action that might be filed regardless of Federal blood labeling requirements. The Commissioner has no control over private party plaintiffs. He is charged, however, to be sure that all drugs, including blood, are labeled consistent with law to disclose essential information to doctors and patients.

6. Several comments suggested that it would be more meaningful to include precise information concerning the rate of HB_sAg positive reactions over a fixed time period or the incidence of posttransfusion hepatitis over a fixed time period in place of the proposed labeling requirements.

The Commissioner believes that information regarding the rate of hepatitis-positive reactions over a fixed time period would not be a useful measure of the relative hepatitis risks in the donor population. Section 610.40 (21 CFR 610.40) requires that each donation of blood, plasma or serum to be used in preparing any biological product shall be tested for the presence of Hepatitis B Surface Antigen. Furthermore, § 610.41 (21 CFR 610.41) requires that a person testing positive, or known to have previously tested positive, for Hepatitis B Surface Antigen may not serve as a donor of human blood, plasma or serum to be used in preparing any injectable biological product such as blood products intended for transfusion. Accordingly, hepatitis-positive rates are generally higher in first time donor populations than in repeat donor populations, since most of the hepatitis-positive donors are eliminated in the initial testing period. For this reason, the number of hepatitis-reactive donors in a blood bank will be markedly affected by the number of new donors in that population. Moreover, as stated in the preamble of the November proposal, the test methods presently available for detecting hepatitis-positive donors do not detect the lowest level of HB_sAg in blood. An individual whose blood has a low level of HB_sAg will not be identified in either first time or repeat donor populations. Therefore, the Commissioner concludes that the rate of HB_sAg positive reactions is not a precise measure of hepatitis risk that would be more meaningful than the proposed required labeling for identifying the risk associated with the use of blood.

Studies concerning the number of posttransfusion hepatitis cases during a certain time period provide direct evidence of a greater hepatitis risk associated with blood from paid donors than with blood from volunteer donors in many parts of the country. Such data can be acquired only by careful followup studies of transfused patients. The Commissioner advises that such studies are extremely expensive and time consuming, and would certainly not be practical on a nationwide basis. Furthermore, it is both difficult and impractical to establish acceptable rates of posttransfusion hepatitis for different parts of the country, or for the country as a whole. Although the suggestion to precisely quantitate the hepatitis risk on an ongoing basis for donor populations appears scientifically appealing, such quantitation would only postpone for the indefinite future the benefit that will accrue to the public from uniform nationwide blood labeling requirements, as proposed. Accordingly, the comments are rejected.

7. Several comments stated that the data presented to support the November proposal, which shows a higher risk of posttransfusion hepatitis associated with blood from paid donors than with blood from volunteer donors, are outdated since the data result from studies conducted a number of years ago. The comments also stated that the risk of posttransfusion hepatitis has been eliminated by HB_sAg testing requirements and other government regulations concerning blood banking. The comments suggested that the American Blood Commission rather than FDA should deal with any problems remaining in the achievement of the goals of the National Blood Policy to improve the quality of the national supply of blood and blood products by the establishment of an all-voluntary donation system.

As stated in the preamble to the November proposal, there has been a continuing evolution of methodology towards more sensitive methods of detecting HB_sAg. However, the most sensitive methods presently available and required by FDA regulations, i.e., methods of third generation sensitivity, are expected to detect about 40 to 60 percent of the units of blood containing the hepatitis B virus. For this reason, the risk of transmitting viral hepatitis, type B, has been reduced but not eliminated by HB_sAg testing requirements. This conclusion was supported by a number of references cited in the proposal, which involved studies conducted after the nationwide HB_sAg testing requirements became effective, including the use of methods of third generation sensitivity. These studies demonstrate that the high posttransfusion hepatitis risk associated with blood from paid donors has persisted despite third generation HB_sAg testing.

This conclusion was also confirmed by data collected in 1975 under a contract supported by the National Heart, Lung and Blood Institute (NHLBI) to maintain surveillance of posttransfusion hepatitis in several major medical centers. The NHLBI data presented and discussed at the meeting on March 18, 1976, demonstrate that the risk of posttransfusion hepatitis continues to be associated with blood from paid donors in areas where monetary payment is used to attract blood donors. In addition, studies were cited in the preamble of the November proposal that demonstrate that posttransfusion hepatitis is also caused by some other as yet unidentified agent(s) for which there is no practical testing method. The other agent(s), like hepatitis B virus, appears to be more common in paid donors than in volunteer donors and, in fact, this non-A, non-B agent, for which there is no available test, is now accounting for up to 90 percent of hepatitis cases in transfused patients. Therefore, the Commissioner reiterates his conclusion that at the present time the best available means for reducing transmission of hepatitis B virus and the unidentified agent(s) is the elimination of blood from paid donors.

The Commissioner welcomes the efforts and support of the American Blood Commission to implement the objectives of the National Blood Policy. In fact, the labeling proposal was discussed at length with members of the Commission and their comments, along with others, were considered in the development of the proposed definitions of "paid donor" and "volunteer donor." The Commissioner advises, however, that FDA is charged with the promulgation and enforcement of regulations under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, to ensure that all drugs, including blood, are safe and properly labeled. The proposed labeling requirement regarding the source of blood and blood components is supported by the laws applicable to these products as discussed in the preamble of the November proposal. Accordingly, the comments are rejected.

8. Several comments objected to the proposed labeling requirements concerning the source of blood because these requirements will involve additional labels for every unit of blood and will result in a cost increase. In addition, the comments stated that cost of recruitment of volunteer donors may be more than the monetary payment used to attract blood donors. One comment objected to the goal of an all-voluntary blood donation program and suggested that competition between commercial or nonprofit suppliers should be encouraged to ensure an adequate nationwide supply of blood. The comment stated that a competitive market for blood need not exclude blood that is associated with a higher risk of posttransfusion hepatitis, since such blood would be safe for use in treating patients, such as hemophiliacs, who already have had serum hepatitis and therefore are immune to the disease.

The Commissioner believes that any cost increase resulting from the proposed labeling requirement will be minimal because the information can be included on labels by various means along with existing required labeling information. There is no need to use an additional label as suggested by the comments. The Commissioner notes that the American Red Cross, which collects from voluntary donors approximately one-half of the blood supply in this country, already uses labels that identify the donor as a volunteer.

The Commissioner is not aware of any data nor were any presented to substantiate the comment that the cost of recruitment of volunteer donors may be more than the monetary payment used to motivate donors to donate blood. More importantly, this argument, which is directed more against an all-voluntary donor system than against the proposed labeling, fails to consider the less calculable suffering and death from hepatitis associated with transfusion of blood from high risk paid donors; even if recruitment efforts cost more than payment to donors, the rewards are more than commensurate in terms of savings in cost from morbidity and mortality from posttransfusion hepatitis.

The Commissioner advises that the proposed label requirement concerning the source of blood does not prohibit the use of blood from paid donors, nor does it prohibit competition between commercial or nonprofit suppliers. However, the Commissioner believes that, whenever possible, important safety information should be readily available so that all users of drugs and biological products can effectively evaluate the risks involved in, and the benefits that can be derived from, use of these products. Accordingly, the comments are rejected.

9. A few comments objected to the goal of an all-vountary donation system and suggested alternatives such as (1) Using liquid stored blood in emergencies and establishing a nationwide system of frozen red ceels that can be thawed before use; (2) Establishing more stringent requirements concerning hepatitis; and (3) Requiring the use of registries designed to prevent collection from donors whose blood is implicated with hepatitis.

The Commissioner is aware of, and encourages research and development of alternatives, such as those suggested by the comments, to reduce the incidence of posttransfusion hepatitis. However, the suggested alternatives are not adequate substitutes for, nor in conflict with, an all-voluntary blood donation system. Rather, they will serve to further reduce the low risk of hepatitis resulting from use of blood from an all-voluntary blood donation system. Indeed, studies are in progress in the Bureau of Biologics and elsewhere to determine the safety of using frozen red blood cells for transfusion therapy and to develop methods, more sensitive than third generation methods, for detecting the hepatitis virus in blood. In addition, many large blood centers and the American Red Cross already utilize registries to prevent collection from donors whose blood may be implicated with hepatitis, thereby further reducing the risk of collecting blood containing the hepatitis virus. Accordingly, the comments are rejected.

10. One comment suggested that the proposed regulation be modified to provide for review and revision 5 years after its effective date. At that time, it should be determined whether changes in blood testing technology and any adverse impact on the availability of blood have rendered the regulation obsolete.

The Commissioner advises that FDA conduct a continuing review and evaluation of all its regulations to assure that they remain consistent with the best currest judgment of the scientific community. The review and evaluation include current technology and the impact of the regulations on the users of the products. Therefore, the Commissioner concludes that modification of the regulation, as suggested by the comment, is not necessary. Accordingly, the comment is rejected.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 52 Stat. 1040–1042 as amended, 1050–1051 as amended (21 U.S.C. 321, 352)) and the Public Health Service Act (secs. 351, 361, 58 Stat. 702 as amended, 703 as amended (42 U.S.C. 262, 264)) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)) the Commissioner proposes that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

1. In Part 606 by amending § 606.120 by redesignating existing paragraphs (b) (2) through (b) (13) as paragraphs (b) (3) through (b) (14), and adding a new paragraph (b) (2) to read as follows:

§ 606.120 Labeling.

* * * * *

(b) * * *

(2) The appropriate donor classification statement, "Paid Donor" or "Volunteer Donor", in no less prominence than the proper name of the product.

(i) A paid donor is a person who receives monetary payment for a blood donation.

(ii) A volunteer donor is a person who does not receive monetary payment for a blood donation.

(iii) Benefits, such as time off from work, membership in blood assurance programs and cancellation of nonreplacement fees, that are not readily convertible to cash, do not constitute monetary payment within the meaning of this paragraph.

* * * * *

2. In Part 640:

a. By revising § 640.2(f) (3) to read as follows:

§ 640.2 General requirements.

* * * * *

(f) * * * (3) the label of each container of such blood bears the information required by § 640.7(f), * * *.

b. By amending § 640.7 by revising the introductory paragraph, by redesignating existing paragraphs (a) through (f) as paragraphs (b) through (g), respectively, and by adding a new paragraph (a), to read as follows:

§ 640.7 Labeling.

In addition to all other applicable labeling requirements, the following, except as prescribed in paragraphs (f) and (g) of this section, shall appear on the label of each container:

(a) *Donor classification.* The appropriate statement prescribed in § 606.120 (b) (2) of this chapter.

* * * * *

c. By amending § 640.18 by revising paragraph (a) to read as follows:

§ 640.18 Labeling.

* * * * *

(a) The information required by § 640.7 (a), (b) (2), (c), and (d) for Whole Blood (Human), except the proper name.

* * * * *

d. By amending § 640.26 by redesignating existing paragraphs (b) through (n) as paragraphs (c) through (o), respectively, and by adding a new paragraph (b) to read as follows:

§ 640.26 Labeling.

* * * * *

(b) The appropriate donor classification as prescribed in § 606.120(b) (2) of this chapter.

* * * * *

e. By amending § 640.51 by redesignating existing paragraphs (c) (1) through (c) (7) as paragraphs (c) (2) through (c) (8), respectively, and adding a new paragraph (c) (1) to read as follows:

§ 640.51 General requirements.

* * * * *

(c) * * *

(1) The appropriate donor classification as prescribed in § 606.120(b) (2) of this chapter.

* * * * *

To provide adequate time for the printing and required approval of labels, the Commissioner intends to make the proposed labeling requirements on or before June 27, 1977.

Interested persons may, on or before April 26, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

(NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact

assessment is on file with the Hearing Clerk, Food and Drug Administration.)

Dated: February 16, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-5534 Filed 2-24-77;8:45 am]

[21 CFR Part 650]

[Docket No. 76N-0496]

ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR DERMAL TESTS

Proposed Tuberculin Amendments

The Food and Drug Administration (FDA) is proposing to amend the regulations governing tuberculin to limit the range of the potency assay for tuberculin products dried on tines of multiple puncture devices to ±20.0 percent of the claimed number of U.S. Tuberculin Units (TU). Interested persons have until March 28, 1977 to submit written comments.

The biologic regulations governing the manufacture of tuberculin in § 650.14 *Potency test* (21 CFR 650.14) require that each lot of tuberculin be tested for potency in guinea pigs. These regulations require, in § 650.14(c)(3), that the amount of dried product on the tines of multiple puncture devices be within ±50 percent of the U.S. units claimed by the manufacturer in the license application. The variation was based on data submitted by the first license applicant, which demonstrated that such variation does not adversely affect the sensitivity of the product in clinical performance.

On the basis of new data recently presented by one manufacturer, the Commissioner finds that a variation of ±20 percent of the amount of dried product on the tines can be achieved and should reduce the incidence of false positive and false negative test results. Accordingly, the Commissioner concludes that § 650.14 should be amended to reduce the variation from ±50 percent to ±20 percent.

The background data and information on which the Commissioner relies in promulgating this regulation are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)), and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner proposes that § 650.14 be amended by revising paragraph (c)(3) to read as follows:

§ 650.14 Potency test.

* * * * *

(c) * * *

(3) *Products dried on multiple puncture devices.* ±20 percent of the U.S. units claimed by the manufacturer in the license application.

Interested persons may, on or before March 28, 1977 submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5526 Filed 2-24-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR CHAPTER I]

[Docket No. 76-21, Notice 2]

REVIEW OF REGULATIONS AND DIRECTIVES

Supplemental Advance Notice of Proposed Rulemaking

The Federal Highway Administration (FHWA) on November 29, 1976, issued an advance notice of proposed rulemaking (41 FR 52703) on this subject, inviting interested persons to comment on all areas relating to FHWA procedures for Federal-aid delivery.

A considerable volume of comment was received pursuant to that notice, and internal studies of the data and views presented are continuing. FHWA analysis of the responses affirms that there is considerable concern regarding FHWA's regulatory program. It also indicates that further inquiry, more specific than in Notice 1, is needed to develop the existence, scope and extent of the problem. This supplemental advance notice is intended to call attention to a more precise focus that has been developed as suggested by several commentors to Notice 1.

This added focus has been accomplished by the development of lists of specific questions that are available for public comment by interested persons. While these lists contain questions of interest to State, county and city governments, no exclusionary intent is to be implied, and all persons having interest in the subject at large are invited to comment.

Specific questions are not being published in the FEDERAL REGISTER due to the large volume of material developed in pursuing this subject. However, for the convenience of interested parties, specific material has been made available for inspection at each of FHWA's document inspection facilities.

Arrangements for inspection of this material may be made by contacting the nearest inspection facility which is located in each State and the Washington, D.C. Headquarters Office. Addresses of these facilities are published in title 49 of the Code of Federal Regulations (49 CFR Part 7, Appendix D). Where inspection is not convenient, questions may be obtained by contacting FHWA Regulation Reduction Task Force, Room 5418, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590, telephone: 202-472-5030 or 202-426-0534.

Those wishing to comment on the matters raised in this supplemental notice are asked to submit their views in writing. Comments should identify the FHWA docket and notice number (FHWA Docket No. 76-21; Notice 2) and be submitted in triplicate to Room 4230, Federal Highway Administration, 400 7th Street, S.W., Washington, D.C. 20590. All comments received on or before March 25, 1977, will be considered. Comments received will be available for public inspection both before and after the closing date at the above address.

This supplemental advance notice of proposed rulemaking is issued under the authority of 23 U.S.C. 315 and 49 CFR 1.48.

Issued on February 24, 1977.

JOHN R. PROVAN,
Associate Administrator for Administration.

[FR Doc.77-6020 Filed 2-24-77;11:04 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1910, 1915, 1916, 1917, 1918, 1926, 1928]

[Docket No. H-052]

OCCUPATIONAL EXPOSURE TO COTTON DUST

Corrections to Notice of Proposed Rulemaking and Hearing

On December 28, 1976, notice was published in the FEDERAL REGISTER (41 FR 56498, FR Doc. 76-37893) of a proposed occupational safety and health standard for exposure to cotton dust pursuant to the authority in sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911. Interested persons were given until March 4, 1977 to submit written data, views, and arguments regarding the proposed standards, and to provide notices of intention to appear at public hearings. The public hearings are scheduled to begin April 5, 1977 at 9:30 a.m. in the Departmental Auditorium, 14th

and Constitution Avenue, NW., Washington, D.C.

In the notice of proposed rulemaking for occupational exposure to cotton dust, the following corrections should be made:

1. On page 56499 in the first column, line 5 of the first paragraph, "line" is corrected to read "lint".

2. On page 56500 in the first column, the top line, "ng/m" is corrected to read "mg/m".

3. On page 56500 in the third column, line 5 of the last paragraph, delete the first "(FEV_1)".

4. On page 56502 in the third column, line 13 of the third paragraph, "(77)" is corrected to read "(7)".

5. On page 56503 in the first column, line 18 of the first paragraph, "framing" is corrected to read "farming".

6. On page 56503 in the third column, the last line of the first paragraph is corrected to read "(51, 52) or bacteria (53, 45)."

7. On page 56508 in the third column, line 3 of the second paragraph is corrected to read "* * * (OSHA's regulations for the preparation of environmental impact statements) and the Guidelines of the Council on Environmental Quality 40 CFR Part 1500, * * *"

8. On page 56511 in the second column, line 6 of the first paragraph, the numbers "1,018, 9,902, and 30,089" are corrected to read "1,047, 9,771, and 25,864."

9. On page 56511 in the second column, line 11 of the first paragraph, "from 0.1 to 4.3 percent" is corrected to read "from 0.2 to 4.9 percent".

10. On page 56511 in the second column, line 13 of the first paragraph, the numbers "859, 3,257, and 4,628" are corrected to read "469, 2,495, and 3,608."

11. On page 56511 in the second column, line 7 of the second paragraph, "47 percent" is corrected to read "4.7 percent."

12. On page 56511 in the second column, the first line of the third paragraph is corrected to read "workers required for operation and maintenance of control equipment and in other areas of the compliance program may be drawn from plant personnel."

13. On page 56511 in the third column, line 12 of the first full paragraph, "21 percent (3,513, 200 barrels of oil equivalent)" is corrected to read "21.6 percent (3,582, 900 barrels of oil equivalent)."

14. On page 56511 in the third column, line 5 of the second full paragraph, "60.1 percent increase (9,977, 400 barrels of oil equivalent)" is corrected to read "61.3 percent increase (10,175, 700 barrels of oil equivalent)."

15. On page 56511 in the third column, line 18 of the second full paragraph, "* * * $284 million at 1975 energy prices; the cost is almost $120 million * * *" is corrected to read "* * * $436 million * * * $189 million * * *"

16. On page 56511 in the third column, on the last line of the fourth full paragraph, the number "$1,687.2 million" in corrected to read "$1,712.1 million."

17. On page 56511 in the third column, line 3 of the fifth full paragraph, the number "$343.5" is corrected to read "$350.1."

18. On page 56511 in the third column, the sixth full paragraph is corrected to read "The average price increases per dollar of sales in ginning, spinning and weaving, to maintain prestandard rates of return on investment, range from 0.54 cents to 17.76 cents. In the cotton waste and linters consuming industries price increases range from 0.6 cents to 4.5 cents."

19. On page 56511 in the third column, the last paragraph is corrected to read "The general inflationary impacts in the ginning, spinning, weaving, and waste consumer industries altogether are estimated to increase the Consumer Price Index (CPI) by 0.37 percent."

20. On page 56512 in the first column, the first paragraph is corrected to read "The total contraction of raw cotton consumption resulting from compliance in ginning, spinning, weaving, and yarn processing will be 150.3 million pounds."

21. On page 56512 in the first column, line 4 of the second paragraph is corrected to read "could finance compliance costs * * *".

22. On page 56513 in the second column, the citation for reference number 22 is corrected to read "Br Med J 1:65–68, 1955."

23. On page 56514 in the first column, the citation for reference number 56 is corrected to read "Br J Ind Med, 31:18–27, 1974."

24. On page 56514 in the first column, reference number 63 is corrected to read "Petition to the Secretary of Labor by the Textile Workers Union of America, AFL–CIO, for a Proposed Rule Modifying the Cotton Dust Standard Under the Occupational Safety and Health Act, January 13, 1975."

25. On page 56515 in the second column, line 1 of (6) is corrected to read "In his discretion * * *"

26. On page 56516 in the second column, § 1910.1043(e)(1)(i) is corrected to read "The employer shall institute immediately engineering controls to reduce exposures to cotton dust to 500 ug/m³, * * *"

27. On page 56516 in the second column, § 1910.1043(e)(1)(iv) is corrected to read "* * * to be achieved solely by these means in paragraph (e)(1)(i)–(e)(1)(iii) of this section, * * *"

28. On page 56517 in the first column, § 1910.1043(f)(4)(i) is corrected to read "The employer shall assure that respirators used by employees exhibit minimum facepiece leakage and that respirators are fitted properly."

29. On page 56517 in the third column, § 1910.1043(h)(3)(ii)(b) is corrected to read "* * * whose FEV_1 is less than 60 per cent of the predicted value."

30. On page 56518 in the first column, § 1910.1043(i)(2)(iii) is corrected to read "The purpose for and a description of the medical surveillance program required by paragraph (h) of this section * * *."

31. On page 56519 in the second column, (c)(10) is corrected to read "* * * and whether additional samples must be collected."

32. On page 56519 in the second column, the last line is corrected to read "tration in ug/m³. Record in Log."

33. On page 56527 in the first column, line 3 of the first paragraph, the word "monograms" is corrected to read "nomograms".

34. On page 56527 in the first column, line 2 of the second paragraph, the word "monogram" is corrected to read "nomogram".

Signed at Washington, D.C., this 17th day of February 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-5776 Filed 2-24-77;8:45 am]

[29 CFR Part 1952]

MICHIGAN

Proposed Supplements to Approved 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 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 October 3, 1973, notice was published in the FEDERAL REGISTER (39 FR 27388) of the approval of the Michigan plan and the adoption of Subpart T of Part 1952 containing this decision. On July 1, 1975, September 28, 1976, and November 5, 1976, the State of Michigan submitted to the Chicago Regional Office of the Occupational Safety and Health Administration Supplements to the plan involving development changes. Following Regional review, the supplements were 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 they should be approved. The supplements are described below.

2. *Description of the supplements.* (a) *Public Employee Program:* The State has submitted notification that, as of July 1, 1975, all requirements and provisions of the Michigan Occupational Safety and Health Act are applicable in a uniform manner to both public and private employers and employees in the State, except that the State, in order to effect compliance by a public employer, has the option to seek a writ of mandamus in lieu of proposing civil penalties.

(b) *Compliance Manuals:* The State has submitted manuals for compliance operations of the Michigan Department of Labor and Public Health.

(c) *Staffing:* The State has submitted revisions to the staffing pattern contained in the States' plan and has indicated that the Michigan Departments of Labor and Public Health are in substan-

tial conformity with the revised staffing pattern.

(d) *Management Information System:* The State has indicated that the Michigan Departments of Labor and Public Health have established a comprehensive management information system which is capable of meeting the reporting requirements of the State's plan.

3. *Location of the State's plan and its supplements for inspection and copying.* A copy of the State's plan and the supplements may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room N3620, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3263, 230 South Dearborn Street, Chicago, Illinois 60604; Michigan Department of Labor, State Secondary Complex, 7150 Harris Drive, Lansing ,Michigan 48926.

4. *Public participation.* Interested persons are hereby given until March 28, 1977, in which to submit written data, views, and arguments concerning whether the supplements should be approved. Such submissions are to be addressed to the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Director, Federal Compliance and State Programs. If in the opinion of the Assistant Secretary, substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subject and issue involved may be held.

The Assistant Secretary shall consider all relevant comments arguments, and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplements, make appropriate amendments to Subpart T of Part 1952 and initiate further proceedings, if necessary.

Signed at Washington, D.C. this 22nd day of February, 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-5780 Filed 2-24-77;8:45 am]

[29 CFR Part 1952]

NEVADA

Proposed Supplements to Approved 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 Part 1902 of this chapter. On January 4, 1974, a notice was published in the FEDERAL REGISTER (39 FR 1008) concerning the approval of the Nevada Plan and of the adoption of Subpart W of Part 1952 containing the decision. Section 1952.293 of Subpart W sets forth the developmental schedule under which the plan will meet the criteria of section 18(c) of the Act and Part 1902 within three years following commencement of operations under the plan. On July 22, 1975, the State of Nevada submitted a supplement to the plan proposing to relinquish its health enforcement responsibility. On March 26, 1976, a notice was published in the FEDERAL REGISTER (41 FR 12716) concerning the submission of the supplement to the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) and the fact that the question of its approval was in issue before him. However, on September 16, 1976, the State submitted a revised supplement, proposing to submit a comprehensive plan for occupational health enforcement. On December 3, 1976, the State submitted this health plan as a developmental change (see Subpart B of 29 CFR Part 1953).

2. *Description of the supplement.* The supplement is a plan for occupational health enforcement by the State of Nevada. Nevada will adopt all Federal health standards. Tht State has hired two industrial hygienists. One industrial hygienist will be stationed in the Reno office; the other will be stationed in the Las Vegas office. The supplement includes a proposed budget for the first year of implementation of the health program. Also included are a discussion of health hazards in Nevada, a discussion of laboratory facilities to be used for analysis of samples, and a description of the proposed program to encourage voluntary compliance with health standards. The supplement also contains Chapter XIII of the State's Field Operations Manual, concerning occupational health enforcement.

3. *Location of the plan and its supplement for inspection and copying.* A copy of the supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Directorate of Federal Compliance and State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, Room N3608, Washington, D.C. 20210; Office of the Regional Administrator for Occupational Safety and Health, Room 9470, Federal Office Building, 450 Golden Gate Avenue, San Francisco, California 94102; and Department of Occupational Safety and Health, Nevada Industrial Commission, Room 311, 515 East Musser Street, Carson City, Nevada 89701.

4. *Public participation.* Interested persons are hereby given until March 28, 1977, in which to submit written data, views, and arguments concerning whether the supplements should be approved. Such submissions should be addressed to the Director of Federal Compliance and State Programs at his address as set forth above, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Director of Federal Compliance and State Programs. If in the opinion of the Assistant Secretary substantial objections are filed, which warrant further public discussion, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplement, make appropriate amendments to Subpart W of Part 1952, and initiate further appropriate proceedings if necessary.

(Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g)(2), 667).)

Signed at Washington, D.C., this 22nd day of February, 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-5781 Filed 2-24-77;8:45 am]

[29 CFR Part 1952]

NEW MEXICO

Proposed Supplement to Approved 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) for review of changes and progress in the development and implementation of State plans which have been approved under section 18(c) of the Act and 29 CFR Part 1902. On December 10, 1975, notice was published in the FEDERAL REGISTER of the approval of the New Mexico plan and of the adoption of Subpart DD of Part 1952 describing the plan. On October 1, 1976, the State of New Mexico submitted a supplement involving a developmental change to the Dallas 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 or not it should be approved. The supplement is described below.

2. *Description of the supplement.* Rules of Procedure for Administrative Review. In response to the commitment contained in 29 CFR 1952.363(c) the State has promulgated its Occupational

Health and Safety Review Commission Rules of Procedure for Administrative Review. The rules outline the guidelines to be used by the Review Commission in its review of contested cases under the New Mexico Occupational Safety and Health program.

3. *Location of the plan and its supplement for inspection and copying.* A copy of the supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Directorate of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 555 Griffin Square Building, Room 602, Dallas, Texas 75202; Environmental Improvement Agency, Occupational Radiation Protection Division, P.O. Box 2348, PERA Building, Room 506, Santa Fe, New Mexico 87503.

4. *Public participation.* Interested persons are hereby given until March 28, 1977, in which to submit written data, views, and arguments concerning whether the supplement should be approved. Such submissions are to be addressed to the Directorate of Federal Compliance and State Programs at his address as set forth above where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Directorate of Federal Compliance and State Programs. If in the opinion of the Assistant Secretary substantial objections are filed, which warrant further public discussion, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplement, make appropriate amendments to Subpart DD of Part 1952, and initiate further appropriate proceedings if necessary.

Signed at Washington, D.C. this 22nd day of February, 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-5782 Filed 2-24-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Parts 221 and 223]

SALE AND DISPOSAL OF TIMBER

Public Hearing

In Part III of the FEDERAL REGISTER of February 23, 1977, the Department of Agriculture issued a notice of proposed rulemaking on the sale and disposal of timber. The notice advised that informal public hearings would be held to afford the public an opportunity to comment on the proposed regulations.

The schedule for the public hearings is as follows:

REGION 1

March 14, 1977, 9:00 a.m.-12:00 noon, 1:30 p.m.-4:30 p.m., 7:30 p.m.-9:00 p.m. Governors' Room, Florence Hotel, Missoula, Montana 59801.

March 16, 1977. 9:00 a.m.-12:00 noon, 1:30 p.m.-4:30 p.m., 7:30 p.m.-9:00 p.m. Spokane River Park Center (Convention Center), Room E&F, West 334 Spokane Falls Blvd., Spokane, Washington 99201.

REGION 2

March 14, 1977. 1:00 p.m.-4:00 p.m., 7:00 p.m.-9:00 p.m. Heather-Tarton Room, Holiday Inn Airport, 4040 Quebec, Denver, CO.

March 15, 1977. 1:00 p.m.-4:00 p.m., 7:00 p.m.-9:00 p.m. New Room West, Hitching Post Best Western Motel, 1700 W. Lincoln Way, Cheyenne, WY 82001.

March 16, 1977. 1:00 p.m.-4:00 p.m., 7:00 p.m.-9:00 p.m. Washington Room, Howard Johnson Motor Lodge, 221 LaCrosse, Rapid City, SDAK 57701.

REGION 3

March 15, 1977. 1:00 p.m.-5:00 p.m. Phoenix City Plaza, 225 E. Adams, Room No. 8, Phoenix, Arizona 85004.

March 16, 1977. 1:00 p.m.-5:00 p.m. Nambe-Navajo Room, Albuqueruqe Convention Center, 401 Second Street, NW., Albuquerque, NM 87102.

REGION 4

March 15, 1977. 9:00 a.m.-12:00 noon. New State Office Building, 700 W. State Street, Boise, Idaho 83706.

March 16, 1977. 9:00 a.m.-12:00 noon. Hotel Utah Motor Lodge, 125 West N. Temple, Salt Lake City, Utah 84111.

REGION 5

March 15, 1977. 9:00 a.m.-4:30 p.m. Public Hearing, Bank of America Center, A. P. Giannini Auditorium, 555 California Street, San Francisco, CA 94104.

REGION 6

March 14, 1977. 9:00 a.m.-5:00 p.m. Federal Bldg., Room 223, 1220 SW 3rd Avenue, Portland, OR 97201.

REGION 8

March 14, 1977. 9:00 a.m.-3:00 p.m. Rivera Hyatt House, 1630 Peachtree Street, NW, Atlanta, Georgia 30309.

March 15, 1977. 9:00 a.m.-3:00 p.m. Riverboat Inn, Interstate 20 & Monkhouse Drive, Shreveport, Louisiana 71109.

REGION 9

March 14, 1977. 9:00 a.m.-3:00 p.m. Holiday Inn, (Near Philadelphia Int. Airport), 45 Industrial Highway, Essington, PA 19029.

March 15, 1977. 9:00 a.m.-3:00 p.m. Red Carpet Inn, Creole Room, 4747 South Howell, Milwaukee, WI 53207.

REGION 10

March 15, 1977. 10:00 a.m.-4:30 p.m. (With evening if necessary). Federal Building, P.S. Conference Room, Juneau, Alaska 99801.

Copies of the proposed regulations on the sale and disposal of timber and information on how the public may schedule their appearance at the hearings may be obtained by contacting the following Forest Service Regional Office staffs:

REGION 1

Timber Management, USDA, Forest Service, Federal Bldg., Missoula, MT 59801. 406-329-3605.

REGION 2

Office of Information, USDA, Forest Service, 11177 W. 8th Ave., Box 25127, Lakewood, CO 80225. 303-234-4185.

REGION 3

Timber Management, USDA, Forest Service, 517 Gold Avenue, Albuquerque, NM 87102. 505-766-2801.

REGION 4

Office of Information, USDA, Forest Service, Federal Bldg., 324 25th St., Ogden, UT 84401. 601-399-6501.

REGION 5

Office of Information, USDA, Forest Service, 630 Sansome Street, San Francisco, CA 94111. 415-556-0122.

REGION 6

Office of Information, USDA, Forest Service, 319 SW Pine St., P.O. Box 3623, Portland, OR 97208. 503-221-2971.

REGION 8

Regional Forester's Office, USDA, Forest Service, 1720 Peachtree Road NW, Atlanta, GA 30309. 404-881-4177.

REGION 9

Office of Information, USDA, Forest Service, 633 W. Wisconsin Ave., Milwaukee, WI 53203. 414-362-3700.

REGION 10

Region Forester's Office, USDA, Forest Service, Federal Office Bldg., Box 1628, Juneau, AK 99802. 907-586-7263.

Dated: February 18, 1977.

JOHN L. MCGUIRE,
Chief, Forest Service.

[FR Doc.77-5670 Filed 2-24-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 35]

[FRL 672-5]

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Cost Effectiveness Analysis Guidelines

Correction

In FR Doc. 77-3440 appearing at page 6841 in the issue for Friday, February 4, 1977, on page 6844, in the first column, the eighth line of the first paragraph should read, "ance or 25 percent of the total industrial flow".

DEPARTMENT OF INTERIOR

Bureau of Land Management

[43 CFR Part 3800]

SURFACE MANAGEMENT OF PUBLIC LAND UNDER U.S. MINING LAWS

Public Meetings

Notice is hereby given of public meetings to obtain public comment pursuant to the publication of the proposed rule making on Surface Mining Regulations in the FEDERAL REGISTER December 6, 1976, 41 FR 53428. The Secretary of Interior has extended the public com-

ment period to April 5, 1977 in an effort to allow additional public involvement and comment.

The public meeting schedule is as follows:

1. 10:00 a.m., March 25, 1977, State Resources Agency Building Auditorium, 1416 9th Street, Sacramento, California.

2. 10:00 a.m., March 22, 1977, Ben H. Lewis Hall (Community Room), Raincross Square, 3443 Orange Street, Riverside, California.

3. 10:00 p.m., March 24, 1977, Yinema Hall, Siskiyou County Golden Fair Grounds, Off of Fairline Road, Rt. 1, Box 500, Yreka, CA, Redding, California.

Comments from the public will be taken orally or in writing at the above times and places. In addition to the above meetings, written comments may be submitted to the Director (210), Bureau of Land Management, Washington, D.C. by April 5, 1977.

ED HASTEY,
State Director.

FEBRUARY 18, 1977.

[FR Doc.77-5772 Filed 2-24-77;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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON RATEMAKING AND ECONOMIC REGULATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Ratemaking and Economic Regulation of the Administrative Conference of the United States, to be held at 10 a.m. March 17, 1977 in the Conference's library, 2120 L Street, NW., Suite 500, Washington, D.C.

The Committee will meet to consider: (1) An outline of a project on delay in ratemaking proceedings; and, (2) a project on the regulatory use of externally developed standards.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropraite, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact Philip J. Harter, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

FEBRUARY 18, 1977.

[FR Doc.77-5761 Filed 2-24-77;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC MEETING

Notice is hereby given in accordance with § 800.5(c) of the Advisory Council on Historic Preservation's "Procedures for the Protection of Historic and Cultural Properties" (36 C.F.R. Part 800) that on March 17, 1977, at 5:00 P.M., a public information meeting will be held at the Rivergate, #4 Canal Street, New Orleans, Louisiana. The purpose of this meeting is to provide an opportunity for representatives of naitonal, State and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the proposed issuance of a U.S. Coast Guard permit to the Mississippi River Bridge Authority, New Orleans, Louisiana, for the construction of a second greater New Orleans Bridge across the Mississippi River, an undertaking of the U.S. Coast Guard as it affects the Lower Garden District and St. Charles Streetcar Line, properties included in the National Register of Historic Places and the Central City District and 20 other cultural resources in the area which have been determined eligible for inclusion in the National Register.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. An explanation of the undertaking and an evaluation of its effects on the properties by the U.S. Coast Guard.

III. A statement by the Louisiana State Historic Preservation Officer.

IV. Statements from local officials, private organizations and the public on the effects of the undertaking on the properties.

V. A general question period.

Speakers should limit their statements to approximately 10 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colorado 80225, telephone number (303) 234-4946.

ROBERT R. GARVEY, JR.,
Executive Director.

[FR Doc.77-5738 Filed 2-24-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A439]

MISSISSIPPI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Mississippi Counties as a result of cool wet weather from April 15 through May 30, 1976, with a freeze occurring May 18, 1976; drought from July 4 through September 30, 1976; and a killing frost and freeze on October 20, 1976:

MISSISSIPPI

Prentiss Scott

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Cliff Finch that such designation be made.

Applications for emergency loans must be received by this Department no later than April 8, 1977, for physical losses and November 4, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of February, 1977.

F. W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-5803 Filed 2-24-77;8:45 am]

[Notice of Designation No. A429]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Texas Counties as a result of various adverse weather conditions shown in the following chart:

TEXAS: 7 COUNTIES

Dallam—Freeze October 7, 1976. Drought and high winds July 1, 1975, through 1976 crop year ending December 31, 1976.
Hall—Excessive wind and rain June 1 through June 25, 1976. Hail June 25, 1976. Frost October 8 and 9, 1976. Freeze October 20, 1976.
Hockley—Drought October 1, 1975, through July 31, 1976. Hail August 27 and September 27, 1976. Freeze October 8, 1976.
Hudspeth—Freeze October 8 and 9, 1976.
Travis—Drought October 1, 1975, through April 30, 1976. Excessive rainfall May 1 through July 31, 1976.
Williamson—Drought October 1, 1975, through April 30, 1976. Excessive rainfall May 1 through July 31, 1976.
Yoakum—Freeze October 8, 1976.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than March 21, 1977, for physical losses and October 19, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it

impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of February, 1977.

F. W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-5804 Filed 2-24-77;8:45 am]

Forest Service

CHEMULT PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Chemult planning Unit, USDA-FS-R6-FES (Adm)-76-6.

The environmental statement concerns a proposed Land Use Plan for a unit of land containing some 270,000 acres.

The final environmental statement was transmitted to CEQ on February 15, 1977.

Copies are available for inspection during during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave, SW., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine Street, Portland, Oregon 97204.
USDA Forest Service, Winema National Forest, 7th and Walnut, Klamath Falls, Oregon 97601.
USDA, Forest Service, Fremont National Forest, 34 North D St., Lakeview, Oregon 97630.

A limited number of single copies are available upon request to Forest Supervisor, Robert J. Chadwick, Winema National Forest, P.O. Box 1390, Klamath Falls, Oregon 97601.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Dated: February 15, 1977.

CURTIS L. SWANSON,
Regional Environmental Coordinator, Planning, Programing and Budgeting.

[FR Doc.77-5687 Filed 2-24-77;8:45 am]

GILA NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Gila National Forest Grazing Advisory Board will meet at 10:00 a.m., March 18, 1977 in large Conference Room, Federal Building, 2610 North Silver Street, Silver City, New Mexico.

The agenda for this meeting is:

1. Election of Officers.
2. Discuss Forest fuelwood policy.
3. Allocation of surplus range.
4. Rainbow Family Meeting on Forest.
5. Forest Service responsibility for beaver control.
6. Forest Service road maintenance program.
7. Applications for credits or refunds for early livestock removal or death loss.
8. Other items the Board may wish to discuss.

The meeting will be open to the public.

Dated: February 17, 1977.

RICHARD L. JOURDEN,
Acting Forest Supervisor.

[FR Doc.77-5770 Filed 2-24-77;8:45 am]

QUETICO-SUPERIOR COMMITTEE

Cancelled Meeting

The meeting of the President's Quetico-Superior Committee scheduled for March 17-18 at the Radisson Hotel, Duluth, Minnesota was cancelled. Further notification will appear in this Register when new dates have been selected.

Dated: February 18, 1977.

STEVE YURICH,
Regional Forester, Forest Service, U.S. Department of Agriculture, Region 9.

[FR Doc.77-5771 Filed 2-24-77;8:45 am]

UPPER ROCK CREEK PLANNING UNIT, MONT.; LAND USE PLAN

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Land Use Plan—Upper Rock Creek Planning Unit, Forest Service Report Number USDA-FS-R1(09)-DES-ADM-77-6.

The environmental statement concerns the proposed implementation of a revised Multiple Use Plan for the Upper Rock Creek Planning Unit of the Philipsburg Ranger District, Deerlodge National Forest, Granite County, Montana. This action divides the 215,666-acre unit into 16 management areas and provides general and specific guidance for the management of each.

Also included is a change in management direction for 2,650 acres of land in the Moose Creek Planning Unit of the Sula Ranger District, Bitterroot National Forest, Ravalli County, Montana. This change resulted from a re-evaluation of contiguous roadless areas in response to the Secretary of Agriculture's Remand Order, February 24, 1976, of the Bitterroot National Forest's Moose Creek Timber Sale Appeal.

This draft environmental statement was transmitted to CEQ on February 15, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., S.W., Washington, D.C. 20250.
USDA Forest Service, Northern Region, Federal Building, Missoula, MT 59807.
USDA Forest Service, Deerlodge National Forest, P.O. Box 400, Federal Building, Butte, MT 59701.
USDA Forest Service, Deerlodge National Forest, Philipsburg Ranger District, Philipsburg, MT 59858.

A limited number of single copies are available upon request to:

USDA Forest Service, Deerlodge National Forest, P.O. Box 400, Federal Building, Butte, MT 59701.

Copies of the evironmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concering the proposed action and requests for additional information should be addressed to Forest Supervisor Robert W. Damon, Deerlodge National Forest, P.O. Box 400, Federal Building, Butte, MT 59701. Comments must be received by April 15, 1977, in order to be considered in the preparation of the final environmental statement.

KEITH M. THOMPSON,
Acting Regional Forester,
Northern Region, Forest Service.

FEBRUARY 15, 1977.

[FR Doc.77-5819 Filed 2-24-77;8:45 am]

Office of the Secretary

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that the National Advisory Council on Child Nutrition, which was established to make a continuing study of the child nutrition programs of the Department of Agriculture, is scheduled to hold a meeting on March 8-9, 1977, in Room 743, GHI Building, 500 12th Street, S.W., Washington, D.C. On March 8 the meeting will be held from 9:00 a.m. to 4:30 p.m., and on March 9 from 9:00 a.m. to 12:00 noon. The meeting will include a review of the Budget Request for 1978, Summer Food Service Program, Legislative Update, Training Grants, Update on Surveys and Studies and Offer vs. Serve. The meeting will be open to the public. Additional information can be obtained by contacting the executive secretary, Herbert D. Rorex, at 202-447-6603.

Dated: February 18, 1977.

RICHARD L. FELTNER,
Assistant Secretary and Chairman, National Advisory Council on Child Nutrition.

[FR Doc.77-5664 Filed 2-24-77;8:45 am]

Rural Electrification Administration

RURAL TELEPHONE PROGRAM

Proposed Packet Containing Additional Pages to REA Form 511

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to issue a packet containing pages that are intended to be added to REA Form 511 entitled "Telephone System Construction Contract."

The purpose of the packet is to provide a means for implementing the Serving Area Value Engineering (SAVE) design concept on REA borrowers' systems by providing instructions for the proper bidding and installation of accessory plant items. The packet would become an integral part of REA Form 511 for any set of plans and specifications pertaining to an individual borrower's system and involving the SAVE system design.

It is proposed that this packet will become effective when issued. A copy of the packet to REA Form 511 may be secured in person or by written request from the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, Department of Agriculture, Washington, D.C. 20250. Persons may submit written data, views or comments on the packet to the Director, Telephone Operations and Standards Division, not later than March 28, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

Dated: February 17, 1977.

JOHN D. SOMA,
Acting Assistant Administrator, Telephone.

[FR Doc.77-5668 Filed 2-24-77;8:45 am]

SOYLAND POWER COOPERATIVE

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing guarantees supported by the full faith and credit of the United States of America for a loan in the approximate amount of $153,000,000 to Soyland Power Cooperative of Champaign, Illinois. These loan funds will be used to finance an 8.42 percent share of the 1850 MW Clinton Nuclear Plant which is presently under construction near Clinton, Illinois, by the Illinois Power Company, along with 56 miles of related transmission line.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Walter Smith, President, Soyland Power Cooperative, P.O. Box 637, Champaign, Illinois 61820. In order to be considered, proposals must be submitted on or before March 28, 1977 to Mr. Smith. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Soyland Power Cooperative and the Rural Electrification Administration deem appropriate. Prospective lenders are advised that guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 17th day of February 1977.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77-5669 Filed 2-24-77;8:45 am]

Soil Conservation Service

WATERSHED PLANNING

Authorization to Provide Planning Assistance

Concerned state conservationists of the Soil Conservation Service have been authorized to provide planning assistance to local organizations for the indicated watersheds. The state conservationists may proceed with investigations and surveys as necessary to develop watershed plans under authority of the Watershed Protection and Flood Prevention Act, Public Law 83-566, and in accordance with requirements of the National Environmental Policy Act of 1969, Public Law 91-190.

Persons interested in these projects may contact the state conservationists listed below:

Moores Creek Watershed, Chambers County, Alabama. State Conservationist, William B. Lingle, Soil Conservation Service, Wright Building, 138 South Gay Street, Auburn, Alabama 36830.

Cedar Ridge Watershed, Power County, Idaho. State Conservationist, Amos I. Garrison, Jr., Soil Conservation Service, Room 345, 304 North 8th Street, Boise, Idaho 83702.

Little Calumet River Watershed, Cook and Will Counties, Illinois. State Conservationist, Daniel E. Holmes, Soil Conservation Service, Federal Building, P.O. Box 678, Champaign, Illinois 61820.

Porter County-Kankakee Watershed, Porter, LaPorte, and Lake Counties, Indiana. State Conservationist, Cletus J. Gillman, Soil Conservation Service, Atkinson Square-West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Indiana 46224.

Twin Ponies Watershed, Mills and Pottawattamie Counties, Iowa. State Conservationist, William J. Brune, Soil Conservation Service, 823 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.

Bell City Watershed, Calcasieu, Cameron, and Jefferson Davis Parishes, Louisiana. State Conservationist, Alton Mangum, Soil Conservation Service, 3737 Government Street, P.O. Box 1630, Alexandria, Louisiana 71301.

West Branch Molunkus Stream Watershed, Aroostock and Penobscot Counties, Maine. State Conservationist, Warwick M. Tinsley, Jr., Soil Conservation Service, USDA Building, University of Maine, Orono, Maine, 04473.

Upper Chester River Watershed, New Castle and Kent Counties, Delaware and Kent and Queen Annes Counties, Maryland. State Conservationist, Gerald R. Calhoun, Soil Conservation Service, Hartwick Building, Room 522, 4321 Hartwick Road, College Park, Maryland 20740.

Upper Belle River Watershed, Lapeer and St. Clair Counties, Michigan. State Conservationist, Arthur H. Cratty, Soil Conservation Service, Room 101, 1405 South Harrison Road, East Lansing, Michigan 48823.

South Delta Watershed, Humphreys, Yazoo, and Sharkey Counties, Mississippi. State Conservationist, Chester F. Bellard, Soil Conservation Service, Milner Building, Room 590, P.O. Box 610, Jackson, Mississippi 39205.

Peruque Creek Watershed, St. Charles and Warren Counties, Missouri. State Conservationist, Kenneth G. McManus, Soil Conservation Service, Parkade Plaze Shopping Center, P.O. Box 459, Columbia, Missouri 65201.

Bozeman Creek Watershed, Gallatin County, Montana. State Conservationist, Van K Haderlie, Soil Conservation Service, Federal Building, P.O. Box 970, Bozeman, Montana 59715.

East Prong Roaring River Watershed, Wilkes and Alleghany Counties, North Carolina. State Conservationist, Jesse L. Hicks, Soil Conservation Service, 310 New Bern Avenue, Room 544, Federal Office Building, P.O. Box 27307, Raleigh, North Carolina 27611.

Chickies Creek Watershed, Lebanon and Lancaster Counties, Pennsylvania. State Conservationist, Graham T. Munkittrick, Soil Conservation Service, Federal Building and U.S. Court House; Box 985, Federal Square Station, Harrisburg, Pennsylvania 17108.

Stony Fork Watershed, York County, South Carolina. State Conservationist, George E. Huey, Soil Conservation Service, One Greystone West Building, 240 Stoneridge Drive, Columbia, South Carolina 29210.

Afton Area Watershed, Dickens County, Texas. State Conservationist, George C. Marks, Soil Conservation Service, 16-20 South Main Street, P.O. Box 648, Temple, Texas 76501.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program.)

Dated: February 15, 1977.

R. M. DAVIS,
Administrator, Soil Conservation Service.

[FR Doc.77-5739 Filed 2-24-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 30167, 30236 and 30291; Order 77-2-100]

UNITED AIR LINES, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 22nd day of February, 1977.

On December 7, December 20, and December 30, 1976, United Air Lines, Inc. filed applications, pursuant to Subpart N of Part 302 of the Board's Procedural Regulations, for amendment of its certificate of public convenience and necessity for Route 1 so as to permit it to provide nonstop service between (1) Pittsburgh, Pennsylvania, and Denver, Colorado, (2) Cleveland, Ohio, and San Diego, California, and (3) Columbus/Dayton, Ohio, and Denver, Colorado. United currently possesses one-stop authority in each of the above markets.

Statements requesting dismissal of the applications were filed by American Airlines in Docket 30236 (Cleveland-San Diego), Trans World Airlines in Docket 30167 (Pittsburgh-Denver) and Docket 30291 (Columbus/Dayton-Denver), and Allegheny Airlines and North Central Airlines in Docket 30291 (Columbus/Dayton-Denver).[1]

Upon consideration of the pleadings, we have determined that United's applications are not in compliance with the substantive requirements of Subpart N.[2]

More specifically, United has limited its profit and loss estimates to strictly on-segment revenues and expenses on proposed nonstop flights. Beyond-segment revenues have been entirely omitted. This understatement of anticipated gross revenues substantially affects United's estimates of diversion from other carriers, making them, at best, incomplete and misleading. As a result, it is impossible to assess the impact of United's proposal on other carriers.[3]

Equally important, United has totally omitted any estimate of self-diversion in computing its anticipated operating revenues and expenses. This omission, together with the omission of beyond-segment revenues, prevents realistic analysis of the effect of United's proposals on its operating profits.

[1] American Airlines has unrestricted authority in the Cleveland-San Diego market. Trans World Airlines has unrestricted authority in the Pittsburgh-Denver and Columbus/Dayton-Denver markets.

[2] Rule 1404 of the Board's Procedural Regulations specifies the economic and operating data that must be included in an application filed pursuant to Subpart N. It provides that an application shall contain at least the following data: (a) Present and proposed schedules, by type of aircraft; (b) Number of departures, plane-miles, passengers, and passenger-miles; (c) Estimate of self-diversion and diversion from other carriers, if applicable; (d) Anticipated operating revenues; and (e) Estimate of impact of proposal of operating expenses.

[3] For example, United forecasts 43,337 passengers on its Dayton-Denver nonstops, including 29,146 beyond-Denver on-line passengers to such points as Las Vegas. However, United has credited itself with only the Dayton-Denver portion of the revenues it will earn from this traffic. This understatement of revenues produces a distorted picture of the extent of diversion from other carriers such as TWA, which currently carries 73 percent of the Dayton-Las Vegas traffic.

These deficiencies in United's applications are sufficient to justify dismissal pursuant to Rule 1405(a)(2) of the Board's Procedural Regulations. However, rather than dismiss the applications, we have decided to afford United the opportunity to submit revised exhibits responsive to Rule 1404. We wish to stress, however, our dissatisfaction with applicants' failure to comply with the provisions of Subpart N in several recent cases.[4] The submission of incomplete exhibits and the ensuing need to issue orders calling for revised exhibits not only increases the workload of the Board, but also delays, sometimes by a substantial length of time, what should otherwise be relatively simple, straightforward proceedings. Future submissions in these and other Subpart N proceedings will be expected to include the following data on a fully responsive basis to Rule 1404:

(1) All present and proposed schedules relating to the proposal. This should, of course, reflect all changes in affected markets. Existing schedules which would be continued should be clearly identified, as should new, deleted, or changed schedules;

(2) Estimates of self-diversion and diversion from other carriers. These estimates should reflect the complete effect of the proposal, including any self-diversion/diversion of revenues in beyond markets;

(3) Anticipated operating revenues which reflect the gross increase in all markets, less self-diversion; and

(4) Estimates of operating expenses which reflect the entire impact of the proposal, including the effect of any related off-segment changes in direct or indirect expenses.

Following submission of any revised exhibits by United, and any responses thereto, we will determine whether to provide for further proceedings in accordance with Subpart N expedited procedures. Should United fail to submit revised exhibits as described above, we will be compelled to dismiss its applications in accordance with Rule 1405(a)(2) of the Board's Procedural Regulations.

Accordingly, *It is Ordered, That:*

1. United Air Lines, Inc., be and hereby is directed to submit revised exhibits in support of its applications in Dockets 30167, 30236 and 30291, within 60 days of the date of service of this order;

2. The revised exhibits shall include data, as described in the body of this order, sufficient to enable the Board to assess the impact of United's proposals on other carriers and the effect of the proposals on United's operating profits; and

3. Within 10 days of the date on which any revised exhibits are filed by United with the Board, interested persons may file new or amended requests for dismissal, or they may rely on previously filed requests for dismissal.

This order will be filed in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-5787 Filed 2-24-77;8:45 am]

[4] See, for example, Order 76-8-129, August 24, 1976, and Order 76-3-108, March 16, 1976.

CIVIL SERVICE COMMISSION

CIVIL SERVICE COMMISSION

Grant of Authority to Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Civil Service Commission to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Chairman, Office of the Chairman.

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

[FR Doc.77-5469 Filed 2-24-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Grant of Authority to Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Executive Assistant for Transition Planning, Office of the Secretary.

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

[FR Doc.77-5470 Filed 2-24-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Secretary's Field Coordination, Secretary's Immediate Office, Office of the Secretary.

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

[FR Doc.77-5471 Filed 2-24-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Missouri River Basin, Officer of the Secretary.

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

[FR Doc.77-5473 Filed 2-24-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Director, Office of Facilitation, Office of Assistant Secretary for Policy and International Affairs.

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

[FR Doc.77-5474 Filed 2-24-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary.

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

[FR Doc.77-5472 Filed 2-24-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, March 15, 1977, at 1:00 p.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export license applications within the Office of Export Administration and recommend area where improvements can be made.

The agenda for the meeting is:

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Discussion of work program for 1977.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

Dated: February 17, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-5661 Filed 2-24-77;8:45 am]

National Oceanic and Atmospheric Administration

NORTH PACIFIC FISHERIES DEVELOPMENT ASSOCIATION, ET AL

Receipt of Application for a General Permit

Notice is hereby given that the following applications have been received to take marine mammals incidental to the course of commercial fishing operations as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations thereunder.

North Pacific Fisheries Development Association, Seoul, Korea, has applied for a general permit, Category 1, "Towed and Dragged Gear;"

North Pacific Fisheries Development Association, Seoul, Korea, has applied for a general permit, Category 4, "Stationary Gear;"

North Pacific Fisheries Development Association, Seoul, Korea, has applied for a general permit, Category 5, "Other Gear."

Copies of the applications are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

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 99801 (tel. 907/586-7221).

Interested parties may submit written views on this application on or before March 28, 1977, to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

Dated: February 17, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-5726 Filed 2-24-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Addition

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 77, of the proposed addition of the following service to Procurement List 1977, November 18, 1976 (41 FR 50975).

SIC 0782

Grounds Maintenance, Naval Weapons Station, Yorktown, Virginia

If the Committee approves the proposed addition, all entities of the Government will be required to procure the above service from workshops for the blind or other severely handicapped.

Comments and views regarding the proposed addition may be filed with the Committee on or before March 28, 1977. 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.77-5730 Filed 2-24-77;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

CERTAIN APPLICANTS FOR REGISTRATION AS ASSOCIATED PERSONS

Extension of No-Action Position

On January 13, 1977, the Commodity Futures Trading Commission ("Commission") determined to take a "no-action" position with regard to certain persons who had applied for registration as associated persons. Specifically,

* * * the Commission decided that it would bring no enforcement action, based solely on the failure to register, if the applicant meets the following conditions:

(1) A completed application was filed with the Commission on or before December 27, 1976;

(2) The applicant (or his employing futures commission merchant) has not been specifically notified that this no-action position does not apply to him; and

(3) The applicant has not received a letter from the Commission or its staff advising him that, because of factors revealed during his fitness investigation, he has not been registered but that he is entitled to a hearing on the question of his fitness for registration.[1]

In its release the Commission indicated that the "no-action" position applied only to activities related to the sale of commodity options and not to activities relating to the sale of commodity futures, and that the "no-action" position would terminate on February 21, 1977.

Subsequently, on February 4, 1977, the Commission announced that it would consider requests for "no-action" positions with respect to associated persons who filed their registration application on or before January 17, 1977.[2] The Commission stated that it would consider taking a "no-action" position, based solely on failure to register as an associated person, provided that the person had filed an application for registration as an associated person on or prior to January 17, 1977, and filed with the Commission a sworn affidavit which shows that:

(1) Since January 17, 1977, the applicant had not engaged in the offer or sale of commodity options in violation of the Commission's registration requirements;

(2) The firm for which the applicant works is registered with the Commission as a futures commission merchant; and

(3) The applicant has not been and is not now the subject of any adverse administrative or civil action concerning his conduct in the securities or commodities fields, has not been convicted of any crime, and is not now the subject of any pending criminal proceeding.

The Commission stated that this "no-action" position would terminate on March 7, 1977, since it was anticipated that the Commission would be able to complete by that date the processing of applications filed prior to the January 17, deadline.

The processing of applications filed on or before the December 27th date specified in the first "no-action" position are taking longer than expected because of the unusually large number of associated person applications which have been filed in the last two months and the staff time required to process requests for the second "no-action" position. For this reason, a few applicants that should prove to be qualified will not be registered by the February 21st expiration of the no-action position. In fairness to these applicants the Commission has determined to extend the first "no-action" position to make its expiration coterminous with its second "no-action" position, March 7, 1977.

The screening of applicants' names through the fitness check has in many cases revealed information which may be grounds for denial of registration. Applicants who fall in this category should not expect to be registered by the March 7th date nor may they necessarily expect to receive a letter advising that registration has not been granted before that date. Accordingly, persons who are not in fact registered by March 7th may not continue to operate as associated persons in the offer or sale of commodity options after March 7, 1977 pending the completion of their fitness investigation and a final determination with respect to their registration.

This extension applies only to those persons who are eligible for the January 13, 1977 "no-action" position because they meet the prescribed conditions. Persons who do not qualify for a "no-action" position either under the criteria adopted on January 13th or on the basis of the criteria adopted on February 4th are again cautioned that they may be subject to Commission enforcement action if they engage in the offer or sale of commodity options without being registered with the Commission.

Issued in Washington, D.C. on February 18, 1977.

JOHN V. RAINBOLT II,
Vice Chairman, Commodity Futures Trading Commission.

[FR Doc.77-5735 Filed 2-24-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

MEETING

This notice announces a meeting at which the staff of the Consumer Product Safety Commission will brief the Commission on certain matters of agency business. In accordance with requirements of the Government in the Sunshine Act and the Commission's Proposed and Interim Rules for meetings (16 CFR Part 1012), this notice sets forth the agenda of that meeting, the subject matter, and notes whether all or part of the meeting is closed.

Staff briefings of the Commission are not intended as a forum of decision-making by the Commission, which is done at formal Commission Meetings. Briefings are scheduled on an as-needed basis for a variety of purposes; to provide the Commission with a status report on an agency activity, to review issues on which the staff is seeking Commission direction for proceeding on a matter, and/or to provide an overview discussion on a matter pending Commission action. Depending on needs that may arise, therefore, the announced agenda for staff briefings is subject to change. For additional information on possible changes or on specific items, interested persons can contact Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111-18th St., N.W., Washington, D.C. 20207, telephone (202) 634-7700.

Commission Briefing Meeting, March 2, 1977, 3rd Floor Hearing Room, 1111-18th Street, N.W., Washington, D.C.

The briefings scheduled for the morning will be held in open session; the afternoon session is closed to the public.

AGENDA
9:30 A.M.

1. *Briefing on Certification Standards for Architectural Glazing.* In January, 1977, the Commission promulgated mandatory safety standards for architectural glazing materials (16 CFR Part 1201), which become effective July 6, 1977. At that time, the Commission stated that regulations for certifying compliance with the safety standard would also become effective July 6. The staff will discuss with the Commission three alternatives for establishing certification standards: (1) to rely on the language of section 14 of the Consumer Product Safety Act, which requires manufacturers to issue a certificate based on a reasonable testing program; (2) to set limits for the testing programs which manufacturers must establish; and (3) to establish a detailed testing program which manufacturers must follow.

2. *Briefing on Non-Adjudicative Rules of Procedure under the Flammable Fabrics Act.* The staff will brief the Commission on a draft regulation which would establish rules of procedure for investigations, inspections and inquiries pursuant to the Flammable Fabrics Act. The Commission proposed a version of these Rules in July, 1976. In its briefing, the staff will discuss possible options open to the Commission, and the Staff's recommendations on these options.

BREAK FOR LUNCH

2:00 RECONVENE MEETING—CLOSED TO THE PUBLIC

3. *Briefings on Timeliness Cases Under Section 15 of the Consumer Product Safety Act* (closed briefing). Section 15 of the Consumer Product Safety Act requires manufacturers (and others) to report immediately to the Commission any product which might pose a substantial product hazard because it does not meet an applicable safety standard or contains a defect which might pose a substantial hazard. In this briefing, the staff will

[1] 42 FR 3699, 3670 (January 19, 1977).
[2] 42 FR 9141 (February 14, 1977).

discuss possible action against two manufacturers which the staff believes did not make timely reports on possibly hazardous products.

Adjournment.

Dated: February 22, 1977.

SADYE E. DUNN,
Secretary.

[FR Doc.77-6023 Filed 2-24-77;11:24 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Statements Received February 14 Through February 18, 1977

Environmental impact statements received by the Council on Environmental Quality from February 14 through February 18, 1977. 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. (April 11, 1977). 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 10 cents per page 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

Beaverhead & Deerlodge National Forest Land Use Plan, several counties in Montana, February 15: The proposed action is the implementation of a land management plan for Beaverhead National Forest, located in Beaverhead, Madison, Gallatin, Silver Bow, and Deer Lodge Counties, Montana. The plan covers 7 planning units containing 52 management units of 2,181,989 acres. Moderate to high emphasis is placed on wood fiber and livestock forage production, and moderate emphasis is placed on recreation opportunities and wilderness study. (ELR Order No. 70213.)

Final

Chemult Unit Land Use Plan, Winema National Forest, Klamath and Lake Counties, Oreg., February 17: The proposed action consists of a Land Use Plan for 272,558 acres, of which 262,458 acres are on the Winema National Forest, and 10,100 acres are in the Fremont National Forest. The plan sets up 15,100 acres of "Dispersed Recreation Area" and allocates specific areas of old growth timber for wildlife. Adverse impacts will result primarily from road construction, logging activities, and livestock grazing. Comments made by: DOI, COE, USDA, EPA, State and local agencies, concerned citizens. (ELR Order No. 70226.)

Supplement

Alaska National Forests, herbicide use, Alaska, February 17: This statement supplements a final EIS filed with CEQ in May, 1975. The proposed action is control of vegetation with the use of herbicides on road, railroad, and powerline rights-of-way. This supplement considers herbicide use on the Tongass and Chugach National Forests. Susceptible target and non-target vegetation in the treatment areas will be reduced in vigor and, in most cases, killed. (ELR Order No. 70229.)

SOIL CONSERVATION SERVICE

Draft

Canon Watershed Project, Fremont County, Colo., February 15: Proposed is the application and installation of project land treatment and flood prevention structural measures for Canon City, Colorado. The project would protect 1,016 acres of agricultural, suburban, and urban land, including 650 residential and 50 commercial properties. The objective of the action is to reduce floodwater runoff, erosion and sediment damage, and repair costs to agricultural lands, residential and commercial properties and other structures. A temporary increase in sediment would occur on 240 acres and residences and homes would be displaced. (ELR Order No. 70218.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attention: DAEN-CWP-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Wilson Lake, Operation and Maintenance, Russell and Lincoln Counties, Kans., February 15: Proposed is the continued operation and maintenance of Wilson Lake in Russell and Lincoln Counties, Kansas. The project consists of water control operations, operation and maintenance of recreation areas, and management of project land and water resources. Adverse impacts, such as loss of vegetation and occurrence of soil erosion, will result from recreational use. (Kansas City District.) (ELR Order No. 70221.)

Terrebonne Port Facilities, Louisiana, February 15: Proposed is the development of port facilities near Houma, Louisiana. The Terrebonne Port Commission proposes to dredge a slip and temporary canals and install and maintain a levee system and fill. The dredging operation would consist of removal of 2,781,000 cubic yards of material which would be spread over a cypress-tupelo swamp. Construction activities would result in the complete removal of all wetlands vegetation within the proposed site and the conversion of 400 acres to a dry environment. Other impacts include possible increases in pollutants discharged into adjacent waterways, increased turbidity, and temporary high levels of noise. (New Orleans District.) (ELR Order No. 70215.)

Sault Ste. Marie, Operation and Maintenance, and Power Generation, Michigan, February 14: The proposed action is the operation and maintenance of the navigation locks, power facilities, administration buildings, and canal park lands at Sault Ste. Marie, Michigan. The Federal lock facilities provide for recreational and commercial vessel passage through the natural barrier of the St. Marys River and for power generation for lock operation and the surrounding community. Maintenance activities will cause impacts to water quality. (Detroit District.) (ELR Order No. 70203.)

Final

Panacea Harbor, Maintenance Dredging, Florida, February 17: The statement refers to the maintenance of existing channel dimensions from the harbor at Panacea through Dickenson Bay to the 8-ft. contour in Apalachee bay, a total length of 3.7 miles. Dredged materials will be discharged into diked upland areas. Adverse impacts include the destruction of benthic organisms, damage to terrestrial vegetation and salt marshes at the spoil sites, and temporarily increased turbidity. (Mobile District.) Comments made by: DOI, DOC, EPA, DOT, USDA, State and local agencies, concerned citizens. (ELR Order No. 70228.)

Burlington Local Flood Protection Project, Des Moines County, Iowa, February 17: The project is designed to protect an industrial area of approximately 223 acres in Burlington, Iowa against flooding on the Mississippi River and on Flint Creek. An improvement of existing emergency levees and construction of new earthen levees along the river and creek comprise the plan of potection. Adverse impacts are the loss of vegetation and wildlife, and increased noise and air pollution during construction. Comments made by: EPA, DOI, DOC, USDA, DOT, HUD, HEW, AHP, State and local agencies, concerned citizens. (ELR Order No. 70224.)

McNary Second Powerhouse, Washington County, Oreg., February 14: The proposed action is the construction of a second powerhouse at the existing McNary Lock and Dam project. Plans call for the addition of 10 generator units, improvement of visitor facilities, subimpoundment for fish and wildlife, and beautification of levees in the area of the cities of Pasco, Richland, and Kennewick. Additional generator units will increase the chance of turbine-caused mortality to downstream migrating fish. (Walla Walla District.) Comments made by: DOI, FPC, DOC, DOT, USDA, HEW, EPA, State and local agencies, concerned citizens. (ELR Order No. 70202.)

S.C. Robertson Dam and Limestone Lake, Leon, Limestone, and Robertson Counties, Tex., February 17: Proposed is the construction of the Sterling C. Robertson Dam on the Narasota River at river mile 124.5. This site is about 22 miles northeast of Franklin, Texas, and about six miles northwest of Marquex, Texas. The purpose of the irrigation use by entities or persons who have contracted, or will contract, with the Brazos River Authority. Adverse effects include the conversion of some 14,200 acres of terrestrial habitat to aquatic habitat. (Fort Worth District.) Comments made by: AHP, FPC, USDA, DOC, HEW, DOI, DOT, EPA, State and local agencies, concerned groups and persons. (ELR Order No. 70225.)

Supplement

Barbers Point Harbor (S-1) Oahu County, Hawaii, February 15: This statement supplements a final EIS filed with CEQ in December, 1976. The proposed action is the construction of a deep draft harbor at the authorized Barbers Point site, Oahu, Hawaii. The plan recommended in the EEIS remains unchanged. The supplement is informational in nature and contains: results of a study by the B.P. Bishop Museum on cultural resources, findings on basic groundwater, findings of botanical studies, and information on Hawaii's shoreside facilities planning. (Honolulu District.) (ELR Order No. 70219.)

Red River Waterway, Mississippi River, Shreveport (S-1), La., February 18: This statement supplements a final EIS filed with CEQ in May, 1973. The proposed works analyzed in this statement include the construction and maintenance of the Red River Waterway project which consists of a 9- by 200-foot navigation channel, with five locks and dams and related bank stabilization, from the Mississippi River to Shreveport, Louisiana. The navigation feature will

consist of a realigned channel 236 miles in length which is generally confined within the limits of the existing river channel. Approximately 43,100 acres of land will be lost or altered due to project implementation. (New Orleans Districts.) (ELR Order No. 70232.)

Smithville Lake, Little Platte River (S-2). Clinton, and Clay Counties, Mo., February 16: This statement supplements a final EIS filed with CEO in June, 1972. The proposed action is authorization for acquisition of 2,610 acres of land in Jackson, Ray, and Clay Counties, Missouri, for replacement of Trimble Wildlife Area. The plan allows for replacement of important wildlife area including habitat, propagation potential, and public use opportunities. Adverse effects include relocation and disruption of 3 family units, loss of farming opportunity, and temporary air and noise pollution during development. (Kansas City District.) (ELR Order No. 70222.)

NAVY

Draft

Seafarer ELF Communications System, February 14: This statement concerns the development of an Extremely low Frequency (ELF) Communications System for strategic command and control of the Fleet Ballistic Missile Submarine Force. Known as Project Sanguine until 1973, the preferred communications concept is now called Seafarer. The Seafarer removes the constraint of periodic near surface submarine operations for necessary communications, and the system designs have been developed for 3 areas: Nevada, New Mexico, and Michigan. Aside from site specific impacts, the major adverse effects include temporary pollution during construction, use of water resources, and short-term reduction of wildlife habitat. (ELR Order No. 70235.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Supplement

Jacksonville Wastewater Treatment (S-1), Jacksonville County, Oreg., February 15: This statement supplements a draft EIS filed with CEQ in December 1976. Proposed is a wastewater treatment system for the city of Jacksonville, Oregon. The supplement presents: 1) an additional facilities alternative, 2) a cost for alternative A-3, Bear Creek Valley Sanitary Authority (BCVSA) Annexation with Limited Service Area, and 3) recomputation of costs for alternative A-1 and A-2, also involving BCVSA annexation. (Region X.) (ELR Order No. 70220.)

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.

Final

Habitat Planned Development, Boulder County, Colo., February 15: The developers of Habitat; a Planned Unit Development in Boulder, Colorado, propose the development of 900 housing units on a 63 acre site. The developer has already constructed and rented 200 units of multifamily housing on 13 adjacent acres. The developers have applied to HUD/FHA for a feasibility analysis for Habitat under Title X of the National Housing Act. Effects of the project include an increased demand on the Boulder and Denver metropolitan region infrastructure, particularly the demand for water. Comments made by: AHP, USDA, COE, DOI, VA, FEA, State and local agencies, concerned citizens. (ELR Order No. 70217.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

Final

Dublin Park, Augusta, Richmond County, Ga., February 15: Proposed is the construction of a 7-8 acre neighborhood park to serve the residential areas of east and southeast Augusta. The park will include a recreational center, swimming pool and bathhouse, tennis courts, multi-use courts, tot lot, combination baseball-football field, play areas, and parking. There will probably be some short term adverse impacts due to the process of conversion from industrial use to park use. Comments made by: EPA, DOI, AHP, COE, HEW, USDA, FPC, GSA, State and county agencies, concerned citizens. (ELR Order No. 70214.)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contact: Mr. Nathaniel Cohen, Director, Office of Policy Analysis, National Aeronautics and Space Administration, 400 Maryland Avenue, Washington, D.C. 20546.

Final

Solid Rocket Motor DDT & E Program, February 14: The proposed action is to process, test, and deliver Solid Rocket Motors (SRM) in support of the NASA Space Shuttle Program. Accomplishment of the proposed action involves the processing of nineteen (19) and static testing of seven (7) SRMs at Thiokol/Wastach Division, Promontory, Utah; the delivery of twelve (12) SRMs to NASA/Kennedy Space Center, Florida; and the delivery of two (2) inert and three (3) empty SRMs to NASA/Marshall Space Flight Center, Alabama. Occasional test firings will result in the release of air pollutants causing a temporary, localized degradation of air. Comments made by: USDA, DOD, DOI, ERDA, EPA, State agencies, concerned groups and persons. (ELR Order No. 70205.)

Supplement

Langley Center Refuse-Fired Steam Generator (S-2), York County, Va., February 14: The statement amends a final EIS filed with CEQ in 1971. Proposed is the construction and operation at the NASA Langley Research Center (LaRC) of a steam-generating facility fueled by refuse. The plant will have the capacity to burn 192 mtons (200 tons) of refuse per day which will allow the Langley Air Force Base (LAFB) to close its sanitary landfill which presently serves the City of Hampton, LAFB, LaRC, Fort Munroe, Bethel Manor Housing Area and the Veterans' Hospital Administration. Negative effects include increases in noise levels and air-borne particulates and clearing of 1.5 hectare of sweetgum forest. (ELR Order No. 70206.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Bernard Rersche, Director of Division of Reactor Licensing, P-722, NPC, Washington, D.C. 20555, 301-492-7373.

Final

Neutron Dosimeters Containing Thorium, February 17: This statement concerns a proposed amendment to USNRC regulations to exempt from requirements for a license, the receipt, possession, use, transfer, or importation into the United States of any quantity of thorium contained in personnel neutron dosimeters provided that each dosimeter does not contain more than 50 milligrams of thorium. This improved service could allow better estimates to be made of the radiation doses received by persons exposed to fast neutrons and, thus, could facilitate compliance with the requirements of radiation protection standards. Comments made by: USDA, EPA, HEW, DOI, State and local agencies, concerned citizens. (ELR Order No. 70227.)

Black Fox Nuclear Generating Station, Units 1 and 2, Rogers County, Okla., February 15: The proposed action is the issuance of permits for the construction of Units 1 and 2 of the Black Fox Station, located on Verdigris River. The station will employ two boiling water reactors to produce up to 3579 MWt per unit. Steam turbine-generators will use this heat to provide up to 1220 MWe of electrical capacity per unit. The major adverse effects will be disturbance of 466 acres of land, soil disturbance which could promote erosion and siltation, loss of plant and animal life, loss of 2,206 acres of grazing land and evaporation of 39,100 acre-feet per year from the Verdigris River. Comments made by: USDA, AHP, USCG, HEW, ERDA, DOC, EPA, DOI, COE. (ELR Order No. 70210.)

Clinch River Breeder Reactor Plant, Roane County, Tenn., February 15: the proposed action is the issuance of a construction permit to the Project Management Corporation and the Tennessee Valley Authority for constructing the Clinch River Breeder Reactor (CRBRP). The CRBRP is designed to use a liquid sodium cooled fuel breeder reactor to produce 975 MWt with the initial core loading of uranium and plutonium mixed oxide fuel. This heat would be transferred by heat exchangers to nonradioactive sodium in an intermediate loop, and then to a steam cycle. A steam turbine generator would use the steam to produce 380MWe. Exhaust steam from the turbine-generator would be cooled in condensers utilizing a mechanical draft cooling tower. Comments made by: AHP, USDA, COE, DOC, HEW, HUD, DOI, DOT, ERDA, EPA, FPC, State and local agencies, concerned groups and persons. (ELR Order No. 70211.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3881.

BUREAU OF LAND MANAGEMENT

Final

1977 OCS Sale No. 47, Gulf of Mexico, February 17: Proposed is the leasing of two hundred thirty-four tracts 450,335 ha (1,112,827 acres) of OCS land. The tracts are located offshore Texas, Louisiana, Mississippi, and Alabama. If implemented, this sale is tentatively scheduled to be held in April, 1977. Pollution risk potential is related to adverse effects on the environment and other resource uses which may result principally from accidental or chronic oil spillage. Comments made by: DOC, COE, DOI, USCG, NRC, FPC, State and local agencies, concerned citizens. (ELR Order No. 70223.)

BONNEVILLE POWER ADMINISTRATION

Draft

BPA Electrical Service to Addy, Stevens County, Wash., February 18: Proposed is the addition of a new point of delivery for electrical power to the Aluminum Company of America at the Northwest Alloys magnesium plant at Addy, Washington. Full service to the plant over new permanent electrical facilities is planned to commence on June 1,

1977. Continued plant operation would result in the continued loss of an undetermined acreage of timber and cropland to mining and other plant-related uses. Mining activities associated with plant operation would result in at least temporary visual degradation. (ELR Order No. 70231.)

DEPARTMENT OF LABOR

Contact: Mr. David R. Bell, Chief, Technical Studies Branch, 200 Constitution Avenue, Room N3669, Washington, D.C. 20210, 202-523-7076.

Draft

Inorganic Lead Exposure, Proposed Standards, February 18: Proposed is the regulation of employee exposure to lead by limiting the exposure to an eight-hour time-weighted average concentration, based on a 40-hour work week, of 100 micrograms of lead per cubic meter of air (100 $\mu g/m^3$). The proposal also provides for the determination of employee exposure, methods of compliance, personal protective equipment and clothing, training, medical surveillance, and record-keeping. Beneficial impact on the workplace environment is anticipated. (ELR Order No. 70234.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW, Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Note.—In the FEDERAL REGISTER of January 14, 1977, CEQ published a notice that the draft EIS for Lee's Summit Memorial Airport, Jackson County, Missouri, was available for comment. The notice should have stated that the EIS was a final, not a draft. The corrected entry is as follows:

Final

Lee's Summit Memorial Airport, Jackson County, Miss., January 4: The proposed action is the construction of Lee's Summit Memorial Airport to serve southeast Jackson County, Mo. The project will require the acquisition of the present 80-acre private McComas Airport site, as well as acquisition of 36 acres in fee for runway and taxi extension, and 29 acres in easement. Plans also call for the construction of a new paved terminal apron, paved T-hanger taxiways, and a new access road. Some land will eventually be taken out of agricultural production for airport use and increased aircraft usage will result in higher noise levels. Comments made by: State and county agencies, concerned groups and persons. (ELR Order No. 70012.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

I-84 and I-86, East Hartford-Manchester, Hartford County, Conn., February 17: Proposed is the construction of 3 major road sections in E. Hartford and Manchester, Connecticut. The 3 parts of the project are: (1) 2-mile improvements to the existing I-84 in E. Hartford from Roberts St. to Forbes St.; (2) a 1.4 mile I-84 connector section from the existing I-84 from Forbes and Spencer Sts. in Manchester; and (3) a 1.5-mile improvement to the existing I-84 in Manchester from the East Hartford town line to the West Middle Turnpike. Adverse effects include displacement of 8 families and 5 businesses and loss of 158 acres of woodland, 8 acres of marsh, 21 acres of meadow, and 72 acres of cultivated land. (Region 1.) (ELR Order No. 70230.)

Greenville Railroad Demonstration, U.S. 69 Crossing, Hunt County, Tex., February 15: The proposed action is the elimination of existing railroad/community conflicts in the railroad demonstration project in Greenville, Texas. Plans call for the consolidation of the Louisana and Arkansas Railway Company (L&A) and St. Louis-Southwestern Railway Lines (SSW) to the present SSW alignment, and a grade separation facility between the railroads and U.S. 69. Negative effects would be the displacement of people and businesses, possible relocation of Town Branch Creek, and construction related impacts. (ELR Order No. 70216.)

Final

Fort Collins Expressway, U.S. 287-S.H. 14, Larimer County, Colo., February 15: Proposed is the construction of a 7-8 mile section of highway north of Fort Collins. The expressway would begin approximately at the junction of U.S. 287 and S.H. 28 near Laporte and end at a point on the east edge of Fort Collins on S.H. 14. The primary adverse effects are noise pollution, depletion of agricultural lands, irreversible commitment of gravel resources, and the displacement of families and businesses. (Region 7.) Comments made by: DOI, DOT, USDA, EPA, HUD, COE, State and local agencies, concerned groups and persons. (ELR Order No. 70212.)

Louisa-Fort Gay Bridge, West Virginia, and Kentucky, February 15: Proposed is the replacement of the existing Louisa-Fort Gay bridge and its approaches. The bridge will span the Lebisa and Tug Forks of the Big Sandy River between Louisa, Kentucky and Fort Gay, West Virginia. The project may displace as many as 2 businesses and 29 families. A section 4(f) statement is included concerning a National Register site. Comments made by: EPA, DOC, DOI, USCG, COE. (ELR Order No. 70209.)

Bridge-Stadium and Bridge-Stadium Corridor, Bernalillo County, N. Mex., February 15: The proposed project consists of the construction of a railroad overpass and the four-lane improvement of Bridge-Stadium Boulevard from 4th Street to Broadway Boulevard. The termini of the study Corridor is Coors Road (extention) on the west to Interstate 25 on the east, a distance of approximately 3.7 miles. Adverse effects include the relocation of an unspecified number of people, homes, and businesses. (Region 6.) Comments made by: DOT, HEW, HUD, EPA, DOD, DOT, State and local agencies, concerned citizens. (ELR Order No. 70208.)

Independence Blvd. Corridor, Charlotte, Mecklenburg County, N.C. February 14: Proposed is the completion of the Charlotte Central Business District (CBD) loop between the existing Northwest Freeway and Interstate 77. The project would consist of a six-lane freeway with grade separations or elevated bridges over Fifth Street, Elizabeth Street, Fourth Street, and Third Street. Two elevated structures would pass over existing Independence Boulevard at Kenilworth Avenue. Adverse effects include displacement of approximately 17 dwelling units and 46 businesses. (Region 4.) Comments made by: USDA, COE, EPA, FPC, HEW, HUD, DOI, State and local agencies, concerned citizens. (ELR Order No. 70201.)

S.R. 5 Southeasterly to S.R. 82, Warren Bypass, Trumbull County, Ohio, February 14: The proposed action consists of the construction of the final section of the northern loop of the Warren circumferential bypass. This 2.77 mile extension of the Warren Outerbelt will be a four lane limited access freeway facility with a right-of-way width of 250 to 300 feet. Adverse effects of construction include the spitting of the associated field and young forest habitats from the stream and wetland habitats. (Region 5.) Comments made by: DOT, DOI, EPA, USDA, COE, USCG, State and local agencies, concerned citizens. (ELR Order No. 70204.)

Loop 201, Baytown, S.H. 146, Harris County, Tex., Proposed is the construtcion of a section of highway, Loop 201, in Baytown, Texas. The project runs from S.H. 146 near Missouri St. to S.H. 146 near Ferry Rd. The 7-mile long loop consists of a planned 6-lane divided freeway-type facility except for an 8-lane divided section at the West Texas Street overpass. The proposed modifications will require some additional right of way and the displacement of one house. (Region 6.) Comments made by: DOT, HEW, HUD, DOI, USDA, State and county agencies, concerned groups and persons. (ELR Order No. 70207.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Draft

Orange Line Relocation and Street Construction, Massachusetts, February 18: Proposed is the granting of a Federal capital grant to the Massachusetts BAY Transportation Authority (MBTA) by UMTA for assistance in relocation of 4.7 miles of the existing Orange Rapid Transit Line to the Penn Central Embankment, extending from South Cove to Forest Hills. The application includes removal of the existing elevated structure and the establishment of an interim replacement service along Washington St., and the construction of a 500-car parking facility at the Forest Hills Station. Completion of the project would result in the displacement of up to 21 businesses and 63 homes. (ELR Order No. 70233.)

DAVID TUNDERMANN,
Acting General Counsel.

[FR Doc.77-5827 Filed 2-24-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Public Hearing

Notice is hereby given that public hearings will be held for the purpose of receiving oral and written statements and testimony concerning the Draft Environmental Impact Statement (DEIS) for the continuation of petroleum exploration of Naval Petroleum Reserve No. 4, located on the North Slope of Alaska. The DEIS will be available to the public in both Anchorage and Washington, D.C. on March 2, 1977.

It is the express purpose of this exploration and evaluation program to discover and inventory recoverable deposits of oil and natural gas on the Naval Petroleum Reserve No. 4. Only after this preliminary resource inventory has been completed and an in-depth evaluation of it made, will it be possible for the Administration, the Congress, and the public to make rational decisions concerning the future uses of these lands. Under the proposed plan, the resource inventory will be obtained by the Government and evaluated without any prior commitment having been made as regards development, or nondevelopment, of the Naval Petroleum Reserve No. 4.

The public hearings will be held on the following dates at the following locations:

APRIL 2, 1977

North Slope Borough Building, Barrow, Alaska, 9:00 a.m., with evening sessions beginning at 8:00 p.m.

APRIL 4, 1977

Chamber of Commerce Log Cabin, Fairbanks, Alaska, 9:00 a.m., with evening sessions beginning at 8:00 p.m.

APRIL 6, 1977

Kenai Room, Anchorage-Westward Hotel, Anchorage, Alaska, 9:00 a.m., with evening sessions beginning at 8:00 p.m.

Interested individuals, representatives of organizations, and public officials wishing to make oral presentations at the hearings should contact the Office of the Director, Naval Petroleum and Oil Shale Reserves, Room 550, Crystal Plaza No. 6, Washington, D.C. 20360 prior to March 22, 1977. Written comments concerning the DEIS also will be received by the Office of the Director, Naval Petroleum and Oil Shale Reserves until April 18, 1977.

Oral statements at the hearings will be limited to ten (10) minutes, unless previous arrangements for more time have been made. Written copies of these comments are not required; however, if they can be made available at the time of the hearings it will be appreciated. To the extent that time remains after the presentations by those who have given advance notice, the hearing officer will provide others present an opportunity to make a statement. Since all presentations will become a part of the record, it is requested that no presentation be made at more than one location. The hearings are open and the public is invited.

Copies of the DEIS will be available from the Office of the Director, Naval Petroleum and Oil Shale Reserves, Room 550, Crystal Plaza No. 6, Washington, D.C. 20360 or from the Officer in Charge, Naval Petroleum Reserve No. 4, Calais Office Center, Suite 200, 3301 'C' Street, Anchorage, Alaska 99503.

Further information concerning these hearings may be obtained from LCDR John S. Henley, Special Assistant to the Director, at the Washington, D.C. office, telephone (202) 692-0600.

Dated: February 18, 1977.

GEORGE G. DOWD,
Captain, JAGC, USN, Director, Naval Petroleum and Oil Shale Reserves.

[FR Doc.77-5659 Filed 2-24-77;8:45 am]

WORLD ANTI-POLLUTION MATERIALS CORP.

Notice of Intent To Grant Limited Exclusive Patent License

Pursuant to the provisions of Part 746 of title 32, Code of Federal Regulations (41 FR 55711-55714, December 22, 1976) the Department of the Navy announces its intention to grant to World Anti-Pollution Materials Corporation, a corporation of the State of Oklahoma, a revocable, nonassignable, exclusive license for a period of ten years under United States Patent Number 3,717,580 entitled "Method of Disinfecting and Self-Limiting Solution Therefor" issued February 20, 1973, to inventors William H. Echols, George H. Fielding and Rex A. Neihof.

This license will be granted unless within 60 days from the publication of this notice an application for a nonexclusive license from a responsible applicant is received by the Office of Naval Research (Code 302), Arlington, VA 22217 and the Chief of Naval Research or his designee determines that such applicant has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or the Chief of Naval Research or his designee determines that a third party has presented to the Office of Naval Research (Code 302) evidence and argument which has established that it would not be in the public interest to grant the exclusive license.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed to the Office of Naval Research (Code 302), Arlington, VA 22217 on or before April 26, 1977. Also, copies of the patent may be obtained for fifty cents ($0.50) from the Commissioners of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this Notice contact:

Dr. A. C. Williams, Staff Patent Advisor, Office of Naval Research (Code 302), Ballston Centre Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Tel. No. 202-692-4005.

Dated: February 18, 1977.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy Assistant Judge Advocate General (Civil Law).

[FR Doc.77-5816 Filed 2-24-77;8:45 am]

Office of the Secretary of Defense

DEFENSE SCIENCE BOARD; TASK FORCE ON INTELLIGENCE

Advisory Committee Meeting

The Defense Science Board Task Force on intelligence will meet in closed session on March 14, 1977 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Task Force will provide a review of intelligence requirements and issues reporting on alternative solutions.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: February 18, 1977.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

[FR Doc.77-5632 Filed 2-24-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

MODEL CODE FOR ENERGY CONSERVATION IN NEW BUILDING CONSTRUCTION

Request for Public Comments

The U.S. Department of Housing and Urban Development (HUD), under Pub. L. 94-385, is responsible for the development, promulgation, and enforcement of energy performance standards for all new construction. The Energy Research and Development Administration (ERDA) is, through its various research, development and demonstration activities supporting that HUD function.

One necessary step to the successful implementation of the standards that will be promulgated by HUD is the incorporation of energy standards in the overall code process and provision for the training of code officials in the evaluation of designs and the enforcement of codes based on these energy standards.

To achieve this goal, ERDA has, through its contract with the National Conference of States on Building Codes and Standards (NCSBCS), brought together all major national building code organizations in an effort to develop a model code for energy conservation in new building construction. The building code organizations have pooled their technical resources and experience to produce this code, which is based upon the standards developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, known as ASHRAE 90-75. This code was designed specifically for states and localities so it can be adapted to answer to their particular conditions and problems.

This code is only one aspect of a larger joint program being conducted by the involved organizations. These organizations are designing training programs and materials for state and local building code officials, which will assist in the implementation of energy efficiency standards. Additionally, they will examine the problems hindering acceptance of technological innovations and make recommendations for resolving them.

Comments are being solicited on this model code from state and local public officials, members of the design professions, home builders, contractors, subcontractors, producers of building materials, construction unions, and others in the building industry. This preliminary publication will, we believe, be of particular interest to those responsible for

preparing "state energy conservation plans" as described under Title III of Pub. L. 94–163, known as the "Energy Policy and Conservation Act of 1976" (EPCA).

Those seeking copies of this model code and wishing to contribute to this effort are requested to write directly to the National Conference of States on Building Codes and Standards, at 1970 Chain Bridge Road, McLean, Virginia 22101. A copy of the code with instructions as to comment procedures will be forwarded with each request. To meet the schedules established under EPCA, the final code will be issued on or about June 1, 1977. Therefore, we request that all comments be submitted no later than March 31, 1977.

GENE G. MANNELLA,
Acting Assistant Administrator for Conservation.

[FR Doc.77-5789 Filed 2-24-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 692-4]

CITY OF JACKSONVILLE, JACKSON COUNTY, OREG.

Availability of Addendum to Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared an addendum to the draft environmental impact statement (DEIS) for the City of Jacksonville, Jackson County, Oregon.

This addendum presents an additional facilities alternative and cost, a recomputation of costs for alternatives A–1 and A–2 and the environmental impact evaluation of alternative A–3.

This addendum was transmitted to the Council on Environmental Quality on February 15, 1977. In accordance with CEQ's notice of availability, comments are due on March 11, 1977. Copies of the addendum are availabe for review and comment from: Mr. Richard Thiel, Chief, Environmental Impact Section, M/S 443, US Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 (telephone: 206–442–4011 or fts 399–4011).

Copies of the addendum are available for public inspection at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region X Library, 1200 Sixth Avenue, Seattle, Washington 98101.

Information copies of the addendum are available at cost (10 cents per page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, D.C. 20036. Please reference ELR No. 70220.

Copies of the addendum have been sent to various Federal State, and local agencies, and interested individuals as outlined in the CEO Guidelines.

Dated: February 22, 1977.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.77-5824 Filed 2-24-77;8:45 am]

[FRL 692-2; OPP-42043]

MINNESOTA

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and 40 CFR 171, the State of Minnesota has submitted a State Plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA) for contingency approval.

Contingency approval is being requested pending promulgation of implementing regulations. A copy of the proposed regulations is attached to the Plan.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region V, to approve this Plan on a contingency basis.

A summary of the Plan follows. The entire Plan, together with all attached appendices (except for sample examinations), may be examined during normal business hours at the following locations:

State Office Building, St. Paul, Minnesota 55155 (Minnesota Department of Agriculture), telephone (612)296–2856.

Room 1147, 230 South Dearborn Street, Chicago, Illinois 60604 (Pesticide Branch, Air and Hazardous Materials Division, EPA, Region V), telephone (312)353–2192.

Room 401, East Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 (Federal Register Section; Technical Services Division (WH–569), Office of Pesticide Programs, EPA), telephone (202)755–4854.

SUMMARY OF STATE PLAN

The Minnesota State Department of Agriculture (MDA) has been designated as the State lead agency for the implementation and administration of the pesticide applicator certification program.

Cooperating agencies and organizations include the University of Minnesota Cooperative Extension Service (MCES), Minnesota Department of Health (MDH), Minnesota Department of Natural Resources (MDNR) and Minnesota Pollution Control Agency (MPCA). The MCES has overall responsibility for the State-wide pesticide applicator certification training program, including preparation and administration of training courses, and preparation and distribution of training materials. The MDH and MDNR will assist the MCES in the development of training materials applicable to pest control activities within each Department's jurisdiction. The MCPA has overall responsibility for pesticide disposal enforcement. The lead agency is responsible for preparing examinations based upon training materials developed by the above cooperating agencies. The lead agency will review and approve all training materials for applicability under this State Plan.

Legal authority for the program is contained in the "Minnesota Pesticide Control Law of 1976," Sections 18A.21–18A.45, and proposed regulations. Copies of the Law and the proposed regulations are attached to the State Plan.

The Plan lists the personnel available to the MDA and cooperating agencies to carry out the certification program and the approximate percentage of their time that will be devoted to certification and training. The Plan includes a FY 76 and FY 77 MDA budget for the pesticide program. For FY 77, the MDA will have a total of $138,882 available to carry out its pesticide program, including applicator certification. The Plan also identifies Federal funding in the amount of $140,348, to assist Minnesota in the implementation and administration of the certification program.

The MDA will submit an annual report to EPA by December 31 of each year and other reports as requested by the Administrator of EPA.

Minnesota estimates that up to 4,000 commercial and 50,000 private applicators will need to be certified. Certified commercial applicators will be issued credentials indicating the category(ies) in which they are certified. Private applicators who successfully complete an MDA approved training program will be issued a Private Applicator Training Card which must be presented to a licensed dealer each time a restricted use pesticide is purchased. In addition to the above card, and for certification options (described later in this notice) not involving a training program, private applicators will be required to sign a form attesting to his/her completion of a certification option each time a restricted use pesticide is purchased; this form is a part of the licensed dealer's "Report of Sale of Restricted Use Pesticides."

The commercial applicator categories proposed in the Plan are the same as those in 40 CFR 171.3. New subcategories proposed are:

1. Agricultural Pest Control:
(a) Plant: (1) Herbicide; (2) Insecticide-fungicide.
(b) Animal: (1) Livestock-Premises.
3. Ornamental and Turf Pest Control:
(a) Ornamental and Turf.
(b) Tree Disease, Oak and Elm.
7. Industrial, Institutional, Structural and Health Related Pest Control:
(a) Structural Pest Control: (1) Pest Control, Structural; (2) Fumigation.
(b) Food Manufacturing and Processing.
8. Public Health Pest Control:
(a) Mosquito Control.
9. Regulatory Pest Control:
(a) State and Local Government.
(b) Federal Government.

The standards of competency for commercial applicators in Minnesota are the same as those in 40 CFR 171.4 (b) and (c) and 171.6. The State defines commercial applicators as 1) commercial applicator,

2) noncommercial applicator, and 3) structural pest control applicator. Commercial applicators are those applicators applying restricted use pesticides for hire. Noncommercial applicators are those persons, other than private applicators, who use or supervise the use of restricted use pesticides not for hire. Because of the ongoing State licensing program, the structural pest control applicator designation will continue under the certification program. For purposes of this notice, and unless otherwise noted, the term "commercial applicator" shall mean and include the above three State-defined classes of applicator.

All commercial applicators will be required to pass a written open or closed book monitored examination covering the general standards and the specific standards for the category or subcategory in which they wish to become certified. The examination covering the general standards will be administered as either a "General Ground Test" or "General Aerial Test," or both, depending on the type of application a commercial applicator performs.

State-defined commercial and noncommercial applicators shall renew their certification by passing an open or closed book monitored examination or by attendance at an approved training course every five years. Structural pest control applicators are required to pass a written open or closed book monitored examination or attend an approved training course annually.

All certified commercial applicators are also required to be licensed annually. The annual licensing requirement is fulfilled by either completion of the certification renewal procedure stated above or by taking an unmonitored written examination.

The standards of competency for private applicators are the same as those listed in 40 CFR 171.5 and 171.6. Private applicators will be certified by one of the following options:

1. Completion of a Cooperative Extension Service training session. This option is classroom training in which trainer-trainee interaction will be accomplished by completion of a workbook, written problems, nongraded short quizzes or pre- and post-training no pass/no fail tests. For groups of approximately 30 persons or less, oral questions and answers, or one or more of the above method will be used. Upon completion of the training session, qualified persons will be issued a private applicator training card denoting successful completion of the session.

2. Completion of Auto-tutorial training material. The private applicator will complete a series of self-instruction lessons developed by the Cooperative Extension Service. The lessons will include the EPA cassette tape and slide series. This program will be available at selected county and area extension offices. A combination of classroom instruction described in (1) above, and auto-tutorial lessons will also be an acceptable certification procedure. A private applicator training card will be issued upon successful completion of this option.

3. Private applicators can become certified by completing the EPA Programed Instruction Manual or a comparable program covering all private applicator competency standards. Private applicator training cards will be issued to persons who successfully complete the programed instruction option.

4. A single purchase/single use procedure will be offered as an interim measure until October 1978 and on an emergency basis thereafter. An applicator can purchase a restricted use pesticide under this method on a one time/one product basis. A personal interview form attached to the Plan describes the means for certification under this option. A representative of the MDA will administer all personal interviews.

5. The private applicator can be certified upon passing a written examination administered and evaluated by a MDA representative.

Private applicators unable to read will be certified by personal interview administered by a MDA representative. Certification will be limited to those restricted use pesticides in which the nonreader has demonstrated competency. Certification will be valid for one year only. Private applicators unable to read will not be authorized to supervise noncertified applicators.

Provisions are identified in the Plan for assuring that private applicators are kept abreast of changing technology and maintain an adequate level of competency in the use of restricted use pesticides. Private applicators will be required to participate in an approved training program every three years. Further, the Plan states that a continued level of competency will be assured since each time the applicator purchases a restricted use pesticide, he must attest that the label has been read and directions for use will be followed.

Sample examinations and questions for commercial applicators are attached to the Plan. Training materials for use in certifying private applicators are also attached to the Plan. In view of the need to preserve the confidentiality of the examination format, the State of Minnesota has requested that the examinations not be made available for public inspection. The Agency agrees with this position, and has removed the sample examinations from the public inspection copy of the Plan.

In accordance with 40 CFR 171.7(e)(3), the State of Minnesota has requested that commercial applicators who passed written examinations in 1976 for the following categories be certified without further category examination, upon passing a written monitored examination covering the standards described in 40 CFR 171.4(b):

3. Ornamental and Turf Pest Control:
(a) Ornamental and Turf.
(b) Tree Disease, Oak and Elm.
5. Adequate Pest Control.
7. Industrial, Institutional, Structural and Health Related Pest Control:
(a) Structural Pest Control: (1) Pest Control, Structural; (2) Fumigation.
(b) Food Manufacturing and Processing.

The Agency has determined that persons who passed the above category examinations in 1976 will have satisfied the requirements for certification, provided such applicators pass an examination covering the general standards, 40 CFR 171.4(b).

The Plan provides for a statement covering the Government Agency Plan (GAP) to be forwarded to EPA within 60 days after EPA approval of the GAP.

The MDA has informal agreements with Indian governing bodies concerning the current pesticide regulatory program, and has extended its cooperation and assistance for developing a certification program consistent with the State Plan. Any cooperative agreements which are made will be forwarded to EPA as part of the Plan.

As other State plans are approved by EPA, Minnesota will give full consideration to entering into reciprocal agreements with these States. Copies of all reciprocal agreements will be forwarded to EPA.

Other Minnesota pesticide regulatory activities and authorities are: pesticide product registration, pesticide dealer licensing and regulation, pesticide application equipment inspection, product sampling and analysis, disposal, transportation and storage requirements, and licensing of commercial applicators, noncommercial applicators, and structural pest control applicators.

A regular program of inspection, product sampling, and followup investigations of accidents and complaints will be conducted by MDA personnel.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Minnesota to the Regional Administrator, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. The comments must be received on or before March 28, 1977 and should bear the identifying notation (OPP-42043). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 3:30 p.m. Monday through Friday.

Dated: February 16, 1977.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator, Region V.

[FR Doc.77-5822 Filed 2-24-77;8:45 am]

[FRL 692-1; OPP-66025]

PESTICIDE PRODUCTS CONTAINING SAFROLE

Cancellation of Registration

Pursuant to section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) et seq.), on January 6, 1977, Hyponex

Company, Inc., Box 4300, Copley, OH 44321, requested that the Environmental Protection Agency (EPA) cancel its registrations for *Hyponex* (EPA Registration No. 88-15) which contains the active ingredient safrole. On January 25, 1977, the Morton Pharmaceuticals, 1625-39 N. Highland, Memphis, TN 38108, also requested that the Agency cancel its registration for the safrole product *AA Outdoor Dog Repellent* (EPA Registration No. 4476-53).

Cancellation shall be effective March 28, 1977, unless the registrants, or an interested person with the concurrence of the registrants, request that the registrations be continued in effect.

Requests concurred in by the registrants that the registration of these products be continued, and any comments concerning this action, may be submitted in triplicate to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Rm. 401, 401 M St. SW, Washington DC 20460. Any such submissions should bear a notation indicating both the subject and the OPP document control number (OPP-66025). Any comments or other documents filed regarding this notice of cancellation will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: February 17, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-5821 Filed 2-24-77;8:45 am]

[FRL 691-5]

SCIENCE ADVISORY BOARD; TECHNOLOGY ASSESSMENT AND POLLUTION CONTROL ADVISORY COMMITTEE

Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that the February 18, 1977, meeting of the Technology Assessment and Pollution Control Advisory Committee announced in the January 29, 1977, issue of the FEDERAL REGISTER, page 5395, has been cancelled and is rescheduled for March 11-12, 1977, beginning at 9:00 a.m., in room 1101, U.S. Environmental Protection Agency, Waterside Mall, West Tower, 401 M Street, S.W., Washington, D.C.

The meeting is open to the public. Any member of the public wishing to attend or submit a paper should contact Lloyd T. Taylor, Executive Secretary, Technology Assessment and Pollution Control Advisory Committee, (703) 557-7720, by c.o.b. March 7, 1977.

Dated: February 16, 1977.

THOMAS D. BATH,
Staff Director, Science Advisory Board.

[FR Doc.77-5674 Filed 2-24-77;8:45 am]

[FRL 691-6; OPP-42019B]

STATE OF NEVADA

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On May 12, 1976 the Nevada State Plan was approved contingent upon promulgation of necessary regulations implementing the legislation. Notice of contingent approval was published in the FEDERAL REGISTER on August 17, 1976 (41 FR 34815). Subsequently, on January 17, 1977 regulations necessary to implement the Nevada legislation were promulgated. Having reviewed these regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region IX, hereby gives notice that the Nevada State Plan is now a fully approved State plan.

Dated: February 11, 1977.

R. L. O'CONNELL,
Acting Regional Administrator, Region IX.

[FR Doc.77-5673 Filed 2-24-77;8:45 am]

[FRL 692-3]

SOLID WASTE MANAGEMENT

Meeting

The Resource Conservation and Recovery Act of 1976 (Public Law 94-580) was signed into law on October 21, 1976. The Act requires "Public participation in the development, revision, implementation and enforcement of any regulation, guideline, information, or program" and encourages participation by the public in the development and implementation of a variety of new programs. Among these are new programs that relate to resource conservation. Plans for these programs will be the subject of a public discussion on Monday, March 7, 1977, in room 3906/08, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. The meeting will begin at 9:00 a.m.

The focus of the meeting will be resource conservation as it is defined in the Resource Conservation and Recovery Act of 1976. The discussion will center on specific provisions of the Act as well as more general subject areas. The purpose of the meeting is to inform EPA personnel of the needs, perceptions, and attitudes of the public. The meeting will provide guidance to the Agency in formulating its short and long range plans in resource conservation.

The meeting is open to the public. It will be opened and attended by EPA's Deputy Assistant Administrator for Solid Waste. The moderator will be the Director of the Resource Recovery Division. Time will be alloted, as indicated, for the following discussion topics:

9 to 9:15	Introduction.
9:15 to 9:45	Secs. 1008, 6004: Guidelines and Compliance.
9:45 to 10:15	Sec. 2003: Resource Recovery and Conservation Panels.
10:15 to 10:45	Subtitle D. Regional and State Plans.
11 to 11:30	Sec. 8002: Studies, Resource Conservation Committee.
11:30 to 12:30	General Discussion Questions and Answers.

Anyone who wants additional information on this meeting should contact:

Mr. William E. Ades, Resource Recovery Division, (AW-463), Office of Solid Waste, Environmental Protection Agency, Washington, D.C. 20460.

Dated: February 18, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.77-5823 Filed 2-24-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

NATURAL GAS PIPELINE CO.

Consent Order

I. INTRODUCTION

Pursuant to 10 CFR 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of a Consent Order which, on January 11, 1977, was executed between Natural Gas Pipeline Company (Natural) and the FEA. In accordance with that section, FEA will receive comments with respect to this Consent Order. Although this Consent Order has been signed and tentatively accepted by FEA, FEA may, after consideration of comments received, withdraw its acceptance of the Consent Order and, if appropriate, attempt to negotiate an alternative Order.

II. THE CONSENT ORDER

Natural, a subsidiary of Peoples Gas Company, located at 122 South Michigan Avenue, Chicago, Illinois, is a natural gas processing plant owner and operator which markets natural gas liquid products.

As a result of an investigation conducted by FEA of the prices charged by Natural under FEA price regulations, FEA and Natural agreed that Natural had failed to apply properly the provisions of 10 CFR, Part 212, Subpart K, in determining the lawful first sales prices Natural could charge for natural gas liquid products to the Phillips Petroleum Company during a seven-month period from September 1974 through March 1975.

In resolution of the issues raised in this investigation, the FEA and Natural exe-

cuted a Consent Order on January 11, 1977. The significant terms provide, in part, that Natural, which unilaterally had determined that it had overcharged $1,513,937.50 in its sales of natural gas liquid products and voluntarily refunded that amount on October 10, 1975, would now pay interest on that overcharge to Phillips. Natural agreed to refund interest calculated through the date of its refund on October 10, 1975, which FEA determined to be $88,993.06. Natural additionally agreed to refund interest on the aforementioned interest computed from the date of refund to the effective date of this Consent Order.

The provisions of 10 CFR 205.197, including the publication of this Notice, are applicable to the Consent Order.

Action already taken by Natural in correcting its violation of FEA regulations is subject to modification if the FEA determines that such modification is necessary after the receipt of public comments.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to:

N. Allen Andersen, Regional Administrator, Region V, 175 West Jackson Boulevard, Chicago, Illinois 60604. Attention: Richard Williams, Regional Counsel.

Copies of this Consent Order may be received free of charge by written request to this same address or by telephoning (312) 353-0538.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Natural Consent Order." All comments received by 4:30 p.m., CST, on the 30th calendar day following publication of this Notice will be considered by the FEA in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C., February 18, 1977.

ERIC J. FUGI,
Acting General Counsel.

[FR Doc.77-5593 Filed 2-23-77;9:49 am]

FEDERAL MARITIME COMMISSION

CAROL LINES, HORN-LINIE AND SLOT CHARTER 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 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 March 17, 1977. 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 discrimiantion 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:

Richard W. Kurrus, Esq., Kurrus & Ash, 1055 Thomas Jefferson Street, N.W., Washington, D.C. 20007.

Agreement No. 10287, between Carol Lines Joint Service and Horn-Linie provides that Horn-Linie will lease a minimum of five container slots per voyage from Carol Lines in the trade from Europe and Puerto Rico and the Virgin Islands, at terms to be agreed upon. The agreement also provides for the movement of Eastbound containers, the return of empty containers and the reciprocal leasing of containers when necessary.

By Order of the Federal Maritime Commission.

Dated: February 18, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-5768 Filed 2-24-77;8:45 am]

INTER-AMERICAN FREIGHT CONFERENCE

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 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 March 17, 1977. 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:

K. D. Thornton, Executive Administrator, Inter-American Freight Conference-Section A, 17 Battery Place, New York, New York 10004.

Agreement No. 9648-A-8, entered into by the member lines of the Inter-American Freight Conference, modifies the conference agreement by adding a new Article 27 which will authorize the Executive Administrator or Assistant Executive Administrator of Section A of the Conference to sign and file with the Federal Maritime Commission each amendment to Agreement No.9648-A which has been unanimously adopted by all the members thereof. New Article 27 reads as follows:

Article 27. Each of the members hereof hereby appoints the Executive Administrator or Assistant Executive Administrator of Section A of the Conference, individually, as its attorney-in-fact and representative authorized on behalf of such member to sign and file with the Federal Maritime Commission each amendment to this Agreement which shall have been unanimously adopted by all the members hereof.

By Order of the Federal Maritime Commission.

Dated: Feburay 22, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-5764 Filed 2-24-77;8:45 am]

LYKES BROS. STEAMSHIP CO., INC. AND COMPANIA PERUANA DE VAPORES

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 NW., 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 March 17, 1977.

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:

Lloyd Strickland, Vice President, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10044-3, between the above named parties, amends their basic pooling, sailing and equal access to government-controlled cargo agreement in the U.S. Gulf/Peru southbound trade by (1) Reducing the minimum number of sailings required by each line from 13 to 12 per pool period, and (2) Extending the term of the agreement for two years, that is, through March 31, 1979.

By Order of the Federal Maritime Commission,

Dated: February 22, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-5765 Filed 2-24-77;8:45 am]

PORT OF OAKLAND AND MARINE TERMINALS CORP.

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 NW., 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 March 17, 1977. 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:

J. Kerwin Rooney, Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94604.

Agreement No. T-3420, between the Port of Oakland (Oakland) and Marine Terminals Corporation (Terminals) provides for the two-year nonexclusive preferential assignment (with year-to-year renewal options) to Terminals of certain premises in the "Port Area" of Oakland, California, for the purpose of docking, loading, unloading vessels, and uses incidental thereto. As compensation, Terminals will pay Oakland 85 percent of revenue from dockage, wharfage, wharf demurrage and storage; however, Terminals will pay 90 percent of revenue received on military cargo when Terminals does not perform service and obtain revenue from the service and facilities charges. Oakland is guaranteed a minimum annual compensation of $400,000. Terminals' charges shall conform with charges appearing in Oakland's Port Tariff, and shall be subject to review and control by Oakland. Terminals will either file a tariff with Oakland or may elect to use and be bound by Oakland's tariff. The rate control exercised by Oakland does not include the charge designated as "Service and Facilities Charge."

By order of the Federal Maritime Commission.

Dated: February 17, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-5767 Filed 2-24-77;8:45 am]

THAILAND/U.S. ATLANTIC & GULF CONFERENCE

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 NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and 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 March 17, 1977. 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:

Elkan Turk, Jr., Esq., Burlingham Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Agreement No. 8100-9 is an application on behalf of the member lines of the Thailand/U.S. Atlantic & Gulf Conference to extend the "exclusive agency" provision contained in Article 2(b) of the basic agreement, as amended, for an indefinite period beyond the present termination date of April 20, 1977. Essentially, Article 2 prohibits any Conference member line, its agent, or any subsidiary or affiliate of either the line or its agent from representing any non-conference vessel at the loading ports Bangkok/Kohsichang except those vessels calling to load cargoes consisting of commodities which the Conference has declared to be "open rated."

By Order of the Federal Maritime Commission.

Dated: February 17, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-5766 Filed 2-24-77;8:45 am]

[No. 77-2]

SUN COMPANY, INC. v. LYKES BROS. STEAMSHIP COMPANY, INCORPORATED

Filing of Complaint

FEBRUARY 18, 1977.

Notice is hereby given that a complaint filed by Sun Company, Incorporated against Lykes Bros. Steamship Company, Incorporated was served February 18, 1977. The complaint alleges that complainant has been subjected to the payment of unjust and unreasonable charges in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter if any is held shall commence on or before August 18, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc. 77-5769 Filed 2-24-77;8:45 am]

FEDERAL RESERVE SYSTEM

CONSUMER ADVISORY COUNCIL

Meeting

Notice is hereby given that the Consumer Advisory Council will meet on Thursday, March 10, 1977. The meeting, which will be open to public observation,

will take place in Terrace Room "E" of the Board's Martin Building beginning at 9:30 a.m. and concluding at approximately 4 p.m. The Martin Building is located at 20th and C Streets, NW., Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. It is anticipated that the March 10 meeting of the Council will include consideration of the following topics:

1. Discussion of the advantages and disadvantages of requiring lending institutions to post publicly representative loan interest rates and consideration of alternative methods for the achievement of consumer awareness of competing credit terms;

2. Evaluation of educational methods and programs that are designed to direct consumers toward the "informed use of credit" and discussion of the means by which the Board of Governors can contribute to public understanding of consumer credit regulation;

3. Discussion of the possible establishment of ad hoc task forces and alternative mechanisms to utilize the expertise of Council members, between regularly scheduled meetings, in addressing specific facets of consumer-oriented issues;

4. Review of jurisdictional conflicts between State and Federal regulation in the area of consumer credit and discussion of possible means to resolve the uncertainties that result from the lack of uniformity.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors, February 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6008 Filed 2-24-77;10:48 am]

FEDERAL TRADE COMMISSION

[File No. 752 3157]

FLAGG INDUSTRIES, INC., ET AL.

Consent Agreement with Analysis to Aid Public Comment

Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34, 40 F.R. 15236, April 4, 1975), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited on or before April 25, 1977. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14), 40 F.R. 15236, April 4, 1975). Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[File No. 752 3157]

FLAGG INDUSTRIES, INC. ET AL

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Flagg Industries, Inc., a corporation, and Queen Creek Land and Cattle Company, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Flagg Industries, Inc., a corporation, and Queen Creek Land and Cattle Company, a corporation, and it now appearing that Flagg Industries, Inc., a corporation, and Queen Creek Land and Cattle Company, a corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated:

It is hereby agreed by and between Flagg Industries, Inc., by its duly authorized officer, and Queen Creek Land and Cattle Company, by its duly authorized officer, and their attorney, and counsel for the Federal Trade Commission that:

(1) Proposed respondent Flagg Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 10960 Wilshire Boulevard, in the City of Los Angeles, State of California.

(2) Proposed respondent Queen Creek Land and Cattle Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona, with its office and principal place of business at 3500 North Central Avenue, in the City of Phoenix, State of Arizona.

(3) Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

(4) Proposed respondents waive: (a) Any further procedural steps; (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

(5) This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

(6) This agreement is for settlement purposes only and does not constitute an admission by proposed respondents of the facts alleged, other than jurisdictional facts, or that the law has been violated as alleged in the said draft of complaint here attached.

(7) This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to the proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner, and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

(8) Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered, That respondents, Flagg Industries, Inc., a corporation, and Queen Creek Land and Cattle Company, a corporation, their successors and assigns, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale of land or other real property in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Misrepresenting, directly or by implication, the financial strength, size, and diversity or extent of assets of respondents.

(2) Representing, either orally or in writing, directly or by implication:

(a) That the vacant lots which respondents are offering for sale constitute a good or excellent investment, that sig-

nificant monetary gain can be achieved, or that there is little or no financial risk involved in the purchase of respondents' lots.

(b) That the resale of a vacant lot purchased from respondents is not difficult.

(c) That the value of land at respondents' subdivisions is rising or will rise in the future.

(d) That the prices of respondents' lots periodically rise or that prices are increasing, have increased, or will increase, without clearly and conspicuously disclosing at the same time, and by the same medium by which the price increases are communicated, that the price increases do not in any way relate to the value of land, and that the value of land to purchasers does not appreciate proportionately with the price rises.

(e) That the purchase of a lot in one of respondents' subdivisions is a way to achieve financial security, to deal with inflation, or to become wealthy.

(f) That the value of, or demand for, any land, including lots being offered for sale or previously sold by respondents, has increased, or will or many increase, or that purchasers have made, or will or may in the future make, a profit by reason of having purchased respondents' land.

(g) That the growth in land values or potential growth in land values at respondents' subdivisions corresponds to or will correspond to the growth in land values of any other locality, or in any way comparing land values or potential growth in land values at respondents' subdivisions to land values or potential growth in land values in any other locality. The word "locality" includes, but is not liimted to, cities, towns, counties, townships, borough, states and regions.

(h) That land in respondents' subdivisions will soon be unavailable or otherwise scarce, or that land in any particular subdivision of respondents will soon be unavailable.

(i) That prospective purchasers must purchase a lot immediately to ensure that a particular location will be available.

(j) That respondents' subdivisions offer the comforts of suburban living, or that respondents' subdivisions are other than isolated, sparsely populated areas.

(k) That jobs for purchasers who decide to move to any of respondents' subdivisions will be obtainable, without specifying exactly which jobs are currently available for people with the prospective purchasers' qualifications and salary requirements.

(l) That new industry is moving to any of respondents' subdivisions, unless the industry is actually moving onto the subdivision itself, and unless respondents describe exactly what industry or industries is or are moving to the subdivision or subdivisions, when such moves are to take place, and the number and types of jobs which will be made available.

(m) That new industry is moving near respondents' subdivisions, unless the industry is actually moving and unless respondents describe exactly which subdivision or subdivisions, the mileage from the subdivision or subdivisions, to the site of the industry or industries, when such moves are to take place, and the number and types of jobs which will be made available.

(n) That any of respondents' subdivisions wil prosper in any way by virtue of its location.

(o) That persons being solicited to purchase respondents' property are not entering into a legally binding obligation, merely making a refundable deposit, reserving the property, not making a final decision regarding purchase of property, or in any manner whatsoever obscuring the legal or practical significance of signing a land sale contract, promissory note or any other instrument.

Provided, however, That respondents may make those representations in the sale of land for which there is a documented reasonable basis to believe that such representations are true. Said documentation shall be made available to Commission staff upon request to review during reasonable business hours.

(3) Making any statements or representations which in any manner refer to or concern investments in stocks, annuities or any other form of investment.

(4) In any way discouraging prospective purchasers from obtaining the assistance of counsel or other professionals in order to understand the provisions of respondents' land sales contracts, promissory notes, or other documents, or make other determinations as to the advisability of purchasing respondents' land.

(5) Using any motion pictures, still pictures, or other depictions in any type of sales presentation or promotional material unless such motion pictures, still pictures, or depictions are in fact genuine and accurate representations of the material or location presented therein.

(6) From the date this order becomes final, including in any contract for the sale of land, or in any other document shown or provided to purchasers or prospective purchasers of land, whether or not signed by such purchasers or prospective purchasers, language to the effect that verbal representations have not been made in connection with the sale, or that no express or implied representations have been made in connection with the sale or offering for sale of land.

(7) From the date this order becomes final, including in any contract for the sale of land, or in any document shown or provided to purchasers or prospective purchasers of land, whether or not signed by such purchasers or prospective purchasers, language to the effect that upon failure of the purchaser to pay an installment due under the contract or otherwise to perform any obligation under the contract, the seller shall be entitled to retain sums previously paid thereunder by the purchaser in excess of the seller's actual damages.

(8) Using site visits afforded purchasers in connection with a right of cancellation to vitiate in any way that right or attempt to sell additional land.

(9) Misrepresenting or obscuring the right of a purchaser under any provision of respondents' contract or of this order, or under any applicable statute or regulation, to cancel a transaction or receive a refund.

(10) Misrepresenting that financing for the construction of dwellings on subdivision lots is available or that respondents offer design or construction services.

(11) Misrepresenting orally or in writing the present or future extent of development in any of respondents' subdivisions.

(12) (a) Representing that respondents will provide, or that respondents' subdivisions will have available, any facility or improvement, other than the utilities treated separately in paragraph (2) of Séction III of this order, unless respondents' contracts or promissory notes at the time of the representation contain (i) a legal obligation on the part of respondents to provide or make available said facilities and improvements at a date certain, not later than 10 years from the date of purchase, set out clearly and conspicuously in the document, and (ii) a statement as to the cost to the purchaser, if any, for such facilities or improvements.

(b) Failing to express the aforesaid contractual obligations set out in subparagraph (a) above in the contract or promissory note with the purchaser in the following manner:

(i) A complete description of each improvement or facility to be provided or made available;

(ii) A provision that in the event any of the improvements or facilities specified in the instrument are not completed within six months of the time provided in the contract, respondents will immediately, upon the expiration of said six-month period, provide the purchaser by certified mail, return receipt requested, with notice of such unavailability of or failure to complete the aforesaid improvements or facilities, and of the purchaser's right to exercise within 30 days of receipt of said notice his option to exchange his lot or to cancel and receive a full refund as set out in subparagraph (iii) below;

(iii) An option to the purchaser stated substantially as follows:

In the event that any of the improvements or facilities specified by the seller in this instrument are not available to the lot which is the subject of this instrument, or are not completed within six months of the time provided in this instrument, the purchaser may elect, at his option, to (1) receive, at no additional expense to the purchaser, an exchange acceptable to the purchaser of other property of at least equal price, equivalent size, and with those improvements contracted for, or (2) cancel this instrument and receive from the seller a full refund of all monies paid hereunder plus the legal rate of interest, compounded annually. To exercise this option, the purchaser must give notice to the seller by registered or certified mail within 30 days after receipt of notice from the seller of such unavailability of or failure to complete the aforesaid improvements or facilities.

(iv) Where Acts of God delay the construction of improvements, a reasonable extension of the six-month time period

in the instrument does not violate this order and the purchaser's option does not operate until said reasonable time has elapsed: *Provided, however,* Respondents shall notify purchaser of said Act of God in accordance with the above.

Subsections (a) and (b) above shall apply to all contracts, promissory notes, or other binding documents executed after the date this order becomes final.

(c) Failing to make the exchange or refund requested by a purchaser under the terms of this paragraph of the order within seventy-five (75) days of receipt of notification from the purchaser.

(d) Soliciting or obtaining the purchaser's assent to a waiver or limitation or otherwise imposing any condition upon the right of a purchaser to an exchange or a refund as set out in this paragraph.

II

It is further ordered, That respondents, their successors and assigns, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale of land or other real property in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith:

(1) Include, clearly and conspicuously, in any written or oral invitation or other communication concerning any event or activity, dinner parties or other gatherings, awards of free or low cost gifts, sightseeing tours, or any other goods or services, which invitation or other communication is in any manner related to the sale of land, the following statement:

The purpose of (the event or activity) is to persuade you to sign a contract for the purchase of undeveloped land in (name of state in which land is located) at a cost of approximately (average contract price in the subdivision during previous year rounded off to nearest $500 or, in the case of a new subdivision, average offering price rounded off to nearest $500).

If said invitation or communication is in writing, such disclosure shall be in writing and shall be made clearly and conspicuously in the invitation or communication; if the invitation or communication is oral such disclosure shall be made orally during the telephone invitation or communication, and in writing by mail to be received by the prospective purchaser at least three days prior to the event or activity; *Provided however,* That in the case of consumers already within the state within which the subdivision is located, such disclosure may be made one day prior to a tour, or site visit, so long as (a) all written materials given to such consumers make such a disclosure in print as large as the largest print in such materials, and (b) all agents of respondents who promote the tour and all employees of respondents who in any way attempt to influence consumers' decisions orally inform consumers of the purpose of the tour or site visit.

(2). (a). Include, clearly and conspicuously, in all sales presentations, promotion materials, and advertising, other than TV or radio advertisements, in the same size type as that which is predominantly used in such material, the following statement:

You should consider the purchase of our land to be risky. The future value of this land is uncertain—do not count on an increase in its value. It has not generally been possible for purchasers of land from (selling respondent) to resell the land at a profit. Purchasers generally have been unable to resell the land at all. It is suggested that you discuss any possible purchase with a lawyer, banker or other qualified professional.

(b) Include, clearly and conspicuously, in all TV and radio advertisements, the following statement:

You should consider the purchase of any of our land risky.

(3) Set forth on the first page of any contract for the sale of land in 24-point type, "Contract for the Purchase of Land," with no other writing except that required by the following paragraph and paragraph (2) of Section II of this order.

(4) Print the following in 12-point boldface type as the only writing in addition to that required by paragraph (3) of Section II and paragraph (2) of Section III of this order, on the first page of all contracts for the sale of land:

This is a contract by which you agree to purchase land. You should not consider this purchase as an investment. The future value of this land is uncertain—do not count on an increase in its value. In fact, there is generally no resale market for this land; previous purchasers have, for the most part, found it impossible to sell the land at all, much less at a profit.

It is therefore suggested that you consider your needs carefully, and have both this contract and the property report reviewed by a lawyer, banker or other qualified professional.

While you have 10 days in which to reconsider your decision and cancel this contract with full refund, we recommend that you not sign until exercising the care suggested in the previous paragraph.

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(Signature) (Date)

No contract or other legally binding instrument for the sale of respondents' land shall be valid unless this statement is signed and dated by the purchaser after he has had a reasonable amount of time to read the whole page.

(5) (a) Furnish each purchaser, at the time the purchaser signs a contract or other document for the sale of land, with a copy of the contract or other document and two copies of the following form. The title of the form shall be "NOTICE OF RIGHT OF CANCELLATION" printed in 12-point type and the form shall contain in 10-point boldface type the following information and statements.

(Date of Transaction)

(Contract Number)

NOTICE OF CANCELLATION

You may cancel this transaction, without any penalty or obligation, at any time prior to midnight of the tenth business day after the date shown on the contract.

If you cancel, any payment made by you under the contract and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of the cancellation notice.

To cancel this transaction, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to.....
(name of selling respondent)
at.....
(address of respondent's place of business)
.....not later than midnight of.....
(Date)

I (we) hereby cancel this transaction.
(Each purchaser must sign this notice.)

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(Date) (Signature of purchaser)

(b) Complete both copies before furnishing this "Notice of Right of Cancellation" to the purchaser, by entering the name of the selling respondent, the address of the respondent's place of business, the date of the transaction, the contract number, and the date, not earlier than the tenth business day following the date of transaction, by which the purchaser may give notice of cancellation. The term "selling respondent" as required by this order shall mean Queen Creek Land and Cattle Company, its successors or assigns or any other dba used in selling land.

(c) Where a timely notice of cancellation is received and said notice is not properly signed, and respondents do not intend to honor the notice, respondents shall immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of his error, and stating clearly and conspicuously that a notice signed by the purchaser must be mailed to respondents by midnight of the seventh business day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund.

(d) Where the signature of a prospective purchaser is solicited during the course of a sales presentation, inform each person orally, at the time he signs the contract, or other legally binding instrument, of his right to cancel as stated above.

(6) Include, clearly and conspicuously, in each contract or other document for the sale of land the following statement in 12-point boldface type.

Purchaser has the right to cancel the contract without any penalty or obligation at any time prior to midnight of the tenth business day after the date of this contract.

Should purchaser choose to cancel pursuant to this provision, any payments made by purchaser under this contract and any negotiable instrument executed by purchaser will be returned within ten business days following receipt by the seller of the cancellation notice.

To cancel the transaction, purchaser must mail or deliver a signed copy of the notice of right of cancellation furnished by seller. A telegram or any other written notice to

---
(selling respondent)
at .....
(selling respondent's place of business)
not later than midnight of the tenth business day after the date of this contract.

(7) Honor any signed and timely notice of cancellation by a purchaser, and within 10 business days after the receipt of such notice (a) refund all payments made under the instrument, and (b) cancel and return any negotiable instrument executed by the purchaser in connection with the contract.

(8) Send to prospective purchasers (1) copies of all reports required by either Federal or State law and (2) copies of all materials required by this order, along with any invitation or other communication inviting the prospective purchaser to attend a land sales dinner.

(9) If the land is to be sold other than at a land sales dinner, furnish (1) copies of all reports required by Federal or State law to be furnished to a purchaser of respondents' land at or before the signing of a legally binding instrument and (2) copies of all materials required to be furnished by this order, with the first written materials or during the first contact which the prospective purchaser has with respondents or any of their agents or employees.

(10) Inform orally and in writing all prospective purchasers of vacant land that home financing may not be available, and that a bank located near the subdivision should be consulted prior to the purchase of land if the purchaser intends to build or purchase a house on that land.

(11) Whenever respondents offer a refund contingent upon the purchaser taking a company-guided inspection tour or making a registered inspection of the property in which the purchaser's lot is located:

a. Provide the purchaser three business days after taking tour or making said inspection within which to request a refund;

(b) Include in any contract, or other legally binding instrument, in immediate proximity to the provision setting forth the availability of a refund upon completion of a company-guided inspection tour or registered inspection of the property, the following statement:

You, the purchaser(s), have an additional right to cancel the transaction if you take the company-guided tour or make a registered inspection of the property and notify the company of your intention to exercise the right to cancel prior to midnight of the third business day after the date of such tour or inspection.

(c) Orally inform the purchaser at the time the instrument is signed and at the time the tour is taken or the inspection is registered of this cancellation right.

(d) Furnish each purchaser at the completion of the tour or inspection a completed form in duplicate, captioned "Notice of Cancellation", which shall contain in boldface type of a minimum size of 10 points the following statements:

NOTICE OF CANCELLATION

(Date of company-guided inspection tour of property)

(Contract number)

You may cancel your contract or promissory note without any penalty or obligation, at any time prior to midnight of the third business day after the above date.

If you cancel, any payments made by you under the contract will be returned within 10 business days following receipt by the seller of your cancellation notice:

To cancel your contract or promissory note, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to: ---

(Name of selling respondent) (address of selling respondent's not later than midnight place of business) of ---

I (We) hereby cancel the contract. (Each purchaser must sign this notice.)

(Date)

(Purchaser's signature)

(Purchaser's signature)

(e) Before furnishing the purchaser copies of the "Notice of Cancellation" set forth in subparagraph (d) above, complete both copies by entering the name of the selling respondent and the address of its place of business, the date of the company-guided inspection tour or the registered inspection of the property, and the date, not earlier than the third business day following the date of the last contact in connection with said tour or inspection by which the purchaser may give notice of cancellation.

(f) If respondents condition the right of cancellation referred to above upon a tour or registered inspection, respondents shall insure that a representative is on the site during reasonable daylight hours to register inspections.

(g) Where a timely notice of cancellation is received from a purchaser purportedly in accordance with the requirements of this paragraph of the order, but where said notice is not properly signed, and respondents do not intend to honor the notice, respondents shall immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, and a new cancellation form; said notice shall inform the purchaser of his error and state clearly and conspicuously that a notice signed by the purchaser must be mailed by midnight of the seventh day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund.

III

It is further ordered, That respondents, their successors and assigns, and respondents' officers, agent, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale of land or other real property in or affecting commerce, as defined in the Federal Trade Commission Act, do forthwith cease and desist from advertising for sale, offering for sale, contracting to sell, or selling any interest in:

(1) Any land represented in any manner as being usable now or in the future as a homesite, unless either:

(a) At the time of sale all of the conditions set forth below are met, or

(b) The selling respondent's contract with the purchaser contains a legal obligation on the part of respondents to meet the conditions set forth below within five years of the date of the sale.

The conditions to be met by respondents are as follows:

(1) The purchaser must have available an adequate sewage system by means of:

(a) A septic tank, or

(b) A central sewage system, the hook-up to which will cost the purchaser only a reasonable and customary branch-line extension fee:

Provided, That respondents must include in the contract whether a septic tank will be necessary or whether a central sewage system will be available and the approximate amount which a septic tank would cost to install or a central sewage system would cost to hook up to including an estimate of the amount said fee will increase over the next five years.

(2) The purchaser must be able to obtain potable water by hooking up to a central water system solely by payment of a reasonable and customary branch-line extension fee: *Provided*, That respondents must include in the contract the approximate amount of said extension fee, including an estimate of the amount said fee will increase over the next five year.

(3) The purchaser must be able to obtain standard electricity and telephone service from a local utility authorized to do business in the state in which the land is located, which service will cost the lotholder only nominal hook-up and installation fees and customary and usual rates; *Provided*, That respondents must include in the contract the approximate amount of said hook-up and installation fee, including an estimate of the amount said fee will increase over the next five years.

If respondents fail for any reason to meet the conditions required by this paragraph, they shall refund to each purchaser to whom the obligations are not fulfilled all monies paid by such purchaser to respondents under the terms of the land sales contract, plus the legal rate of interest, compounded annually.

(2) Any lot not covered in paragraph (1) above of this Order provision, unless there shall appear as described in paragraph II 4., as additional paragraphs required by paragraph II 4., such of the following statements as are applicable:

(a) For contracts for the sale of lots as to which neither respondents nor any other party is legally obligated to make a central sewer system available, add the following, including the third sentence only where applicable:

A central sewer system will not be available when you have completed your contract payments. Installation of a septic tank would be at your expense. However, the use of a septic tank on your lot is contingent on approval by governmental authorities.

(b) (1) For contracts for the sale of lots to which neither respondents nor any other party is legally obligated to make

available a central potable water system, and where water is not available on an aid-in-construction basis, add the following, including the third sentence only where applicable:

A central system for potable water will not be available when you have completed your contract payments. Installation of a well would be of considerable expense to you. Moreover, it may not be possible to obtain potable water from a well in some areas.

(ii) For contracts for the sale of lots to which neither respondents nor any other party is legally obligated to make a central water system available, and where water is available on an aid-in-construction basis, add the following, including the fourth sentence only where applicable:

A central water system will not be available when you have completed your contract payments. It may be impossible or impractical to obtain water from a central system due to the high cost of making this service available to this area. Installation of a well would be of considerable expense to you. Moreover, it may not be possible to obtain potable water from a well in some areas.

(iii) For contracts for the sale of lots to which neither respondents nor any other party is legally obligated to make a central system for potable water available, where water is available on an aid-in-construction basis, and there are legal restrictions on drilling for water, add the following, including the third sentence only where applicable:

A central water system will not be available when you have completed your contract payments. It may be impossible or impractical to obtain water due to the high cost of making this service available to this area. Installation of a well is prohibited in some areas.

(c) For contracts for the sale of lots to which electricity and telephone service will only be available to the purchaser on an aid-in-construction basis, add the following:

It may be impossible or impractical to obtain electricity and telephone service due to the high cost of making these services available to this area.

(d) For contracts for the sale of lots to which respondents or any other party is legally obigated only to provide unpaved roads with no maintenance obligations, add the following in lieu of all of the above:

This completely undeveloped land is being sold 'as is'. Electricity, water, sewer and telephone service are not planned for this subdivision and may be impossible for you to obtain at a reasonable cost. Your lot will be accessible, if at all, only by unpaved roads which will not be maintained. The use of such roads may be impossible without maintenance. Your lot has virtually no use at present or in the foreseeable future.

(e) For contracts for the sale of lots to or on which neither respondents nor any other party is legally obligated to provide any improvements, add the following in lieu of all of the above:

This completely undeveloped land is being sold 'as is'. Electricity, water, sewer, and telephone service are not planned for this subdivision and may be impossible for you to obtain at a reasonable cost. No roads are planned and your lot is probably inaccessible by conventional transportation. Your lot has virtually no use at present or in the foreseeable future.

(f) For contracts for the sale of lots in any of respondents' properties in which purchasers are required to join an improvement association which is obligated to spend accumulated funds for improvements to and services for lots such as, but not limited to, central water and sewer systems, telephone and electrical services, road maintenance and paving, add the following:

You are obligated by this contract to join and make regular payments estimated to be (estimated annual cost) to (name of association). The (name of association) is legally obligated to (name of selling respondent), but not to you, to use such funds to provide utilities and other improvements to and services for your lot. However, you must meet certain additional payments, as set forth in the contract, before you request these utilities, improvements, and services.

(g) For purposes of providing additional information to purchasers, respondents may advise purchasers of which governmental approvals have been granted in the past for private wells and spetic tanks. This subsection,

(g) shall be in addition to disclosures required by Sections

(2) (a) and (b), and not in lieu thereof.

If respondents fail for any reason to make the disclosures required by this paragraph, they shall refund to each purchaser to whom the disclosures were not made all monies paid by such purchaser under the terms of the land sales contract when requested to do so by such purchaser.

IV

It is further ordered, That respondents, their successors and assigns, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the sale of land in their three subdivisions, shall provide all improvements, amenities, and facilities described in the HUD Property Reports in effect on the date of sale and the additional improvements described below. Said requirements shall include both new construction and repair of existing improvements which are in a state of disrepair or were improperly constructed.

Improvements and amenities to be constructed at the respective subdivisions shall include, but not be limited to, the following:

1. Cordes Lakes

a. All subdivision roads, culverts and other drainage structures shall be constructed to minimum Yavapia County specifications, as those specifications required at the time construction began.

b. A low water crossing and an alternative access road for emergency use by residents of Units 5 and 6 to reach the main highway during flood stages of Big Bug Creek. The location of this access road shall be mutually agreed upon by respondents and the property owners' association.

c. All water lines shall be placed underground.

d. Drain, de-weed, and re-fill Crystal Lake. Crystal and Bass Lakes shall be filled and maintained at the highest level attained since their construction. Where modification of the water supply system is required to maintain this level, said modifications shall be accomplished.

e. All improvements and amenities set out in the Property Report, Notice and Disclaimer by Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, OILSR No. 0-0162-02-27(A) dated September 10, 1973, shall be completed using accepted construction standards for Yavapia County.

f. All construction shall be completed at Cordes Lake not later than April 30, 1977. All amenities constructed or still under construction by respondents shall not be conveyed to the property owners' association until these facilities are brought to a reasonable standard agreed to by respondents and the property owners' association. All improvements to be accepted for maintenance by the county shall be completed and accepted not later than April 30, 1977.

g. Title to all lots which have been designated as property to be dedicated for public use shall remain in respondents until such time as title is accepted by the appropriate Yavapia County or other public entity.

2. Verde Village

a. All roads in the subdivision shall be brought to Yavapia County standards for asphalt paved roads, as those standards existed when the roads were initially constructed.

b. All drainage channels, ditches, culverts and other structures and facilities shall conform to Yavapia County standards and shall be consistent with accepted engineering and construction standards for the topography of the subdivision.

c. All lots on which the owner indicates to respondents that he intends to build shall be rough graded so as to require only normal filling and grading for construction of a residential structure. This requirement terminates when the improvements are accepted by the Yavapia County Engineer.

d. The existing water distribution system shall be checked, modified and upgraded where necessary to assure reasonably uniform line pressure and discharge rates to all occupied units and those units in which lots have been offered for sale. All water lines shall be placed underground.

e. Grade and restore recreation areas, and lots along Verde River. The owners of lots adjacent to the Verde River which have been damaged by respondents' employees or agents and which have not been restored within 60 days after this order becomes final shall be offered a full refund plus the legal rate of interest, or the right of exchange, at the owner's option.

f. Respondents shall contact, within 60 days of acceptance of this order by the Commission, the owner of each occupied lot in the subdivision to determine if said owner had to bear the cost of extending water, telephone, or electrical service to his property line. Where owners had to bear the cost, respondents shall reimburse that owner for those costs in a lump sum within ten days of notification and furnishing of proof by the lot owner.

g. All improvements and amenities set out in the Property Report, Notice and Disclaimer by Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, OILSR No. 0-1024-02-144 (G) Amendment No. 1 dated September 10, 1973, shall be completed and accepted by Yavapia

County Engineer not later than June 30, 1979.

h. All construction shall be completed at Verde Village not later than June 30, 1979. All amenities constructed or still under construction by respondents shall not be conveyed to the property owners' association until these facilities are brought to a reasonable standard agreed to by respondents and the property owners' association. All improvements to be accepted for maintenance by the county shall be completed and accepted not later than June 30, 1979.

i. Title to all lots which have been designated as property to be dedicated for public use shall remain in respondents until such time as title is accepted by the appropriate Yavapia County or other public entity.

3. VALLE VISTA

a. All subdivision roads shall be constructed to match existing roads in Unit One and shall meet Mojave County specifications for paved roads, as those specifications are interpreted by the Mojave County Engineer.

b. All culverts, drainage channels and ditches shall be constructed to Mojave County Specifications, or other required governmental flood control standards.

c. All lots on which the owner has indicated to respondents his intent to build shall be rough graded so as to require only normal filling and grading for construction of a residential structure. This requirement shall terminate on December 31, 1978.

d. Where future lots are approved for sale by the appropriate State of Arizona agency, respondents shall assure that Truxton Canyon Water Company, Inc., or another state approved water company can provide sufficient potable water to satisfy the expected demand.

e. All subdivision water lines shall be underground and shall supply potable water within standards established by the Arizona Health Department and Water Commission for Total Dissolved Solids (TDS), fluorides and other impurities.

f. Respondents shall complete the 18-hole golf course, tennis court, swimming pool, shuffle board, park and other amenities as set out in the Property Report—Notice and Disclaimer by Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, dated December 17, 1974, not later than December 31, 1978.

g. Respondents shall maintain the roads, culverts and other drainage facilities, lakes, golf course, community center, swimming pool, and any other common facilities until such time as these facilities have been accepted by the County of Mojave or the subdivision property owners' association; *Provided however*, That under no circumstances shall respondents convey to the property owners' association any facility prior to those facilities meeting standards mutually agreed upon by respondents and the property owners' association. All roads, culverts and other drainage facilities, and other improvements shall be completed and accepted for maintenance by the Mojave County Engineer not later than December 31, 1978.

4. Funds advanced by respondents to the trust fund established under paragraph V of this order shall under no circumstances be used for maintenance of any common facility included in the Property Reports referred to in this paragraph prior to acceptance by the association.

5. Failure to complete construction and secure acceptance by the appropriate county engineer within the time limits set out above at each of the subdivisions constitutes a continuing violation of this order.

V

It is further ordered, That respondents, their agents, representatives and employees shall:

(1) Place in three separate trusts, for the benefit of each respective subdivision, Twenty Thousand Dollars ($20,000) per year for five years, to be divided among the three property owners' associations as follows:

a. Cordes Lakes: Eight thousand dollars ($8,000) per year.
b. Verde Village: Eight thousand dollars ($8,000) per year.
c. Valle Vista: Four thousand dollars ($4,000) per year.

Expenditures by the associations shall be limited to physical improvements and maintenance of common facilities for the general benefit of each subdivision as a whole. The trustee of these funds shall be chosen by the respective property owners' association .

(2) Within sixty (60) days after this order is final, withdraw from membership in the Cordes Lake and Verde Village property owner's associations. With respect to the Valle Vista property owners' associations. With respect to the Valle Vista property owners' association, respondents, their agents, representatives and employees shall, within sixty (60) days after this order is final, take or cause to be taken, such action as may be necessary, including but not limited to amendments to existing articles and/or by-laws of the association, which will embody the following conditions:

(a) Respondents, their agents, representatives and employees shall not control, directly or indirectly, the determination as to the use of funds placed in trust under this order, other than advising the association as to what uses said funds might be put;

(b) No present, past or future agent, representative or employee of respondents may serve as a director of the association;

(c) Respondents, their agents, representatives and/or employees shall cause to be elected as directors of the association such owners within the subdivision who are not, nor have ever been, employees, agents, or representatives of respondents, and do not have, nor have had, any relationship with respondents, their agents, representatives and employees which might tend in any way to influence and/or control, directly or indirectly the actions of such elected director, or the independent judgment of such elected directors in carrying out their fiduciary responsibilities, nor shall respondents, their agents, representatives and employees use the articles, bylaws or general corporation law to influence and/or control, directly or indirectly, the actions of such elected directors; and

(d) Respondents, their agents, representatives and employees shall withdraw from membership in the association as soon as is practicable and reasonable under the circumstances, and in no event later than one year after the date on which this order becomes final.

VI

It is further ordered, That respondents, their successors and assigns, for purposes of future litigation arising out of their land sale activities, shall forbear from relying upon or asserting as a defense, the clause in the contract or other binding instrument containing laguage to the effect that no express or implied representations have been made in connection with the sale or offering for sale of respondents' land, other than those set forth in the contract or other instrument. Further, respondents, their successors and assigns, shall cease and desist from enforcing those provisions in their contracts or other binding instruments which operate to cause the purchaser to forfeit sums paid in installments upon default of any one installment payment. This section shall apply to contracts or other binding instruments presently in force and those to be used in future land sales transactions.

VII

It is further ordered, That respondents, their successors and assigns, agents, representatives and employees shall cease and desist from endorsing, discounting, assigning or in any other manner negotiating contracts, promissory notes, or other evidences of indebtedness by purchasers of lots in their subdivisions in such a manner or to such parties as to jeopardize or cloud the title or render the title unmarketable to the purchaser upon satisfaction of the mortgage.

VIII

It is further ordered, That respondents, their successors and assigns, and agents, representatives and employees shall:

(1) Deliver a copy of this decision and order to each of their present or future salesmen and other employees, independent brokers, and all others who sell or promote the sale of lots in respondents' subdivisions.

(2) Provide each person so described in the preceding paragraph with a form, returnable to the respondents clearly stating his intention to be bound by and to conform his business practices to the requirements of this order.

(3) Inform all such present and future salesmen and other employees, independent brokers, and all others who sell or promote the sale of lots in respondents' subdivisions that respondents shall not use any person, or the services of any person, to sell or promote the sale of real estate unless such person agrees to and does file notice with the respondents that he will be bound by the provisions contained in this order. If any such person does not agree to so file notice with the respondents and be bound by the provisions of the order, the respondents shall not use such person, or the services of such person, to sell or promote the sale of real estate.

(4) Institute a program of continuing surveillance adequate to reveal whether the business operations of each of said persons so engaged conform to the requirements of this order.

(5) Discontinue dealing with the persons revealed by the aforesaid program of surveillance or by any other means who continue on their own the unfair or deceptive acts or practices prohibited by this order.

It is further ordered, That in the event that respondents transfer all or a substantial part of their business or assets to any other corporation, individual, partnership or other entity, including a transfer of all or part of the ownership interest of any or all of respondents' wholly-owned land sale subsidiary, respondents shall require said transferee to file promptly with the Commission a written agreement to be bound by the terms of this order: *Provided*, That if respondents wish to present to the Commission any reasons why said order should not apply in its present form to said transferee, they shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said business transfer. Failure to require that such transferee be bound under this order as set out in this paragraph shall be considered a continuing violation of this order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of this order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

[File No. 752 3157]

FLAGG INDUSTRIES, INC., ET AL

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Flagg Industries, Inc., and Queen Creek Land and Cattle Company.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that respondent Queen Creek Land and Cattle Company has used unfair and deceptive acts and practices to sell unimproved lots in its subdivisions in Arizona including its subdivisions at Cordes Lakes, Verde Village and Valle Vista. These practices included misrepresenting the investment potential of the land and the physical amenities and improvements planned for the subdivisions. The complaint also alleges that respondent Flagg Industries, Inc. dominates or controls the acts and practices of its subsidiary corporation, Queen Creek Land and Cattle Company, and is responsible for the acts and practices of its subsidiary.

The proposed consent order prohibits respondents from misrepresenting the investment potential of their land, the availability of a resale market for the land, the extent of development of the land, and a number of other aspects of the land alleged in the complaint to have been misrepresented to potential buyers. The proposed order also requires that the respondents affirmatively disclose the risky nature of purchasing their land, the lack of a resale market for the land, the buyer's right to cancel the transaction, and the availability or unavailability of utilities to lots, as applicable.

The proposed consent order also requires that respondents provide all improvements, amenities, and facilities described in its HUD Property Reports, and also those specifically outlined in the order, for their three, primary subdivisions—Cordes Lake, Verde Village, and Valle Vista. As of April 30, 1976, it was estimated that these improvements will require expenditures of $4.1 million by respondents. Respondents must also establish trust funds for the general benefit of these subdivisions and place in the trust a total of $100,000 over the next 5 years.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-5763 Filed 2-24-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt and Approval of Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 17, 1977. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL POWER COMMISSION

The Federal Power Commission requested emergency clearance of FPC Form 1421—Local Distribution Company Weekly Report. The information will be gathered from local distribution companies and those pipelines in imminent peril of curtailing high priority services. The information will be gathered from approximately 110 distribution and pipeline companies and we estimate it will require approximately two hours to complete this form. The companies will be requested to either telephone or telegraph each Monday or Tuesday of every week the information contained therein to the ENGA office and then send a hardcopy submission. This information will then allow the Administrator to determine what priority allocations should be made. This information will provide a complete picture of the distribution of natural gas nationally so that the Administrator can allocate gas to those areas of greatest need.

The emergency clearance of this form was requested because the Administrator was not appointed until Wednesday, February 2, and until his appointment, the agency has no prior knowledge of the data needs. The Emergency Natural Gas Act Pub. L. 95-2 has an expiration date of July 31, 1977 and 50 percent of the power sources covered under this Act are exempt after April 30, 1977. Therefore, if the standard clearance of 45 days had to occur, the Administrator would not be able to obtain data from a large portion of those people subject to the Act. This could then create public harm due to the lack of knowledge about gas markets and supplies and would deprive the Administrator of full knowledge of the gas needs to properly allocate available gas to those pipelines who might have to curtail high priority users.

GAO granted emergency clearance on February 18, 1977 under number B-180228 (RO438). This clearance will expire on July 31, 1977.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-5731 Filed 2-24-77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 9, 1977. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notise is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

The Federal Energy Administration requested emergency clearance of the proposed form FEA-P131-S-O: Survey of Sellers of No. 2 Heating Oil.

This mandatory form to be filed one time only by any firm is necessary to collect the most current product cost data and relationship to prices from sellers of No. 2 heating oil whose prices are increasing faster than FEA's national or regional price indexes or who otherwise appear to possibly be unduly increasing their profit margins during this time of short supply. When FEA decontrolled No. 2 heating oil in July 1976, it committed to Congress to monitor the prices of No. 2 heating oil and set up a trigger

mechanism to reinstate controls or take other remedial actions should prices nationally or in any one region exceed these prices projected as if controls had remained plus a flexibility factor of 2 cents per gallon.

Initial respondents to the form FEA–P131–S–0 in the Northeast and North Central regions will be selected from the universe of Stratum 1 for the form FEA–P112–M–1, No. 2 Heating Oil Supply/Price Monitoring Report. Stratum 1 is comprised of 230 companies reporting national total annual sales of 10,000,000 gallons or more of No. 2 heating oil. FEA may invite the governors of the Northeast and North Central states to identify a limited number of additional sellers of heating oil who appear to possibly be increasing their profit margins during this time of short supply. It is estimated that this one-time report will carry a burden of three to five hours per report. Due to the relative similarity of the FEA–P131–S–0 data to that filed on the FEA–P112–M–1 and the familiarity of all the firms with FEA regulations in effect, the data required on the FEA–P131–S–0 should be readily available with the exception of a couple of questions. The purpose of the FEA P131–S–0 reporting system is to ascertain whether price increases by the selected respondent firms are cost justified.

Upon approval by GAO the form FEA–P131–S–0 will be mailed or telegraphed to up to 500 respondents. Each firm will be required to file with the FEA within approximately the following two-week period, the date to be specified upon GAO approval. The respondent burden is estimated to be 3–5 hours per report.

If prices in either region exceed the index price for the week of February 5 or February 12 (which is possible and perhaps probable) FEA would be required to have held hearings and taken action by February 25 or March 4 (depending upon when the trigger is exceeded) to restore prices to below index levels by March 25 or April 4.

If emergency clearance processing were denied, the normal 45-day clearance process would mean approval of the form on or about March 29, with responses received approximately ten days later, or April 8. This would mean receipt of the data after price levels should have been returned to below index levels and two months after FEA would have been required to decide on actions to achieve the price reductions.

GAO granted clearance on February 11, 1977, under number B–181254 (S77011). This clearance will expire June 30, 1977.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–5732 Filed 2–24–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Meetings; Correction

In FR Doc. 77–4197 appearing at page 8712 in the FEDERAL REGISTER of Friday, February 11, 1977 the following change is made: On page 8714, meeting number 9, "Anesthesiology Panel," is changed to read "Anesthesiology Advisory Committee."

Dated: February 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–5693 Filed 2–24–77;8:45 am]

ANESTHESIOLOGY PANEL

Meeting Change

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of February 11, 1977 (42 FR 8709), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Anesthesiology Panel scheduled for March 22, 1977, has been rescheduled for March 23, 1977, in Rm. 1813, FB–8, 200 C St. SW., Washington, DC., with the open session beginning at 8:30 a.m.

Dated: February 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–5690 Filed 2–24–77;8:45 am]

PULMONARY FUNCTIONS AND RESPIRATORY THERAPY SUBCOMMITTEE OF THE ANESTHESIOLOGY PANEL

Meeting Change

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of February 11, 1977 (42 FR 8709), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Pulmonary Functions and Respiratory Therapy Subcommittee of the Anesthesiology Panel scheduled for March 23, 1977, has been rescheduled for March 22, 1977, in Rm. 1813, FB–8, 200 C St. SW., Washington, D.C. with the open session beginning at 8 a.m.

Dated: February 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–5691 Filed 2–24–77;8:45 am]

[Docket No. 76P–0418]

RADIOLOGIC SCIENCES, INC.

Approval of Variance for Diagnostic X-ray System

Notice is hereby given that a variance from § 1020.31(h)(2) (21 CFR 1020.31(h)(2)) of the performance standard for diagnostic X-ray systems and their major components has been approved by the Director, Bureau of Radiological Health, Food and Drug Administration. The variance has been granted to Radiologic Sciences, Inc., 2920 Coronado Drive, Santa Clara, CA 95051, for mobile X-ray systems designed for magnification radiography.

The variance is approved under § 1010.4 (21 CFR 1010.4), which concerns granting variances for electronic products for which there are performance standards promulgated under section 358 of the Public Health Service Act, as added by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f).

The variance will apply to mobile X-ray systems designed for magnification radiography employing the MFX X-ray Tube. Both the X-ray systems and the MFX X-ray Tube are marketed by Radiologic Sciences, Inc. The MFX X-ray Tube has a small focal spot designed for direct magnification radiography. Section 1020.31(h)(2) requires that mobile or portable X-ray systems other than dental shall be provided with means to limit the source-to-skin distance, i.e., the distance between the X-ray tube focal spot and the point where the X-ray beam axis enters the patient, to not less than 30 centimeters. The mobile X-ray systems manufactured under this variance will deviate from the requirement of § 1020.31(h)(2) in that the systems will be provided with means to limit the source-to-skin distance to not less than 15 centimeters.

Direct radiographic magnification is a method of obtaining geometric enlargement of a radiographic image by using a small X-ray source in conjunction with increasing the distance between the object being imaged and the X-ray film or other image receptor. The amount of magnification is given by the ratio of the distance between the X-ray tube focal spot and the image receptor to the distance between the focal spot and the imaged object.

The applicant has stated that, because of its homogeneous, wide-angle X-ray field and the small size of the focal spot, the MFX X-ray Tube is especially suited for magnification radiography. However, because of the low tube output, systems employing it must use short focal spot to image receptor distances to obtain magnified images. Use of this tube at longer focal spot to image receptor distances would require long exposure times, resulting in image blurring due to patient motion.

The source-to-skin distance requirement of § 1020.31(h)(2) is based on the potential for increased patient skin exposure associated with X-ray exposures made at short source-to-skin distances.

The applicant has stated that systems manufactured under the variance will be capable of magnification radiography using fast film-screen combinations at radiation exposures comparable to those encountered in conventional radiography.

The Director has concluded that the mobile X-ray systems to be marketed under the variance provide suitable radiation protection and are intended for a special purpose that cannot be accomplished with equipment meeting all requirements of the standard. Therefore, the Director has approved the requested variance under the following conditions:

1. In lieu of the requirement of § 1020.31(h)(2), systems manufactured under this variance shall be provided with means to limit source-to-skin distance to not less than 15 centimeters.

2. The information provided to users pursuant to § 1020.30(h) (21 CFR 1020.30(h)) shall contain, as part of the adequate instructions concerning radiological safety procedures and precautions that may be necessary because of unique features of the equipment, the following: (a) A warning concerning the potential for, and hazards of, increased patient X-ray exposure associated with radiographic techniques employing short source-to-skin distances, such as those required for magnification radiography; (b) a discussion of recommended procedures for obtaining magnification radiographs with minimum patient exposure, including information on recommended imaging systems; (c) recommended technique factors for a representative sample of magnification radiography examinations for which the systems are designed, including data on tabletop or skin exposures resulting from these technique factors.

The Director has concluded that under the conditions provided for in paragraphs 1 and 2 above, mobile X-ray systems designed for magnification radiography marketed by the applicant will use suitable means for providing radiation protection; therefore the variance is granted for a period of 2 years, in accordance with the provisions of § 1010.4 (a)(2). The applicant has been directed to modify, in accordance with § 1010.4 (d), the tags, labels, or other certification required by § 1010.2 (21 CFR 1010.2), which are permanently affixed to or inscribed upon products marketed under this variance, to state the following:

This product complies with Variance No. 76001, effective on March 28, 1977.

The Commissioner of Food and Drugs has reviewed the potential environmental impact of this variance and has concluded that the action will not significantly affect the quality of the human environment and that an environmental impact statement is not required. A copy of the environmental analysis report is on file in the office of the Hearing Clerk, Food and Drug Administration.

Variance No. 76001 shall become effective on March 28, 1977, and terminate on March 27, 1979, unless written objections and supporting information are filed with the Hearing Clerk, Food and Drug Administration, on or before March 28, 1977, requesting that the variance be modified or not granted. Upon receipt of such objections and supporting documentation, the effective date of the variance will be stayed until the Director, Bureau of Radiological Health, rules on them. Pursuant to § 10104(c)(3), the applicant shall be notified by certified mail, and a notice of the stay shall be published in the FEDERAL REGISTER. The ruling on the objections shall be made within 60 days, shall be published in the FEDERAL REGISTER, and shall constitute final agency action subject to judicial review under section 358(d) of the act.

The application for this variance and all related correspondence, except information covered by the confidentiality provisions of section 360A(c) of the act (42 U.S.C. 263i(c)), have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen Monday through Friday from 9 a.m. to 4 p.m. except on Federal legal holidays.

Dated: February 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5533 Filed 2-24-77;8:45 am]

[FDA-225-77-1000]

REGULATORY INVESTIGATIONS INVOLVING DRUG, PESTICIDE, AND INDUSTRIAL CHEMICAL RESIDUES IN ANIMAL FEEDS AND IN MEAT AND POULTRY

Memorandum of Understanding With the Oregon State Department of Agriculture; Correction

In FR Doc. 77-1 appearing at page 856 in the FEDERAL REGISTER for Tuesday, January 4, 1977, the expiration date in the third column in paragraph "IV. *Term of Understanding.*" is corrected by changing "January 15, 1977" to read "November 1, 1977."

Dated: February 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-5692 Filed 2-24-77;8:45 am]

Office of the Assistant Secretary for Health

PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

Designation of Health Specialties and Stipend Amount

Section 225 of the Public Health Service Act (42 U.S.C. 234) directs the Secretary of Health, Education, and Welfare to establish the Public Health and National Health Service Corps Scholarship Training Program to obtain physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and other units of the Public Health Service. In implementation of this authority, regulations were published on May 22, 1974 (42 CFR Part 62).

Section 62.6 of such regulations provides that the Secretary will from time to time designate and publish in the FEDERAL REGISTER those health-related specialties for which the Service has need and for which such scholarship support will be available, as well as the amount of the scholarship stipend. Pursuant to § 62.6, physicians were designated for this purpose, as indicated in the FEDERAL REGISTER of July 1, 1974 (39 FR 24259), and dentists were designated for this purpose, as indicated in the FEDERAL REGISTER of July 27, 1976 (41 FR 31219).

Notice is hereby given that nurses also are designated as health specialists for which scholarship support is available under the Public Health and National Health Service Corps Scholarship Training Program. Further, the gross stipend amount to be paid to medical (M.D. and D.O.), dental, and nursing students under the program is $6,750 for any 12-month period of scholarship award.

Dated: February 17, 1977.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

[FR Doc.77-5723 Filed 2-24-77;8:45 am]

National Institutes of Health

RECOMBINANT DNA MOLECULE PROGRAM ADVISORY COMMITTEE

Workshop

Notice is hereby given of a Workshop on Safer Hosts and Plasmid Vectors Sponsored by the Recombinant DNA Molecule Program Advisory Committee at the National Institutes of Health, Bethesda, Maryland 20014, Building 31C, Conference Room 7, March 14, 1977, from 9:00 a.m. to 5:00 p.m.

Further information may be obtained from Dr. William J. Gartland, Executive Secretary, Recombinant DNA Molecule Program Advisory Committee, Building 31, Room 4A52, telephone 301/496-2323.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: February 18, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-5685 Filed 2-24-77;8:45 am]

RECOMBINANT DNA MOLECULE PROGRAM ADVISORY COMMITTEE

Workshop

Notice is hereby given of a Workshop on Revision of the Guidelines Sponsored by the Recombinant DNA Molecule Program Advisory Committee at the National Institutes of Health, Bethesda, Maryland 20014, Building 1, Room 114, March 17, 1977, from 9:00 a.m. to 5:00 p.m.

Further information may be obtained from Dr. William J. Gartland, Executive Secretary, Recombinant DNA Molecule Program Advisory Committee, Building 31, Room 4A52, telephone 301/496-2323.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: February 18, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-5686 Filed 2-24-77;8:45 am]

Office of Assistant Secretary for Education

NATIONAL CENTER FOR EDUCATION STATISTICS AND OFFICE OF EDUCATION

Comments on Collection of Information and Data Acquisition Activity

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics, and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph g(2)(B) of the "Control of Paperwork" amendment which provides that "Each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during (a) 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity."

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before March 28, 1977, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: February 22, 1977.

MARIE D. ELDRIDGE,
Administrator, National
Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ON ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Fall Enrollment in Higher Education, 1977.

2. AGENCY/BUREAU/OFFICE

National Center for Education Statistics.

3. AGENCY FORM NUMBER

NCES 2300-2.3.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"* * * The (National) Center (For Education Statistics) shall—* * * collect, collate, and, from time to time, report full and complete statistics on the condition of education in the United States * * *" (Sec. 501(a) of Pub. L. 93-380; Sec. 406(G) of the General Education Provisions Act, 20 U.S.C. 1221 e-1). The execution of Pub. L. 89-329, as amended requires the use of college enrollment data in making formula allotments in college work-study programs, state incentive grants, direct loans to students, equipment and remodeling, and others.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

a. As mentioned above, the enrollment data collected are used in the execution of Pub. L. 89-329, as amended, in making formula allotments for college work-study programs, State incentive grants, direct loans to students, equipment and modeling, and others.

b. Enrollment data are used annually by NCES to update publications: "Condition of Education," "Digest of Education Statistics," and "Projections." These data are also used in conjunction with tuition and fees information in the Basic Student Charges publications, and with the finance survey data to develop expenditures-per-student indices.

c. Enrollment data provide the most equitable way to make institution-to-institution comparisons by size and composition of the student bodies.

d. The "institutional data" publications serve as a supplement to the colleges catalogs to provide high school students and their counsellors with information about the size and composition of the student bodies of colleges and universities.

e. Enrollment data are used by other Federal agencies to verify or supplement their own specialized population data or in their fund allocation and other programs (Bureau of the Census, National Science Foundation, Department of Labor Women's Bureau, Office for Civil Rights).

f. These data are used by State postsecondary education agencies, planning and budgeting offices, and others to plan and allocate funds for postsecondary education systems within their states.

g. In the private sector, these data are used by publishers, market research firms, and others who have major markets or other interests within the postsecondary education community.

h. Enrollment data are used by postsecondary education institutions as a means of comparing themselves by size and general character of student body with other (peer or non-peer postsecondary education institutions.

i. The enrollment data are used by professional and other associations within the postsecondary education community as a means of developing profiles of their constituencies, to assess membership dues, etc.

j. These data are used by researchers not only as a major index of growth but also as a population from which to draw samples for other research.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.

b. Time of collection: October/December 1977.

c. Frequency: Annually.

8. RESPONDENTS

a. Type: Colleges and Universities.

b. Number: Universe: 3100.

c. Estimated average man-hours per respondent: 1.5.

9. INFORMATION TO BE COLLECTED

Number of students by sex, and by level of enrollment.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity: Higher Education General Information Survey and Library General Information Survey, College and University Libraries, Fall 1977, and Fiscal Year 1976 Annual Program Expenditures Report, College Library Resources Grants.

2. Agency/Bureau/Office: National Center for Education Statistics, Division of Multilevel Education Statistics.

3. Agency Form Number: NCES 2300-5.

4. Legislative Authority:

a. Part V—Fiscal Year 1976 Annual Program and Expenditures Report, College Resources Grants (Higher Education Act of 1965, Title II, Part A, Pub. L. 89-329, as amended) Section 202 "* * * a basic grant under this subsection may be made only if the application therefor is approved by the Commissioner upon his determination that the application ----------

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(3) Provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports." (20 U.S.C. 1021; 45 CFR Part 131.)

b. Part IV, Section B—Library Photocopying Transactions Per Typical Week, Fall 1977. Pub. L. 93-573, Title II, Section 201:--------

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"(b) The purpose of the National Commission on New Technological Uses of Copyrighted Works is to study and compile data on:

(1) The reproduction and use of copyrighted works of authorship (A) In conjunction with automatic systems capable of storing, processing, retrieving, and transferring information, and (B) By various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities; * * *" (Pub. L. 93-573, Title II, Section 201; 17 U.S.C. 201).

c. Part I, Section C—Library Health Sciences Collection.

"Regional branches (a) Whenever, the Secretary, with the advice of the Board, determines, that (1) In any geographic area of the United States, there is no regional medical library to serve such area;

(2) Under the criteria prescribed in section 380b-8 of this title, there is a need for a regional medical library to serve such area; and

(3) Because there is located in such area no medical library which, under the provisions of section 280b-8 of this title, can feasibly be developed into a regional medical library adequate to serve such area, he is authorized to establish, as a branch of the National Library of Medicine, a regional medical library to serve the needs of such area." (Pub. L. 84-941; 42 U.S.C. 280 a1).

"It is the policy of this part to (6) Assist in the development of a national system of regional medical libraries each of which

would have facilities of sufficient depth and scope to supplement the services of other medical libraries within the region served by it, * * *" (Pub. L. 84-941; 42 U.S.C. 280 b).

d. Part I, Section D—Library Agriculture Collection:

"Organize and coordinate a national agriculture science information system (network) for procuring, preserving, and diffusing agricultural information." (7 CFR 26.1 (10).)

e. All other parts and sections of this questionnaire:

"* * * The (National) Center (For Education Statistics) shall * * * collect, collate, and, from time to time, report full and complete statistics on the condition of education in the United States * * *" (Section 501. (a) of Pub. L. 93-380; section 406(g) of the General Education Provisions Act, Pub. L. 94-482, Title IV; 20 U.S.C. 1221 e-1.

5. Voluntary/Obligatory Nature of Response:

Part V of this form is the only obligatory part of the form, and it is only obligatory for those libraries that received a Federal grant for the Fiscal Year 1976, under the HEA, Title II-A, Pub. L. 89-239, as amended. All of the other parts of this form (Part I through Part IV), are voluntary.

6. How Information to be Collected Will be Used:

a. Part V—Fiscal Year 1976 Annual Program and Expenditure Report, College Resources Grants (Higher Education Act of 1965, Title II, Part A, Pub. L. 89-329, as amended). The data collected in this part of the form will be used by the Office of Libraries and Learning Resources of the U.S. Office of Education, in the administration of this Act. This is a report on the expenditure of Federal grant funds received in Fiscal Year 1976, under this law, and will be completed only by the libraries that received such Federal funds.

b. Part IV, Section B—Library Photocopying Transactions Per Typical Week, Fall 1977: The data collected in this part of the form will be used by the National Commission on New Technological Uses of Copyrighted Works, to help them in fulfilling their responsibilities under Pub. L. 93-573.

c. Part I, Section C—Library Health Sciences Collection: The data collected in this section of the form will be used by the National Library of Medicine to help them in fulfilling their responsibilities for the development and improvement of a national system of regional medical libraries.

d. Part I, Section D—Library Agriculture Collection: The data collected in this section of the form will be used by the National Agricultural Library to help them in fulfilling their responsibilities for the development and improvement of a national system of regional agriculture libraries.

e. All other parts and sections of this form: The data collected in all of the other parts and sections of this form will be used by the Office of Libraries and Learning Resources to help them in their planning, as well as in their checking and editing of reports submitted to them by college and university libraries. They also are necessary to provide full and complete statistics on the condition of education in the United States, not only in their absolute form as standards of measurement and comparison, and in making projections, but also in combinations with other educational variables, to calculate indexes, and to perform other analyses. In addition, these data are used by other Federal agencies, by institutions of higher education, by education agencies, associations, and organizations, by market and other research firms, by faculty groups and associations, and by individuals.

7. DATA ACQUISITION PLAN

a. Method of collection: By mail.

b. Time of collection: October 1977-January 1978.

c. Frequency: Annually.

8. RESPONDENTS

a. Type: Institutions of Higher Education.

b. Number: The universe: 3100.

c. Estimated man-hour per respondent: 3.0 man-hours.

9. INFORMATION TO BE COLLECTED

In this form, basic data are requested from college and university libraries on:

(1) Collections (e.g., number of volumes of bookstock, number of current periodical subscriptions, number of titles of microforms, number of titles of audiovisual materials, etc.);

(2) Staff (e.g., Number of hours of student assistance, number of persons and contracted salaries and wages, by sex, and by position, of library staff);

(3) Expenditures (e.g., Amount of expenditures for each major category of expenditure, such as: Salaries and wages, fringe benefits, books, periodicals, microforms, audiovisual materials, etc.); and

(4) Developmental Areas (e.g., Circulation of materials to library users, number of interlibrary loans, number of photocopying transactions, library hours and days open per week, etc.).

In addition, specific data are requested from colleges and university libraries for:

(1) The National Library of Medicine.

(2) The National Agricultural Library.

(3) The National Commission on New Technological Uses of Copyrighted Works.

(4) The Office of Libraries and Learning Resources of the U.S. Office of Education.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

A Study of Information Requirements for the National Reading Improvement Program (Task C: Special Emphasis Program Evaluation).

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Office of Planning, Budgeting, and Evaluation.

3. AGENCY FORM NUMBER

OE 520

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"* * * the Secretary shall transmit to (appropriate Congressional committees) an annual evaluation report which evaluates the effectiveness of applicable programs * * * describe the cost and benefits of the applicable program * * * identify which sectors of the public receive the benefits of such program * * *" (20 U.S.C. 1226C). Also, Part D of Pub. L. 93-380 as amended by Pub. L. 94-194 provides a one percent administrative set-aside for evaluation purposes as part of the National Reading Improvement Program funding. (20 U.S.C. 1226.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

This study is an assessment of program effectiveness. The data will be used by the Office of Planning, Budgeting and Evaluation to provide Congress and other decision-makers with an evaluation of the effectiveness of reading specialists and reading teachers in providing intensive reading instruction to elementary school children, and an evaluation of the effectiveness of intensive summer reading program in elementary schools.

7. DATA ACQUISITION PLAN

a. *Method of collection.* All questionnaires will be administered in face-to-face interviews, except for the parent instrument. This questionnaire will be sent home and collected by classroom teachers who will return them to Applied Management Sciences.

b. *Time of collection.* Questionnaires will be administered in Spring and Fall of 1977.

c. *Frequency.* Semi-annually.

8. RESPONDENTS

a. Type: Reading Specialists/Teachers—Elementary.

b. Number: 32.

c. Estimated average man-hours per repondent: .5.

a. Type: Classroom Teachers—Elementary (Experimental and Control School).

b. Number: 520.

c. Estimated average man-hours per respondent: .5.

a. Type: Librarians.

b. Number: 16.

c. Estimated average man-hours per respondent: .25.

a. Type: Students in Public Elementary Schools.

b. Number: 5,100.

c. Estimated average man-hours per respondent: .2.

a. Type: Parents of Students in Public Elementary Schools.

b. Number: 7,100.

c. Estimated average man-hours per respondent: .25.

9. INFORMATION TO BE COLLECTED

Reading Specialist.—Qualifications; Uses of test and assessment information; Coordination activities among Special Emphasis staff and regular classroom teaching staff; Role of reading specialist; Instructional groupings, strategies and materials; Provision of support services to the reading project; Use of aides; In-service training; Coordination of summer reading program with regular school reading program; Project goals and objectives; Role of project director; and Effects of the Special Emphasis Project.

Classroom Teachers (Experimental and Control).—Grade levels and content areas; Instructional groupings, strategies and materials; Use of aides or parent volunteers; Qualifications; Use of test and assessment information; Project goals and objectives; Coordination activities among Special Emphasis staff and regular classroom teaching staff; Role of the reading specialist; In-service training; and Effects of the reading program.

Librarians.—Qualifications; Coordination of library with total school reading program; Role of librarian; and Effects of the Special Emphasis Project.

Students.—Attitudes toward reading and reading instruction; Reading habits; and Attitudes toward summer school program.

Parents.—Child's attitude toward reading; Information related to the reading program provided by the school; Increase in parent volunteer activity in child's school; and Attitudes toward summer school program.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Career Education Needs Assessment Survey.

2. AGENCY/BUREAU/OFFICE

Office of Education/Office of Career Education.

3. AGENCY FORM NUMBER

OE 540-1; OE 540-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"(b) It is the purpose of this section to assist in achieving the policies set forth in subsection (a) by—

* * * * *

(1) Developing information on the needs for career education for all children; * * *

(3) Assessing the status of career education programs and practices, * * *

(4) Providing for the demonstration of the best career education programs and practices by the development and testing of exemplary programs and practices * * *" (Pub. L. 93-380, 20 U.S.C. 1865)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The data will be used by staff of the Dallas Independent School District to assess the need for career education among fourteen schools in the Dallas Urban Career Education Program. Data will be used to determine the extent to which community members and educators perceive a lack of career awareness, exploration, and preparation among students.

7. DATA ACQUISITION PLAN

a. Method of collection: Other—group administration.

b. Time of collection: Spring 1977.

c. Frequency: One-time data collection.

8. RESPONDENTS

a. Type: Principals (School), Teachers, elementary/secondary, Counselors, elementary/secondary.

b. Number: Universe in fourteen target schools.

c. Estimated average man-hours per respondent: 0.5.

a. Type: Community residents.

b. Number: Sample, 500.

c. Estimated average man-hours per respondent: 0.3.

9. INFORMATION TO BE COLLECTED

a. Principals (School), Teachers, elementary/secondary, Counselors: Information will be collected on respondent's perception of the importance of various student career education learning outcomes as well as on respondent's view of her/his own needs for training and assistance in career education. Data will also be collected on respondent's view of the success of her/his school in meeting specific educational needs of students.

b. Community residents: Information will be collected on respondent's perception of the importance of various student career education learning outcomes.

[FR Doc.77-5722 Filed 2-24-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-77-735]

BRIARBROOK FIRST SUBDIVISION, ET AL.

Hearing

In the matter of: Briarbrook First Subdivision, Briarbrook Development Corporation, and Jack L. Perry, President, Respondent, OILSR No. 0-1433-29-53, Docket No. 76-458-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) notice is hereby given that:

1. Briarbrook First Subdivision, Briarbrook Development Corporation and Jack L. Perry, President, authorized agents and officers, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448, 15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Briarbrook First Subdivision located in Jasper County, Missouri, contain untrue statements of material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 13, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. on March 23, 1977 at 2:00 p.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before March 4, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 21, 1977.

By the Secretary.

JAMES W. MAST,
Chief Administrative Law Judge.

[FR Doc.77-5699 Filed 2-24-77;8:45 am]

[Docket No. N-77-730]

CONIFER MOUNTAIN UNITS 1-9

Order Regarding Denial of Hearing Request

In the matter of: Conifer Mountain Units 1-9, Conifer Mountains, Inc. and Roy R. Romer, President, Respondent, Docket No. 76-266-IS.

In Respondent's answer and request for hearing filed November 30, 1976, the Respondent requested that the hearing be held in Colorado. The Department filed its opposition to this request on December 13, 1976. Since the Respondent's answer and request for change of venue do not show an undue burden upon the Respondent, this request is denied.

Issued at Washington, D.C., on January 4, 1977.

JAMES W. MAST,
Chief Administrative Law Judge.

HEARING

In the matter of: Conifer Mountain Units 1-9, Conifer Mountains, Inc., and Roy R. Romer, President, Respondents, OILSR No. 0-2056-05-201(A)(B), Docket No. 76-266-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Conifer Mountain Units 1-9, Conifer Mountains, Inc. and Roy R. Romer, President, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448)(15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 4, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Conifer Mountain Units 1-9, located in Jefferson County, Colorado, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 30, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. on March 15, 1977 at 2:00 p.m.

5. The following time and procedure is applicable to such hearing: The parties

are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before February 22, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 19, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-5695 Filed 2-24-77;8:45 am]

[Docket No. N-77-736]

GLENWOOD FOREST

Hearing

In the matter of: Glenwood Forest, Berkeley Development Corporation and Gilbert R. Clarke, President, Respondent, OILSR No. 0-2806-57-17, 76-360 IS.

Pursuant to 15 U.S.C. 1706(d) and 24 C.F.R. 1720.160(b) Notice is hereby given that:

1. Glenwood Forest, Berkeley Development Corporation and Gilbert R. Clarke, President, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 24, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Glenwood Forest, located in Berkeley County, West Virginia, contain untrue statements therein not necessary to make matrial facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 10, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, SW, Washington, D.C. on March 31, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before March 2, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 21, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-5698 Filed 2-24-77;8:45 am]

[Docket No. N-77-729]

LEILANI ESTATES, UNIT 2

Hearing

In the matter of: Leilani Estates, Unit 2, Leilani Development, Inc. and Richard H. Millen, Esq. Secretary and General Counsel, Respondents, OILSR No. 0-0539-14-11, 76-376-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Leilani Estates, Unit 2 and Leilani Development, Inc. and Richard H. Millen, Secretary and General Counsel, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued December 13, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710, 45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Leilani Estates, Unit 2, located in the District of Puna, Hawaii County, Hawaii, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 30, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, SW, Washington, D.C. on March 14, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before February 18, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 19, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-5696 Filed 2-24-77;8:45 am]

[Docket No. N-77-732]

LENAPE HILLS

Hearing

In the mater of: Lenape Hills, Deltar Development, Inc. and Pat DeLuca, President, Respondent, OILSR No. 0-3978-44-289, 76-367-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Lenape Hills, Deltar Development, Inc. and Pat DeLuca, President, authorized agents and officers, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448 (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued December 7, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Lenape Hills, located in Monroe County, Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 17 and 22, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, SW., Washington, D.C. on March 22, 1977 at 2:00 p.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before March 1, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 19, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-5702 Filed 2-24-77;8:45 am]

[Docket No. N-77-733]

OCEAN ACRES

Hearing

In the matter of: Ocean Acres, Ocean Acres, Inc. and Werner Thiessen, President, Respondent, OILSR No. 0-2335-35-11, Docket No. 76-359-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Ocean Acres, Inc. and Werner Thiessen, President, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 24, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Ocean Acres, located in Ocean County, New Jersey, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 19, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, SW, Washington, D.C. on March 23, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before March 4, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 21, 1977.

By the Secretary.

JAMES W. MAST,
Chief Administrative Law Judge.

[FR Doc.77-5701 Filed 2-24-77;8:45 am]

[Docket No. N-77-731]

SMALLWOOD ESTATES

Hearing

In the matter of: Smallwood Estates, Smallwood Estates, Inc. and Jacob Halperin, President, Respondent, OILSR No. O-2609-37-12, 76-378-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Smallwood Estates, Smallwood Estates, Inc. and Jacob Halperin, President, authorized agents and officers, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceeding and Opportunity for Hearing issued December 15, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Officer of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Smallwood Estates, located in Sullivan County, New York, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 29, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. on March 16, 1977 at 2:00 p.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before February 19, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 19, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-5697 Filed 2-24-77;8:45 am]

[Docket No. N-77-734]

WINTER PARK RANCH

Hearing

In the matter of: Winter Park Ranch, Hogan/Stevenson Realty Company, and, Mark A. Hogan, President, Respondent, OILSR No. 0-2704-05-297, 76-364-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Winter Park Ranch, Hogan/Stevenson Realty Company and Mark A. Hogan, President, authorized agents and officers, hereinafter referred to as "Respondent",

being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 26, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d) 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Winter Park Ranch, located in Grand County, Colorado, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 16, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. on March 24, 1977 at 2:00 p.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before March 8, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 21, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc. 77-5700 Filed 2-24-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 29842 and NM 29854]

NEW MEXICO

Applications

FEBRUARY 17, 1977.

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), Transwestern Pipeline Company has applied for two 6-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 27 E.,
Sec. 7, SW¼NE¼ and SE¼SE¼;
Sec. 17, W½SW¼;
Sec. 20, NW¼NW¼.

T. 18 S., R. 29 E.,
Sec. 5, N½SW¼.

These pipelines will convey natural gas across 1.333 miles of national resource lands 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 applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-5818 Filed 2-24-77;8:45 am]

[OR 8914]

OREGON

Order Providing for Opening of Public Lands

FEBRUARY 17, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 12 S., R. 41 E.,
Sec. 13, NE¼NE¼SE¼.
T. 12 S., R. 42 E.,
Sec. 7, lots 3 and 4, E½SE¼, and W½SE¼;
Sec. 18, lots 1, 2, and 3, W½NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼.

The areas described aggregate 637.03 acres in Baker County.

2. All the minerals in the lands described in paragraph 1 hereof were and continue to be in United States' ownership and open to operation of the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws.

3. The subject lands are located approximately 18 miles southeast of the City of Baker. Elevation ranges from 3,900 to 5,100 feet above sea level, and the topography is generally steep and mountainous in character. Vegetation consists primarily of native grasses with some cottonwood and willow. In the past, the lands have been used for livestock grazing purposes, and they will be managed together with adjoining national resource lands, for multiple use.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open (except as already provided in paragraph 2 hereof) to operation of the public land laws. All valid applications received at or prior to 10:00 a.m. March 25, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-5773 Filed 2-24-77;8:45 am]

OUTER CONTINENTAL SHELF OFFICE PROTRACTION DIAGRAMS

Notice of Approval; Correction

In FR Doc. 77-3321, appearing at page 6646 in the issue for Thursday, February 3, 1977, the following change should be made:

The last Official Protraction Diagram listed on the chart on page 6646 now reading "NJ 19-10 Block Island Shelf", should read "NK 19-10 Block Island Shelf".

JUDITH B. GRESHAM,
Acting Manager, New York Outer Continental Shelf Office.

FEBRUARY 16, 1977.

[FR Doc.77-5741 Filed 2-24-77;8:45 am]

[M 141]

SOUTH DAKOTA

Transfer of Submarginal Lands to Lower Brule Indian Reservation

FEBRUARY 17, 1977.

1. Pursuant to Public Law 94-1114 (89 Stat. 577) and Sec. 2 thereof the land described in paragraph 3 of this notice, together with all minerals underlying this land, whether acquired or otherwise owned by the United States, are hereby declared to be held by the United States in trust for the use and benefit of the Lower Brule Sioux Tribe of South Dakota. The land shall be a part of the established Lower Brule Indian Reservation. These lands were submarginal lands acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and Sec. 55 of the Act of August 24, 1935 (49 Stat. 750, 781). This notice is issued under the authority delegated to me by Bureau Order No. 701, dated July 23, 1946, as amended.

2. All existing mineral leases, including oil and gas leases, which have been issued on this land will remain in force and effect in accordance with the terms and provisions of the Act under which the leases were issued. The lease files will be transferred to the Office of the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. Future rentals for these leases will be paid to and collected

by that office. Jurisdiction of these mineral leases is transferred from the Bureau of Land Management to the Bureau of Indian Affairs in trust for the Lower Brule Sioux Tribe.

3. FIFTH PRINCIPAL MERIDIAN, SOUTH DAKOTA

T. 106 N., R. 71 W.,
Sec. 8, NW¼SW¼NE¼, S½SW¼NE¼, NW¼NE¼SW¼NE¼, S½NE¼SW¼NE¼, W½W½, S½NE¼NW¼, NW¼NE¼NW¼, and SE¼NW¼.
T. 106 N., R. 72 W.,
Sec. 8, SE¼;
Sec. 9, SW¼;
Sec. 10, N½;
Sec. 16, W½;
Sec. 35, NE¼SE¼; and
Sec. 36, N½SW¼ and NW¼SE¼.
T. 106 N., R. 73 W.,
Sec. 5, Lots 5, 6, 11, and 12.
T. 107 N., R. 73 W.,
Sec. 9, W½SE¼NE¼ and W½SE¼SE¼NE¼;
Sec. 18, Lots 1 and 2, and E½NW¼;
Sec. 21, N½;
Sec. 30, Lots 3 and 4, E½SW¼ and SE¼;
Sec. 31, SE¼; and
Sec. 34, S½.
T. 108 N., R. 73 W.,
Sec. 7, Lots 2, 3, and 4, SE¼NW¼ and NE¼SW¼;
Sec. 10, SW¼SE¼, W½SE¼SE¼, and W½E½SE¼SE¼;
Sec. 15, W½NE¼, NW¼NE¼NE¼, W½SW¼NE¼NE¼, W½NW¼SE¼NE¼, and the triangular portion of the NE¼SW¼NE¼NE¼ bounded by the north and west sides and a diagonal line extending from the southwest corner thereof to the northeast corner thereof, and the triangular portion of the W½SW¼SE¼NE¼ bounded by the north and west sides and a diagonal line extending from the southwest corner thereof to the northeast corner thereof; and
Sec. 21, Lots 6, 7, 10, and 11.
T. 106 N. R. 74 W.,
Sec. 1, Lots 7 and 10.
T. 107 N., R. 74 W.,
Sec. 5, W½SW¼, SE¼SW¼, W½NE¼SW¼, N½NE¼NE¼SW¼, S½SE¼NE¼SW¼, and a triangular portion of the N½SE¼NE¼SW¼ bounded by the south and west sides and a diagonal line extending from the northwest corner to the southeast corner thereof;
Sec. 13, W½NW¼ and SW¼;
Sec. 15, NE¼;
Sec. 20, NE¼;
Sec. 24, NW¼ and N½SW¼;
Sec. 26, All;
Sec. 27, NW¼; and
Sec. 35, E½.
T. 108 N., R. 74 W.,
Sec. 1, The south 330 feet of the east 660 feet of Lot 1, S½SW¼SW¼NE¼, SE¼SW¼NE¼, SE¼NE¼, E½SE¼NW¼SW¼, E½SW¼SW¼, SW¼SW¼SW¼, E½NW¼SW¼SW¼, SW¼NW¼SW¼SW¼, and the triangular portion of the NE¼SW¼NE¼ bounded by the south and east sides and a line extending from the northeast corner thereof to the southwest corner thereof. The triangular portions of the N½SW¼SW¼NE¼ and the S½SE¼SE¼NW¼ bounded by the south and east sides and a diagonal line extending from the northeast corner of the said N½SW¼SW¼NE¼ to the southwest corner of the said S½SE¼SE¼NW¼. The triangular portion of the SE¼NE¼NW¼SW¼ bounded by the south and east sides and a diagonal line extending from the northeast corner thereof to the southwest corner thereof. The triangular portion of the W½SE¼NW¼SW¼ bounded by the south and east sides and a diagonal line extending from the northeast corner thereof to the southwest corner thereof. The triangular portion of the NW¼NW¼SW¼SW¼ bounded by the south and east sides and a diagonal line extending from the northeast corner thereof to the southwest corner thereof, and SE¼;
Sec. 2, E½SE¼SE¼SE¼, SW¼SE¼SE¼SE¼, and the triangular portion of the SE¼NE¼SE¼SE¼ and the NW¼SE¼SE¼SE¼ bounded by the south and east sides and a diagonal line extending from the northeast corner of the said SE¼NE¼SE¼SE¼ to the southwest corner of said NW¼SE¼SE¼SE¼;
Sec. 12, The north 660 feet of Lot 8, and E½NE¼.
T. 107 N., R. 75 W.,
Sec. 13, NW¼;
Sec. 19, NE¼;
Sec. 29, SE¼;
Sec. 34, E½; and
Sec. 36, SW¼.
T. 108 N., R. 75 W.,
Sec. 31, SE¼; and
Sec. 32, The south 660 feet of Lot 4, and SW¼NW¼, and W½SW¼.
T. 106 N., R. 76 W.,
Sec. 1, Lot 5 and NW¼NW¼.
T. 107 N. R. 17 W.,
Sec. 1, Lot 3 and 4, S½NW¼ and SW¼;
Sec. 8, W½;
Sec. 9, NW¼;
Sec. 12, NE¼;
Sec. 15, SW¼;
Sec. 16, N½;
Sec. 21, NE¼;
Sec. 28, E½; and
Sec. 33, NE¼.
T. 108 N., R. 76 W.,
Sec. 20, SE¼;
Sec. 22, W½E½NW¼, W½E½E½NW¼, N½NW¼NE¼SW¼, NW¼NE¼NE¼SW¼, and SE¼SW¼;
Sec. 23, SW¼, W½SW¼NW¼SE¼, W½SW¼SE¼, and SE¼SW¼SE¼;
Sec. 26, W½NE¼NE¼, SE¼NE¼NE¼, and SE¼NE¼;
Sec. 27, NE¼;
Sec. 28, All;
Sec. 32, SE¼; and
Sec. 33, N½.
T. 109 N., R. 76 W.,
Sec. 29, NE¼.
T. 107 N., R. 77 W.,
Sec. 1, S½;
Sec. 2, SE¼;
Sec. 12, NE¼;
Sec. 15, E½; and
Sec. 23, NE¼.
T. 108 N., R. 77 W.,
Sec. 10, NE¼ and SW¼;
Sec. 23, SE¼; and
Sec. 26, NE¼.
T. 109 N., R. 77 W.,
Sec. 26, SW¼.

The areas described aggregate 13,209.22 acres.

EDWIN ZAIDLICZ,
State Director.

[FR Doc.77-5740 Filed 2-24-77;8:45 am]

[U-36484]

UTAH

Notice of Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a cathodic protection station right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 3 N., R. 22 E.,
Sec. 30, lots 5 and 6.

The cathodic protection station is necessary for the protection and safe operation of Northwest Pipeline Corporation's natural gas pipeline system.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Vernal District Manager, Bureau of Land Management, P.O. Box F, Vernal, Utah 84078.

PAUL L. HOWARD,
State Director.

[FR Doc.77-5817 Filed 2-24-77;8:45 am]

[OR 14207 (Wash.)]

WASHINGTON

Order Providing for Opening of Public Lands

FEBRUARY 17, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1970), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 15 N., R. 24 E., sec. 16.
T. 11 N., R. 31 E., sec. 36.

The areas described aggregate 1,280 acres in Grant and Franklin Counties.

2. The subject lands consist of two parcels, each containing 640 acres. The parcel in Grant County is located in the Saddle Mountains approximately 35 miles southwest of the Town of Moses Lake. Elevation ranges from 1,750 to 2,200 feet above sea level, and the topography is generally rolling and undulating. Vegetation is sparse and consists primarily of sagebrush and native grasses. The parcel in Franklin County is located in the Juniper Forest area approximately 15 miles northeast of the City of Pasco. Elevation ranges from 780 to 1,000 feet above sea level, and the topography is generally rolling. Vegetation is sparse and consists primarily of sagebrush and native grasses. In the past, the lands have been used for livestock grazing purposes, and the parcel in Franklin County also has outdoor recreational values. The lands will be managed, together with adjoining national resource lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. March 25, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be adressed to the Chief, Branch of Lands and Minerals Operations, Bu-

leasing laws. All valid applications received at or prior to 10:00 a.m. March 25, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-5774 Filed 2-24-77;8:45 am]

Bureau of Reclamation

TOUCHET DIVISION, WALLA WALLA PROJECT, WASHINGTON

Public Hearing on Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Touchet Division, Walla Walla Project, Washington. This statement (INT DES 77-3, dated February 3, 1977) was made available to the public on February 7, 1977.

The draft environmental statement describes the nature and extent of the environmental impact of the proposed project. Principal features would be Dayton Dam and Reservoir on the Touchet River about 4.5 miles southeast of the city of Dayton. The Touchet Division would provide an irrigation water supply, enhancement of fish resources, additional water-related recreation opportunities, and flood control.

Public hearing sessions will be held in Dayton, Washington, in the Multipurpose Room of the Dayton Elementary School on Monday, March 28, at 7:30 p.m., and in Walla Walla, Washington, in the China Pavilion on the Walla Walla Community College campus on Tuesday, March 29, at 7:30 p.m. These hearing sessions are provided to receive views and comments from interested organizations and individuals relating to the environmental impacts of the proposed action. Oral statements at the hearing will be limited to a 10-minute period for each individual. Speakers will be encouraged not to trade their time to obtain a longer oral presentation, however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comments after all persons desiring to comment have been heard. The speaking order at the hearing will be determined by the order in which the letter requests are received by the Bureau of Reclamation. Requests for scheduled presentation will be accepted up until 5:00 p.m., on March 25, 1977. Requests to make oral statements will also be accepted during each session of the hearing, and persons making those requests will be permitted to speak for 10 minutes on a first-come-first-served basis after each person who submitted a letter request has been permitted to make an initial presentation.

Organizations or individuals desiring to present their statements at the hearing should write to the Regional Director, Attention code 160, Pacific Northwest Region, Bureau of Reclamation, Department of the Interior, Box 043, 550 West Fort Street, Boise, Idaho 83724, or telephone (208) 384-1208, and announce their intention to participate. Written comments for those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received by April 5, 1977.

Dated: February 23, 1977.

D. D. ANDERSON,
Acting Commissioner.

[FR Doc.77-5892 Filed 2-24-77;8:45 am]

Fish and Wildlife Service

BERNETTE M. FREDIN

Receipt of Application for Endangered Species Permit

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Bernette M. Fredin, R.R. 1, Gaylord, Minnesota 55334.

OMB NO. 42-R1479

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)

☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.

To be able to buy 1 pair Brown-eared pheasant to propagate in order to insure their survival on my game farm.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)

Bernette M. Fredin
R. R. 1
Gaylord, Minn. 55334
Phone - (612) 237-2038

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☐ MR. ☐ MRS. ☐ MISS ☐ MS. widow

HEIGHT	WEIGHT
5'4	126

DATE OF BIRTH	COLOR HAIR	COLOR EYES
Sept. 19, 1931	Brown	Hazel

PHONE NUMBER WHERE EMPLOYED: (612) 237-2038
SOCIAL SECURITY NUMBER: 469-32-7253
OCCUPATION: Housewife - care taker of game farm

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

Does not apply

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:

EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

Does not apply

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

Does not apply

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

Does not apply

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED

(a) On my 10 1/2 acres of land all devoted to wildlife at Gaylord, Minn. R.R. 1 - Sec. 33 New Auburn Township - Sibley Co. (b) I'm buying 1 pair Brown-eared pheasants and shipping interstate from Dr. D.A. Christenson of Kendrick, Idaho 83537

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO

(If yes, list license or permit number(s))

Federal Waterfowl No. 3-P.R.-19
Minn. State No. - 346

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO

(If yes, list jurisdictions and type of documents)

I hold a commercial propagating license issued by the State of Minn. and also a State of Minn. game farm license - 346

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

$

10. DESIRED EFFECTIVE DATE: soon

11. DURATION NEEDED

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

50 C.F.R. Part 17 - 22 - permits for scientific purposes or for the enhancement of propagation or survival.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Bernette M. Fredin

DATE: Oct. 5 the 1976

3-200
16-761

miles - If for any reason there is a question or you need a clearance on me feel free to contact my local Game Warden Mr. Paul Hoppe, Gaylord, Minn. His Phone No. 612 - 864 - 5735

(1) Pheasants: Brown-eared (*Crossoptilon mantchuricum*) 1 male, 1 female; hatched in 1976. Would like to purchase one pair. Would like to be able to buy and sell the above for propagation purposes, and to get new blood to keep the stock strong.

(2) (iii) Wildlife-born in captivity.

(3) By purchasing the above pheasants that were raised in captivity, from breeders in the States, the wild population will not be affected.

(4) The Brown-eared pheasants I would like to purchase were raised in captivity by Dr. D. A. Christenson, Kendrick, Idaho 83537.

(5) The birds will be kept at my place. The aviaries are 36 (w) × 375 (l) × 12 high.

(6) (i) Pens are, 12×10×8 high. The smaller pens are 12×9×6 high. Each pen is covered with 1" wire and boarded up —— ft. on the bottom. The pens are located on a 3 acre lot with plenty of trees for shade. See photos.

(ii) I've been raising different species of pheasant for 17 years. I have raised young from species such as Tragopans, Imperials, Edward's, Silver, Golden, Mikado, Blue-eared, Brown-eared, etc.

(iii) I would be more than willing to cooperate in a breeding program and keep accurate records as I believe the only reason some species exist today is from the dedicated people who raised them in captivity.

(iv) The containers used for shipping are standard pheasant crates. Feed and water are placed in each box; the duration the birds would be in a box would be not over 36 hours.

(v) I have been very fortunate that I have lost very few birds. I believe my losses have been much less than the average breeder. I have had some problems with predators in the past, but the pens are now as predator-proof as I can make them. I have learned from by experiences and when I have lost an occasional bird in the past, I take steps to try to make sure that it would not happen again.

(7) There are no contracts or agreements. As stated before, if I get the permit I do plan to purchase a pair of Brown-eared pheasants from Dr. D. A. Christenson, Kendrick, Idaho 83537.

(8) (i) I plan on keeping, breeding, buying and selling for propagation only Brown-eared pheasants.

(ii) and (iii) I will supply adequate pens, housing, feed and care to insure the birds contentment in captivity, in order that they will breed—to keep the species going, so that when I speak of Brown-eared pheasant my grandchildren will know what I'm talking about because they saw them alive. With the growing world population the only way any of these birds will be saved is by captive propagation.

(iv) If I should decide to quit raising birds I would sell them to other breeders whom I felt were capable of raising them. However, since my love for raising pheasants is great I feel that this is a very remote possibility.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-450-07; please refer to this number when submitting comments. All relevant comments received on or before March 28, 1977.

Dated: February 22, 1977.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office,
U.S. Fish and Wildlife Service.

[FR Doc.77-5705 Filed 2-24-77;8:45 am]

BERNETTE FREDIN

Receipt of Application for Endangered Species Permit

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Bernette Fredin, Rural Route 1, Gaylord, Minnesota 55334.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Authorization to engage in interstate commerce of seven endangered pheasants which have been determined to exist in Captive Self-Sustaining Populations" within the U.S.; for a period of 2 yrs. (1) Brown-eared (Cross mantichuricum), (2) Edwards (Lophura edwardsi), (3) Bar-tailed (Syrmaticus mikado) (5) Palawan Peacock (polyplectron emphanus) (6) Elliots (syrmaticus humiae) (7) White eared (crossoptilon drouyni)

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Bernette Fredin
Rural Route 1
Gaylord, MN 55334
612-237-2038

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☒ MRS. ☐ MISS ☐ MS.
HEIGHT: 5-7 WEIGHT: 130
DATE OF BIRTH: 9-19-31
COLOR HAIR: Brown COLOR EYES: Hazel
PHONE NUMBER WHERE EMPLOYED: 612-237-2038
SOCIAL SECURITY NUMBER: 469-32-7353
OCCUPATION: Aviculturalist
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: None

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: N.A.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: N.A.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: N.A.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Rural Route 1
Gaylord, Minnesota 55334
612-237-2038

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s))
State - 346
Federal - 3-P, R, -19

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents)
none required

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ N.A.

10. DESIRED EFFECTIVE DATE: date of issuance

11. DURATION NEEDED: 2 years

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.33

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Bernette Fredin
Bernette Fredin
DATE: Dec. 30

3-200
8/76

ATTACHMENT 17.33 TO PERMIT REQUEST

(1) A "Captive Self-Sustaining Population" permit is requested for the following species of pheasants:

(1) Brown-eared pheasant (*Crossoptilon mantichuricum*).

(2) White-eared pheasant (*Crossoptilon crossoptilon drouyni*).

(3) Bar-tailed pheasant (*Syrmaticus humiae*).

(4) Mikado pheasant (*Syrmaticus mikado*).

(5) Palawan peacock pheasant (*Polyplectron emphanum*).

(6) Elliot's pheasant (*Syrmaticus ellioti*).

(7) Edwards pheasant (*Lophura edwardsi*).

The applicant seeks a permit to authorize an unlimited number of transactions through interstate commerce over a 2 year period of time for the 7 species of pheasant listed above in this paragraph, with the permit being subject to renewal according to section 13.24.

(2) The applicant possesses 21 aviaries, approximate size 36 ft. wide (large breeder barn), 375 ft. long and 12 ft. high (with center aisle) all of which are sheltered. All aviaries are predator proof employing heavy gauge wire and sheet metal roofing. 7 acres of land are used at present with an additional 3½ acres available. Photos are attached.

(3) Applicant has been propagating pheasants for 17 years. I have already raised many of the pheasants referred to in this permit application. My aviaries contain different species of pheasants. The collection is considered one of the most complete in the state of Minnesota.

The applicant is an active member of many wildlife organizations including:

(1) American Pheasant & Waterfowl Society.

(2) Game Bird Breeders Cooperative Federation.

(3) Minnesota Pheasant and Waterfowl Society.

(4) The applicant is willing to participate in a cooperative breeding program and to contribute data for a stud book.

(5) The applicant will use standard shipping crates for pheasants. She has already shipped or received pheasants throughout the United States with negligible loss. Food and water will be included in crates when necessary.

(6) Among the hundreds of pheasants the applicant possesses or has bred only a negligible loss has occurred. The losses have been due to a mink getting into one of my pens.

(7) (i) The applicant is making this application to gain authorization to engage in interstate commerce with the 7 pheasants listed under #1. This will enable the applicant to dispose of progeny raised each year to qualified breeders and thereby recover all costs invested in the above species. This will also increase the "captive self-sustaining population" of each of the species involved and thereby enhance their overall chances for survival. The applicant also contends that this will better the probability of reintroduction into their natural habitats when environmental and political situations will allow such action.

(ii) Upon termination of my breeding program, those birds covered by the permit as well as those which are not will be distributed among qualified breeders of those species concerned.

Sincerely,

BERNETTE FREDIN.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-609-25; please refer to this number when submitting comments. All relevant comments received on or before March 28, 1977.

Dated February 22, 1977.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-5706 Filed 2-24-77;8:45 am]

NATIONAL PARK SERVICE

Receipt of Application for Endangered Species Permit

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: National Park Service, Hawaii Volcanoes National Park, Hawaii 96718.

OMB NO. 42-R1335

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To salvage and mark Corvus tropicus, Hawaiian Raven/Crow, for the purpose of confined study and eventual reintroduction to restored park habitat.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
National Park Service
Hawaii Volcanoes National Park
Hawaii 96718
(808) 967-7311

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Federal managing Agency and custodian of natural resources, of which many are endangered or threatened, of Hawaii Volcanoes National Park.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
National Park Service
U. S. Fish and Wildlife Service
Hawaii State Division of Fish and Game
University of Hawaii

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Robert L. Barbee, Superintendent; (808)967-7311

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Hawaii Volcanoes National Park
Hawaii

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT ☒ YES ☐ NO
(If yes, list license or permit number)
PRT 8-352-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
N. A.

10. DESIRED EFFECTIVE DATE
Jan. 1, 1977

11. DURATION NEEDED
Five years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR, 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE
John A. L. Sailer

DATE
10/8/76

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, D.C., July 16, 1976.

Memorandum to: Director, U.S. Fish and Wildlife Service. Attention: Chief, Division of Law Enforcement.

Through: Assistant Secretary for Fish and Wildlife and Parks.

From: Associate Director, National Park Service.

Subject: Endangered Species Permit Application: Hawaiian Crow (*Corvus tropicus*), Hawaii Volcanoes National Park.

Enclosed is a permit application for the National Park Service to salvage and mark *Corvus tropicus*, Alala (Hawaiian Raven/Crow). As detailed in the enclosed proposal, this permit is needed in order to begin in Alala reintroduction program in Hawaii Volcanoes National Park habitat. Because the extremely precarious status of this species, we are prepared to give the project high priority support.

In recent years the Service has been engaged in an ambitious program at Hawaii Volcanoes to restore native Hawaiian ecosystems with special attention given to rare and endangered birds and plants. As a result, ecosytems, under the onslaught of feral goats, are recovering and the endangered nene (Hawaiian goose) is being reestablished to lowland areas. Many plants on the Smithsonian Institution's preliminary list of endangered species in Hawaii are being restored to their former range. This effort is consonant with the recommendations of the Secretary of the Interior's Advisory 1963 Board of Wildlife Management of the National Parks, as well as the Endangered Species Act of 1973.

We have an acute concern for the Alala and believe that the park habitat, facilities, and biologists can make a significant contribution towards the bird's recovery. Therefore, so that we may take advantage of this year's nesting season, we would appreciate your earliest attention to this permit application. Should you have additional questions or comments, please contact either Superintendent Robert Barbee at Hawaii Volcanoes, or our Division of Natural Resources at telephone 343-6000. If it is necessary for you to correspond with Superintendent Barbee, we would appreciate copies of your correspondence with him.

In addition, you published on June 29 in the FEDERAL REGISTER, an application from Mr. Paul Banko to conduct research on the Alala. Since Mr. Banko's application does not have the official sanction of the National Park Service, we request it be denied in favor of the application submitted herein by Superintendent Barbee.

Enclosure.

JOHN E. COOK.

The following is provided in compliance with 50 CFR, 17.22:

a-(1) Alala or Hawaiian Crow/Raven, *Corvus tropicus*, to be salvaged and marked for the purpose of confined study and eventual reintroduction to restored Hawaii Volcanoes National Park habitat. Up to 10 excess nestlings which in all probability will not survive[1] and any individuals of any age which are heavily parasitized, injured, vulnerable to imminent predation or otherwise disabled or unlikely to survive without protection or treatment will be salvaged from the wild. Sex of salvaged Alala is unspecified in that sex cannot be ascertained by examination of external characteristics.

(2) Wildlife covered by this permit are still in the wild.

(3) The world's remnant population of Alala is confined to the Big Island of the Hawaiian Islands and are unavailable other than from the wild, therefore no attempts can be made to obtain Alala elsewhere.

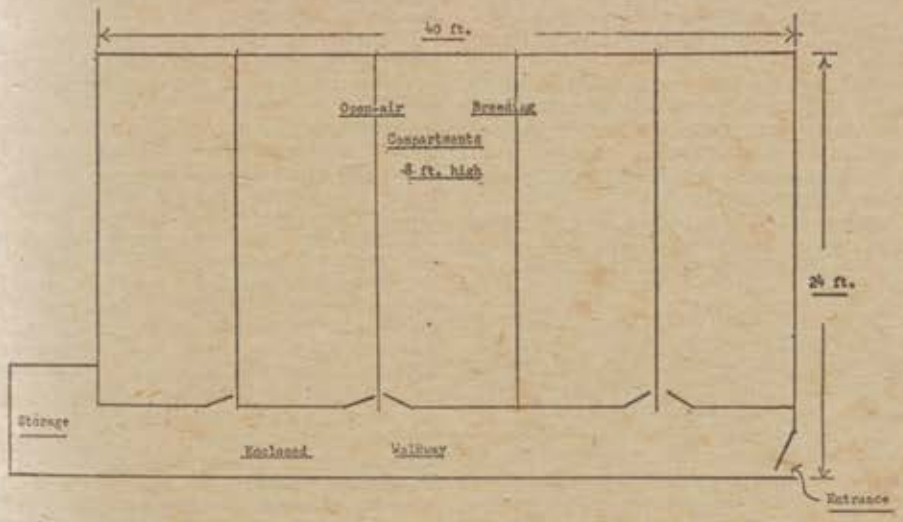
(4) N.A.

(5) Wildlife covered by this permit will be maintained in Hawaii Volcancoes National Park, Hawaii 96718, located on the Big Island of the Hawaiian Islands. The park contains approximately 220,000 acres of land which grades from sea level to over 13,000 feet elevation. Applicant is a field office of the National Park Service, U.S. Department of the Interior, charged with the management, protection and preservation of Federally owned lands, the perpetuation of the natural resources and reintroduction of extirpated species thereon within Hawaii Volcancoes National Park.

(6) i. Photographs of Alala Aviary built in 1974 by NPS and USFWS. (Photographs not reproduced.)

[1] See page 9 for more detailed information.

Floor Diagram Of NPS Alala Aviary



(6) ii. Persons or applicants staff having responsibility for care, study, and reintroduction of Alala include the following:

Mr. Ken Baker—Research Biologist, Hawaii Volcanoes National Park.
Mr. Don Reeser—Management Ecologist, Hawaii Volcanoes National Park.
Mr. Paul Banko—Biologist, Hawaii Volcanoes National Park.

The above three persons assisted USFWS in the care and maintenance of captive Alala in Hawaii Volcanoes during 1973-75.

Others providing technical expertise on applicant's staff include:

Mr. Charles Van Riper—Avian Parasitologist who will begin employment with Hawaii Volcanoes in April, 1977.
Aviculturalist—position not yet filled but person to be selected and hired during F.Y. 1977/78.
Avian Ecologist—To be hired F.Y. 1978.

iii. The applicant hereby states a willingness to participate in a captive breeding program, and to maintain or contribute to a studbook.

iv. Salvaged Alala will be kept in a 3' x 3', wood frame, ½" wire-mesh cage containing feeding and watering devices during transportation from the field to Hawaii Volcanoes National Park Aviary.

v. N.A.

(7) N.A.

(8) i-iv.

Background.—Alala (Corvus tropicus), the Hawaiian Raven or Crow, are among the world's rarest species of birds. The species is endemic to the Island of Hawaii where there are about 50 individuals in the wild according to recent population estimates. The total captive population stands at three. The species was included on the first official list of endangered wildlife compiled by the U.S. Fish and Wildlife Service in 1966.

Little information of a detailed nature has been published concerning Alala. Field investigations of recent Alala ecology, behavior, and range have been conducted by W. E. Banko and P. C. Banko from 1969 to 1975. Studies are being continued by the latter under the auspices of the World Wildlife Fund, Hawaii Natural History Association, and the U.S. Forest Service.

Because of the extremely precarious status of the relict Alala population, positive management programs are urgently needed by State and Federal conservation agencies. An Alala endangered species recovery team composed of State and Federal biologists is working on a coordinated recovery plan to reverse the decline of this species.

Objectives of Hawaii Volcanoes National Park Master Plan (approved November 7, 1975) relevant to Alala management are:

Protect the park's remnant Hawaiian ecosystems—including endangered species—from further depredation and competition by those exotic animals and plants introduced by modern man.

Reestablish the park's endemic species into their former ranges, concentrating efforts on those species which are in danger of extinction, and those that are key components of major native ecosystems.

Hawaii Volcanoes National Park's Resource Management Plan (approved 1975) is more specific:

The remnant population of Hawaiian crow is too far removed from the park to naturally repopulate this area even if we are able to restore park habitats. After habitats are well along to recovery we will seek assistance from endangered species biologists of Bureau of Sport Fisheries and Wildlife and the Hawaii State Division of Fish and Game in developing remaining alternatives to restore crow populations to this former range, if the species is still surviving at that time.

Also pertinent to this proposal is Section C-7 of the 1975 Memorandum of Understanding between the NPS and USFWS which reads in part:

". . . The Fish and Wildlife Service will, as appropriate, cooperatively assist the National Park Service in carrying out the Endangered Species Program within parks administered by the National Park Service in accordance with regulations and policies of the National Park Service. The Fish and Wildlife Service will provide consultation and supportive services as prescribed in the Endangered Species Act of 1973 which will benefit special National Park Service management programs pertaining to threatened and endangered species of plants and animals."

The National Park Service has a vested interest in the survival of the Alala and has included the species in the resource management plan because the traditional breeding range of this species once extended into what is now Hawaii Volcanoes National Park. The Park is still utilized by Alala as winter range when occasional individuals wander away from their breeding territories on Hualalai and the Kona, and possibly Ka'u, slopes of Mauna Loa.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the

Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-292-07,B; please refer to this number when submitting comments. All relevant comments received on or before March 28, 1977.

Dated: February 22, 1977.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-5707 Filed 2-24-77;8:45 am]

National Park Service

WESTERN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a combined public meeting and field trip of the Western Regional Advisory Committee will be held in Tucson, Arizona. The public meeting will begin at 9:00 a.m. MST on March 26, 1977, in the Montezuma Room of the Aztec Inn at 102 North Alvernon Way.

The purpose of the Western Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Western Region.

The members of the Advisory Committee are as follows:

Lewis S. Eaton, Fresno, California (Chairman).
Ben Avery, Phoenix, Arizona.
David W. Ballie, Jr. Waipahu, Hawaii.
Ed Pike, Las Vegas, Nevada.
Bernard Fontana, Tucson, Arizona.
Jean Ford, Las Vegas, Nevada.
Sonya Thompson, Agoura, California.
Jack Walston, San Marino, California.
Todd Watkins, Bishop, California.

Friday morning, March 25, at 9:00 a.m. the field trip will begin to Tumacacori National Monument to provide the Committee with an on-site presentation of the problems associated with cultural resources management with specific relation to adobe preservation. Additional mission sites may be visited depending upon time available.

Saturday morning, March 26, at 9:00 a.m. the public meeting will begin with the primary subject of natural resources management with the focus on burro management.

The entire meeting will be open to the public. Any member of the public will also be able to file, with the committee, a written statement concerning the matters to be discussed.

Due to a lack of space available, only the Advisory Committee members and the associated National Park Service personnel will be provided transportation for the field trip portion of the meeting. However, the public may accompany the group on the tour in their own vehicles.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Ray C. Foust, Executive Assistant to the Regional Director, Western Regional Office at (415) 556-8227.

Copies of the resolutions as a result of this meeting will be available for public inspection four weeks after the meeting at the Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102.

LYLE H. MCDOWELL,
Acting Regional Director, Western Region.

FEBRUARY 11, 1977.

[FR Doc.77-5800 Filed 2-24-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-102]

COLEMAN AND RUNYON COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Coleman and Runyon Coal Company, P.O. Box 2728, 134 Dixie Bldg., Pikeville, Kentucky 41501, has filed a petition to modify the application of 30 CFR 75.1710, canopies or cabs; electrical face equipment, to its No. 4 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that the installation of canopies on its equipment is creating a hazard to the equipment operators.

2. Petitioner's haulage equipment consists of five Elkhorn and S & S scoops, the roof bolting machines are Paul's, Acme, and Epling, various loading machines, and four Epling tractors.

3. The mine is in the No. 2 Elkhorn seam and ranges from 38 to 45 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from rubbing against the roof and possibly destroying roof support. This only allows a 23-inch vertical operating compartment thus limiting the vision of the equipment operator and creates a hazard to him as well as to the other employees in the mine.

4. Petitioner feels that since the equipment operator's vision is limited and because of the position required in order to be seated in the decks, the installation of canopies could be a contributing factor in any accident which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5742 Filed 2-24-77;8:45 am]

[Docket No. M 77-103]

COLEMAN AND RUNYON COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Coleman and Runyon Coal Company, P.O. Box 2728, 134 Dixie Bldg., Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710, canopies or cabs; electrical face equipment, to its No. 5 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that the installation of canopies on its equipment is creating a hazard to the equipment operators.

2. Petitioner's haulage equipment consists of five Elkhorn and S&S scoops, the roof bolting machines are Pauls, Acme, and Epling, various loading machines, and four Epling tractors.

3. The mine is in the No. 2 Elkhorn seam and ranges from 38 to 45 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coal bed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from rubbing against the roof and possibly destroying roof support. This only allows a 23 inches vertical operating compartment which limits the vision of the equipment operator and creates a hazard to them as well as to the other employees in the mine.

4. Petitioner feels that since the equipment operator's vision is limited and because of the position required in order to be seated in the decks, the installation of canopies could be a contributing factor in any accident which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies

of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 1, 1977.

[FR Doc.77-5743 Filed 2-24-77;8:45 am]

[Docket No. M 77-104]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861 (c) (1970), Consolidation Coal Company, 1100 Conn. Ave. N.W., Washington, D.C. 20036, has filed a petition to modify the application of 30 CR 75.1405, automatic couplers, to its Amonate Mine, located in McDowell County, West Virginia.

The substance of Petitioners statement is as follows:

1. Petitioner's mine is an old drift mine which is presently being rehabilitated for renewed coal mining operations.

2. On or about March 1, 1977, the Amonate Mine will begin to mine coal from an underground section located approximately 2 miles from the drift mouth.

3. The method of transporting coal to the surface for preparation will be by means of small (12 ton capacity) track haulage cars pulled or pushed by a locomotive.

4. Petitioner presently has a tipple under construction near the Amonate Mine. The tipple will include a rotary dump when it is completed in late 1977 or early 1978.

5. Until the rotary dump is complete, the only feasible means of dumping coal from each track haulage car when it reaches the surface will be by having it lifted and turned over by a large endloader stationed at Amonate's temporary dumping site.

6. After each car is dumped, it will be placed back on the track for a return trip into the mine.

7. To use this method of offloading track haulage cars, Petitioner must employ small, lightweight, fixed-wheel track haulage cars. Petitioner has 60 such cars at the Amonate Mine. None of these cars are equipped with automatic coupling devices. They are equipped with a standard link and pin coupling device.

8. Petitioner cannot use track haulage cars equipped with automatic couplers because such cars are too heavy to be lifted by the endloader for dumping and too difficult to put back on the track because they have flexible wheels.

9. In view of these special circumstances, Petitioner proposes an alternative method of complying with the intent of 30 CFR 75.1405 and 75.1405-1 which will, at all times, guarantee no less than the same measure of protection afforded the miners by such standards until such time as the rotary dump at the Amonate tipple is operational.

10. As an alternative method which will guarantee no less than the same measure of protection afforded the miners at Petitioner's mine by 30 CFR 1405 and 1405-1, Petitioner proposes the following.

11. Each track haulage car at Petitioner's mine will be permanently fitted with a ½ x 2 inches coupling lever at the appropriate end of the car. Each such lever will be positioned so that it will lift or drop the coupling pin into place without any necessity for a miner to reach or otherwise go in between cars. Each car will also be equipped with a pin latch connected to the car with a chain so that the above-described lever can be latched into a down position while cars are coupled.

12. Each track haulage car at Petitioner's mine will be permanently equipped with a link alignment bar which will enable miners to align the links on the coupler without reaching or otherwise going in between the cars.

13. Employees, who in the course of their employment will couple or uncouple track haulage cars, will be specially instructed within three working days of the approval of this petition in the proper use of the coupling device and the link alignment bar. Such special instruction period will include a demonstration of the proper use of the lever and the bar. Special instruction periods will be repeated at least every 6 months so long as the levers and bars are in use.

14. New employees who in the expected course of their employment will be called upon to couple or uncouple track haulage cars will be specially instructed on the proper use of the coupling lever and the link alignment bar prior to beginning work. Each such special instruction period for a new employee will include a demonstration of the proper use of the lever and the bar.

15. Petitioner will maintain permanent records of the name of each employee who has received the special instruction or reinstruction referred to in paragraphs 13 and 14 above, the dates on which such instruction was given and the name of the instructor. Such records will be open to inspection by any MESA inspector or authorized representative of the miners at the mine office.

16. No track haulage car shall be coupled or uncoupled while it is in motion.

17. Petitioner will make the proper use of the above-described coupling devices a mandatory safety requirement at its Amonate Mine and all employees will be so instructed.

18. Petitioner will post red-letter signs in the bathhouse and at the surface dumping point to inform all employees that proper use of the above-described devices is mandatory when coupling or uncoupling cars.

19. Upon arrival of this petition, Petitioner will immediately begin to install the remote coupling and alignment devices described herein and will make every effort to complete such installation within 90 days of the date of such approval. If Petitioner encounters difficulties beyond its control and will be unable to complete installation of such devices on all track haulage cars within 90 days, Petitioner will so advise MESA and the representative of the miners in order to seek a stipulation for more time in which to complete the installation of such devices.

20. Petitioner respectfully requests that its petition to modify the application of 30 CFR 75.1405 and 75.1405-1 to its track haulage cars at its mine be granted until such time as the rotary dump at the Amonate tipple is operational.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5744 Filed 2-24-77;8:45 am]

[Docket No. M 77-89]

CRESCENT INDUSTRIES, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Crescent Industries, Inc., P.O. Box 235, Elkhorn City, Kentucky, 41522, has filed a petition to modify the application of 30 CFR 75.1710, canopies or cabs; electrical face equipment, to its Mine No. 9-C, located in Millers Creek, Kentucky.

The substance of Petitioner's statement is as follows:

1. In Petitioner's mine, operations are proceeding in a seam of coal of a height which, when mined, does not permit clearance between the top of operated equipment and the roof, adequate to allow installation of canopies for protection of operators without the creation of other and additional hazards. In the mines covered by this petition, coal seam height varies significantly within virtually all entries and crosscuts. Hazards from roof contact exist in these mines at areas where lowered coal height, rolls, dips and other seam variations result in the roof height coinciding with the height of the equipment.

2. Mining is done, in seam height 26-44 inches, by the use of a continuous miner with belt haulage, roof bolter,

and scoop. Shuttle cars transport coal from the face to the belt loading point. Mobile machine heights vary from approximately 24–32 inches. Only one section is operated.

3. Petitioner submits that the application of the regulations will result in a diminution of safety and will be impractical and dangerous.

4. Petitioner asserts that to apply the standard to its mine would result in a diminution of safety to its employees in that:

A. Undulations are constantly encountered in the coal seam.

B. As a result of the undulations in seam height the likelihood of jamming the canopy against the roof is increased. Moreover, safe clearance from the roof is not assured in that roof bolts have been and will continue to be sheared or dislodged. This creates a greater risk of roof fall and injury to miners.

C. Technology in the coal industry has not advanced sufficiently to be able to design and install canopies on existing equipment which will protect the operators in the conditions described above, insure operator vision, safe operation, and circumvent the hazards described herein.

5. An operator 5 feet 9½ inches tall will require about 36 inches clearance in which to sit erect. Considering the height of the seat above the mine floor, changes in seam height (equipment must be designed for the lowest height), thickness of the canopy, and protrusions of roof bolt heads and such added roof supports as half-headers and headers, it is not possible to design a canopy which permits the operator to sit erect. The cramped and awkward positions the operator must assume with a canopy under these conditions increases the fatigue factor.

6. Cramped and awkward operator positions cause the operator to leave the controls at times when safety is best served by his remaining at the control station. Such discomfort may also reduce the operator's alertness to nearby miners and to other equipment.

7. Working from close quarters with reduced vision may cause the operator to expose his head to danger by attempting to operate equipment with his head outside the compartment. Vision impairment itself may (in fact, is likely to) contribute to mine accidents involving equipment and personnel.

8. Changes in conditions after installation of canopies, caused by variations in seam height and undulations, result sometimes in collisions with the top, shearing roof bolts, destroying cross beams and damage to other roof support.

9. Much of the equipment employed in this mine was not manufactured or designed for the installation of canopies in low seams. Petitioner has not been able to construct or to purchase canopies which satisfy the needs for safety of the operator and of other miners.

10. In petitioning for modification of the mandatory standard herein, Petitioner is forced to request relief from all time limits set forth in 30 CFR 75.1710–1 applicable to the mine referenced above because of the conditions and variations described. The standard prescribes time limits for use of canopies based upon maximum height within a mine. Should the standard become immediately applicable throughout the mines, Petitioner is being forced to install canopies in the lower reaches of coal before other coal mines in like situations. If the different time limits were strictly applied immediately, these mines and others with similar conditions would be forced to close and remain so until workable solutions could be provided. The solution very likely will be in the hands of equipment engineers.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5745 Filed 2-24-77;8:45 am]

[Docket No. M 77-90]

EMPIRE ENERGY CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Empire Energy Corporation, 2700 River Road, Suite 400, Des Plaines, Illinois, 60018 has filed a petition to modify the application of 30 CFR 75.303(a), preshift examination, to its Wise Hill No. 5 Mine located in Moffat County, Colorado.

The substance of Petitioner's statement is as follows:

1. Petitioner presently employs belt walkers or examiners to physically walk and inspect all belt conveyors in its mine each shift. Petitioner plans to purchase, install and maintain a closed circuit television surveillance system consisting of television cameras located at strategic locations along each belt conveyor system so that every segment of such system can be observed through receivers at a central location. Such a system will have the following safety advantages over the present manual surveillance system:

a. Continuous surveillance over the entire belt conveyor system.

b. Any emergency situation could be spotted immediately by the observer at the central station and immediate corrective action could be taken, such as shutting down the belt or activating the fire suppression system.

c. The risk of accident would be reduced simply by there being less men actually walking the belts.

d. Men cleaning and working around the belts would be under constant observation so that if they should become involved in an accident, immediate action could be taken.

e. In the event of injury to a miner, the central observer could immediately change the belts to reversible man-trip to carry the injured person out of the mine.

f. Coal spillage could be detected and remedied faster.

g. It would be easier to detect and reprimand men riding the belts without property safety equipment or in an improper manner.

h. Interconnected belts could be more easily coordinated and, if problems occurred with one belt, all belts could be adjusted.

i. The coaxial television cable could be used for methane detection, measurement of temperatures of belt drives and tail pieces, a portable communication system for supervisors, fire detection, and ventilation velocity measurement.

j. The television observer could watch for changes in ventilation, ruptures in water lines and ruptures in the rock dust lines.

k. Roofs and ribs in belt lines would be under constant observation.

l. Belt splices and belt troughing could be observed under various load and no load conditions to minimize belt hazards.

m. The installation and maintenance of a closed circuit television surveillance system for the conveyor belt line is an alternative method of examination of the belt system superior to the manual inspection system prescribed in the statute and counterpart regulation and will at all times guarantee no less than the same measure of protection afforded the miners.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5746 Filed 2-24-77;8:45 am]

[Docket No. M 77-98]

HARMAN MINING CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301

(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Harman Mining Corporation, 1800 M St., N.W., Suite 600, Washington, D.C. 20036, has filed a petition to modify the application of 30 CFR 75.1710, canopies or cabs; electrical face equipment, to its No. 5–B Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. Petioner has not applied to the Assistant Administrator, Technical Support for approval of devices to be used in lieu of cabs or canopies since the Petitioner is without knowledge of any alternate devices which would be safe and otherwise suitable for use in its mine.

2. The Petitioner submits that both canopies and cabs are incompatible with the present operations of the 001 section of its No. 5–B Mine (primarily because of the size of the equipment in relation to the seam height) and that installation of canopies, cabs or any similar device would result in such a serious diminution of safety that the mine would not be able to continue to operate.

3. The coal seam being mined is the Big Eagle seam. The mine operates two production shifts per day utilizing conventional mining methods. Approximately 200 tons of coal are produced each day.

4. On the basis of present projections, it is estimated that there is enough coal for this area of the mine to continue operating for 60 months.

5. The height of the coal seam in this area of the mine varies between 52 and 43½ inches. For purposes of the regulation the present mining height in this area of the mine (as measured in accordance with official instructions set forth in Exhibit A[1]) is 31½ inches.

6. The regulatory requirement for installation of canopies or cabs became applicable to this mine on January 1, 1976. The electric face equipment consists of the following:

1, 3510 Galis roof bolting machine;
1, 460 Galis face drill;
1, 16 R.B. Joy cutting machine,
2, 21 S.C. Joy shuttle cars;
1, 14 BU10 Joy loading machine;
1, AR4 Elkhorn scoop.

7. This equipment operates in entries which are 20 feet wide; there are no adverse rib conditions and there is no history of roof falls in any of the face areas.

8. A full roof bolting plan is used employing 30-inch roof bolts on 48-inch centers in all working areas and elsewhere as required.

9. The Petitioner installed canopies and cabs, but was forced to remove them from the above-described equipment due to a reduction in the height of the coal seam.

10. There are 10 underground employees in the 001 section of Petitioner's mine; these employees are members of the United Mine Workers of America. Each of the employees at the mine has been consulted regarding his ideas and feelings concerning operation of equipment in this particular area of the mine with canopies or cabs installed and each of these employees has expressed objections for reasons of safety.

11. The safety record of the employees in this area of the mine is excellent and not one lost time accident has occurred in this area of the mine in the 3 years that the mine has been in existence.

12. The Petitioner does not have an alternative method for achieving the safety results intended by 30 CFR 75.1710–1, but Petitioner maintains that application of 30 CFR 75.1710–1 to Petitioner's mine will result in a diminution of safety to the miners in the mine.

Request for Hearing or Comments

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5747 Filed 2-24-77;8:45 am]

[Docket No. M 77-99]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Island Creek Coal Company, 2355 Harrodsburg Road, P.O. Box 11430, Lexington, Kentucky 40511, has filed a petition to modify the application of 30 CFR 75.1710, canopies or cabs; electrical face equipment, to its Big Creek No. 1 and No. 2 Mines, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mines are in the development stage. As a part of the development of these mines Petitioner operates Dosco Rock Head Mark II Miners ("Dosco Miners"). The Dosco Miners are not conventional types of mining equipment and are used primarily for the development function of rock removal and grade work. As such they are operated only when needed for this type of work.

2. The average height of the coal seam in Petitioner's Big Creek No. 1 Mine is 54 inches, however, in this mine Petitioner is presently taking some roof and creating an average height of 72 inches. The average height of the coal seam in Petitioner's Big Creek No. 2 Mine is 72 inches.

3. The height of the Dosco Miners is approximately 65 inches without a canopy. Available canopies for Dosco Miners are bulky, extremely heavy and greatly increase the height of this equipment when installed.

4. Petitioner states that there are some areas in its mines where Dosco Miners can be operated with canopies installed without creating the safety hazards set forth below. However, in most areas of Petitioner's mines, due to the close proximity of the canopy to the roof, the installation of canopies on Dosco Miners creates the following safety hazards:

(a) The field of vision of the operator is significantly reduced as a result of the close proximity of the canopy top to the operator's compartment.

(b) The operator's arm and leg movements in operating the equipment are more restricted as a result of reduced space in the operator's compartment.

(c) Operator fatigue is greatly increased as a result of reduced operator compartment space.

(d) The Dosco Miners are always operated under permanent roof support and occasionally the canopy will strike the roof supports.

5. Petitioner states that, for the reasons herein set forth, the application of the standard of 30 CFR 75.1710–1(a) to the Dosco Miners at certain locations in Petitioner's mines will in fact result in a diminution of safety to the miners at its mine.

Request for Hearing or Comments

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5748 Filed 2-24-77;8:45 am]

[Docket No. M 77-96]

LAUREL CREEK COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Laurel Creek Coal Company, Inc., Drawer LL, Grundy, Virginia, 24614, has filed a petition to modify the application of 30 CFR 77.1605(k) loading and haulage equipment; installations, to its Laurel Creek Coal Company, Inc., No. 2 Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

[1] Exhibit A is available for inspection at the addresss listed in the last paragraph of this notice.

1. The alternate method which Petitioner proposes to establish in lieu of the mandatory standard is as follows:

2. A daily inspection of all coal hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.

3. Roadway surfaces shall be kept free of debris, excessive water, snow and ice, and maintained as free as practicable of small ditches (washboard effects).

4. A traffic system should be put into use for these roads requiring that loaded vehicles have the right-of-way on the highwall side of roads regardless of their direction of travel.

5. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic at right-of-way. Signs should also be posted designating passing points.

6. All equipment operators should be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

7. All haulage vehicles shall have:

(a) Original manufacturer's brakes;

(b) Engine or Jacobs brakes;

(c) Emergency (parking) braking system.

8. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

9. A minimum width of 30 feet shall be provided and maintained along two-lane roads, and where widths of less than 30 feet are provided and maintained, the roads shall be designated as single-lane roads.

10. On roads that afford only one traffic lane, a minimum width of 16 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet; if vision is obscured by brush or other materials, passing points shall not be more than 500 feet apart.

11. Where abrupt drop-offs are present along the outer banks, super elevation shall be provided to cause the vehicles to gravitate toward the highwall side of the road.

12. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

13. Petitioner further states that the at all times guarantee no less than the same measure of protection afforded the miners at the Petitioner's mine by the mandatory standard.

Request for Hearing or Comments

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5749 Filed 2-24-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-95]

MARK ALLEN COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Mark Allen Coal Company, Drawer LL, Grundy, Virginia 24614, has filed a petition to modify the application of 30 CFR 77.1605(k) loading and haulage equipment; installations, to its Mark Allen Coal Company Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. The alternate method which Petitioner proposes to establish in lieu of the mandatory standard is as follows:

2. A daily inspection of all coal hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.

3. Roadway surfaces shall be kept free of debris, excessive water, snow and ice, and maintained as free as practicable of small ditches (washboard effects).

4. A traffic system should be put into use for these roads requiring that loaded vehicles have the right-of-way on the highwall side of roads regardless of their direction of travel.

5. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs should also be posted designating passing points.

6. All equipment operators should be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

7. All haulage vehicles shall have: (a) Original manufacturer's brakes, (b) Engine or Jacobs brakes, (c) Emergency (parking) braking system.

8. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

9. A minimum width of 30 feet shall be provided and maintained along two-lane roads, and where widths of less than 30 feet are provided and maintained, the roads shall be designated as single-lane roads.

10. On roads that afford only one traffic lane, a minimum width of 16 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet; if vision is obscured by brush or other materials, passing points shall not be more than 500 feet apart.

11. Where abrupt drop-offs are present along the outer banks, super elevation shall be provided to cause the vehicles to gravitate toward the highwall side of the road.

12. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

13. Petitioner further states that the alternate method outlined above will, at all times guarantee no less than the same measure of protection afforded the miners at the Petitioner's mine by the mandatory standard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5750 Filed 2-24-77;8:45 am]

[Docket No. M 77-105]

PONTIKI COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pontiki Coal Corporation, Box 57, Lovely, Kentucky 41231, has filed a petition to modify the application of 30 CFR 75.1710, canopies or cabs; electrical face equipment, to its Pontiki No. 1 Mine, located in Martin County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is located in the Pond Creek Coal Seam.

2. Petitioner's machine is a S & S scoop 74 BCA.

3. The present minimum coalbed is 44 inches. The distance from the floor to the top of the canopy is 41 inches.

4. Canopies have been reduced to the height listed above. At this time, Petitioner feels it is creating a greater safety hazard. The top of the canopy is only 8 inches from the frame of the scoop.

5. The inside height from the deck bottom to the inside top of the canopy is 29 inches without seat, with seat it is 25 inches. The canopy is 3½ inches thick, this is including the lip. To get into the scoop one must crawl in, feet first, over

the back of the seat. When a man is under the canopy, he is bent over to operate the controls. He must turn his head to the side to see.

6. Petitioner feels that a canopy, on its S & W scoop, would so restrict the operator's vision that hazards would be created. These would exceed any benefits to be gained from the use of the canopy.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5751 Filed 2-24-77;8:45 am]

[Docket No. M 77-93]

SEWELL COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Sewell Coal Company, Nettie, West Virginia 26681, has filed a petition to modify the application of 30 CFR 75.1105, housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops and permanent pumps, to its Sewell No. 4 Mine, located in Nicholas County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine has three permanent pump stations known as: Five west pump located adjacent to five west belt entry, three right pump located at the junction of three right and first southwest parallel entries adjacent to the supply track, and number two shaft pump located at the bottom of the number two shaft.

2. Each of these pumps are ventilated directly by intake air. Only a very small portion of the air passing through the entries where the pumps are located would reach any working areas.

3. Petitioner proposes to ventilate said pumps in the manner aforesaid rather than causing the air ventilating each pump to be directly coursed into the return airway. In addition to this ventilating plan, Petitioner will cause each pump to be protected by automatic heat sensors which will activate a 20-pound dry-type chemical fire suppression device located in the fire-proof structure. This automatic fire suppression device satisfies the requirements of section 75.1107 of the regulations.

4. Additionally, the following safeguards will be employed:

(a) Each motor will be provided with overload and short-circuit protection as required in safety standard 30 CFR 75.518.

(b) A metal door will be provided for the enclosure, hinged on the top and a chain or similar linkage connected to a thermal heat link located over each motor that would open on not more than 155 degrees F. and close door.

(c) A switch will be provided and interconnected into the electrical system so when the metal door closes the power circuit would be deenergized at the beginning of the branch circuit.

(d) Firefighting equipment required by safety standard 30 CFR 75.1100-2(e) will be provided.

5. Petitioner states that the proposed method of ventilating said pumps together with the additional fire protection installed thereon would at all times guarantee no less than the same measure of protection afforded mine personnel in the affected mine than would be provided by application of the mandatory standard. The addition of the extraordinary fire suppression system in these pump stations would in fact improve the safety measures provided in Petitioner's mine beyond that required by the mandatory standard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5752 Filed 2-24-77;8:45 am]

[Docket No. M 77-97]

SMITH BRANCH COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Smith Branch Coal Company, Inc., Draw LL, Grundy, Virginia 24614, has filed a petition to modify the application of 30 CFR 77.1605(k), loading and haulage equipment; installations, to its Smith Branch Coal Co., Inc. located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. The alternate method which Petitioner proposes to establish in lieu of the mandatory standard is as follows:

2. A daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.

3. Roadway surfaces shall be kept free of debris, excessive water, snow and ice, and maintained as free as practicable of small ditches (washboard effects).

4. A traffic system should be put into use for these roads requiring that loaded vehicles have the right-of-way on the highwall side of roads regardless of their direction of travel.

5. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs should also be posted designating passing points.

6. All equipment operators should be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

7. All haulage vehicles shall have: (a) Original manufacturers brakes; (b) Engine or Jacobs brakes; and (c) Emergency (parking) braking system.

8. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

9. A minimum width of 30 feet shall be provided and maintained along two-lane roads, and where widths of less than 30 feet are provided and maintained, the roads shall be designated as single-lane roads.

10. On roads that afford only one traffic lane, a minimum width of 16 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet; if vision is obscured by brush or other materials, passing points shall not be more than 500 feet apart.

11. Where abrupt drop-offs are present along the outer banks, super elevation shall be provided to cause the vehicles to gravitate toward the highwall side of the road.

12. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

13. Petitoner further states that the alternate method outlined above will, at all times guarantee no less than the same measure of protection afforded the miners at the Petitioner's mine by the mandatory standard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of

the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5753 Filed 2-24-77;8:45 am]

[Docket No. M76-613]

UNITED STATES STEEL CORP.

Amended Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in this proceeding under section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), the Petition of United States Steel Corporation, which was noticed at pages 51130 and 51131 of Volume 41, No. 225 of the FEDERAL REGISTER of November 19, 1976, has been amended as to the substance of Petitioner's statement, by adding subparagraphs 1(c)(5) and 5(e) thereto, so that the same now read, respectively:

1. * * *

(c) Concord Mine, Hueytown, Alabama:
(1) Section 6 (MESA I.D. 046)—53 inches;
(2) Section 9 (MESA I.D. 042)—54 inches;
(3) Section 14 (MESA I.D. 044)—54 inches;
(4) Section 15 (MESA I.D. 045)—53 inches;
(5) Section 11 (MESA I.D. 011)—51½ inches;

* * * * *

5. * * *

(e) Section 11—S & S Uni-Trac battery scoops, Jeffrey ram cars, Galis roof drills, and Joy continuous miners.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5754 Filed 2-24-77;8:45 am]

[Docket No. M 77-94]

VIRGINIA-BY PRODUCTS

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Virginia-By Products, Drawer LL, Grundy, Virginia 24641, has filed a petition to modify the application of 30 CFR 77.1605(k), loading and haulage equipment; installations, to its Knox Creek Coal Corporation Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. The alternate method which Petitioner proposes to establish in lieu of the mandatory standard is as follows:

2. A daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.

3. Roadway surfaces shall be kept free of debris, excessive water, snow and ice, and maintained as free as practicable of small ditches (washboard effects).

4. A traffic system should be put into use for these roads requiring that loaded vehicles have the right-of-way on the highwall side of roads regardless of their direction of travel.

5. Warning signals shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs should also be posted designating passing points.

6. All equipment operators should be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

7. All haulage vehicles shall have: (a) Original manufacturers brakes; (b) Engine or Jacobs brakes; and (c) Emergency (parking) braking system.

8. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

9. A minimum width of 30 feet shall be provided and maintained along two-lane roads, and where widths of less than 30 feet are provided and maintained, the roads shall be designated as single-lane roads.

10. On roads that afford only one traffic lane, a minimum width of 16 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet; if vision is obscured by brush or other materials, passing points shall not be more than 500 feet apart.

11. Where abrupt drop-offs are present along the outer banks, super elevation shall be provided to cause the vehicles to gravitate toward the highwall side of the road.

12. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

13. Petitioner further states that the alternate method outlined above will, at all times guarantee no less than the same measure of protection afforded the miners at the Petitioner's mine by the mandatory standard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5755 Filed 2-24-77;8:45 am]

[Docket No. M 77-106]

WRIGHT COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Wright Coal Company, Box 140, Dorton, Kentucky 41520, has filed a petition to modify the application of 30 CFR 75.1710, canopies or cabs; electrical face equipment, to its No. 3 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that the installation of canopies on its equipment in a low seam coal mine would create a hazard to the equipment operators.

2. The No. 3 Mine is in the lower Elkhorn coal seam which ranges from 37 to 43 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies would have to be installed in such a manner as to prevent the canopies from hitting the roof and possibly destroying roof support by knocking out cross-bars and/or hitting against and loosening roof bolts. This allows a 21- to 23-inch operating vertical compartment which limits and severely restricts the vision of the equipment operator thereby creating a hazard to him as well as the other employees in the mine.

3. Petitioner feels that since the equipment operators' vision is limited and because of the position required to be seated in the decks of the equipment, the installation of canopies could be a contributing factor in any accident which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 11, 1977.

[FR Doc.77-5756 Filed 2-24-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. E77-3, etc.]

EMERGENCY NATURAL GAS ACT OF 1977

Rules for Consideration of Applications by Distribution Companies

There are pending a number of applications by distribution companies and notifications by Governors requesting mandatory allocations of natural gas under section 4 of the Emergency Natural Gas Act. (Docket Nos. E77-3, E77-6, E77-11, E77-15, E77-16.) It is appropriate to establish general rules that I will follow in considering such applications.

(1) I intend to consider mandatory allocations only if the following conditions are met:

(a) Such relief shall be available only where the pipeline or local distribution company can demonstrate that interruption of service to high priority uses (as defined in the Act) is imminent. Allocations will not be made where a distribution company can meet the needs of its high priority customers with volumes which are made available to it from its pipeline supplier or suppliers. Volumes are considered available if provided by the pipeline under its tariff, even if the provision of such volumes causes the distribution company to overrun its seasonal entitlements or incur other penalties.

(b) The applicant must have exhausted all reasonable and practicable voluntary methods of obtaining natural gas or substitutes therefor for high priority use, including having made reasonable efforts, considering the size and circumstances of the applicant, to make direct purchases under Section 6 of the Act under Federal Power Commission procedures.

(c) A distribution company must have secured all emergency relief available to it under the tariffs of its pipeline supplier or suppliers.

(2) Among other factors I will consider are whether (a) The applicant and its state authorities have continued, from the date of this order to the date of application, all thermostat-related conservation measures which were previously instituted and urged; and (b) Whether any pipeline supplier or distribution company is serving, or supplies any distribution company who is serving, customers with alternate fuel capability, who have such fuel available.

(3) Pursuant to the intent expressed in Section 4(f) of the Act, I will to the maximum extent practicable, issue mandatory orders only where the recipient will be required to pay back in kind all gas received before August 1, 1977.

In order to make section 4 allocations as expeditiously as possible, I am establishing a stand-by authority and designating the pipeline companies who are the potential recipients and providers of gas. Any recipient designated below shall notify the Administrator within 72 hours of this order of the extent to which it wishes to participate in the stand-by pool, and the most feasible means of transporting the requested volumes. Such notification shall include a certification that it meets the conditions set forth above except for the existence of an imminent emergency.

When a recipient wishes to activate its stand-by authority to protect service of high priority uses, it shall notify the Administrator 48 hours prior to receipt of gas (unless sooner authorized by the Administrator), and shall certify that it meets all conditions of the above order.

The volumes set forth are intended to be available on a day-to-day basis, only if needed. Based on information now available to the Administrator, and the filings made with the Commission, the following companies are given stand-by authority to receive gas as follows:

(a) National Fuel Gas Supply Corp. 10 MMcfd.
(b) Texas Eastern Transmission Corp. 100 MMcfd.
(c) Transcontinental Gas Pipe Line Corp. 150 MMcfd.
(d) Columbia Gas Transmission Corp. 150 MMcfd.
(e) Equitable Gas Co. 25 MMcfd.

The pipelines who shall stand by to deliver volumes are:

(a) Florida Gas Transmission Corp., up to 15 MMcf per day.
(b) Natural Gas Pipeline Co. of America, up to 150 MMcf per day.
(c) Michigan-Wisconsin Pipe Line Co., up to 125 MMcf per day.
(d) Northern Natural Gas Co., up to 100 MMcf per day.
(e) Mississippi River Transmission Corp., up to 35 MMcf per day.
(f) Colorado Interstate Gas Co., up to 60 MMcf per day.
(g) Kansas-Nebraska Natural Gas Co., up to 15 MMcf per day.
(h) El Paso Natural Gas Co., 125 MMcf per day.
(i) Northwest Pipeline Corp., 50 MMcf per day.

Volumes will be delivered initially by the most expeditious physical means, but ultimate volumes delivered by each company will be proportional to the availabilities set forth above.

Dated: February 17, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-5709 Filed 2-24-77;8:45 am]

[Docket No. E77-10]

COLUMBIA GAS TRANSMISSION CORP.

Emergency Natural Gas Act of 1977; Supplemental Emergency Order

By orders issued February 6 and 8, 1977, I authorized Columbia Gas Transmission Corporation (Columbia) to purchase an average of 60,000 Mcfd of natural gas from Pacific Lighting Service Company (Pacific Lighting). Transportation and delivery of the subject gas is, as set forth in the February 6, 1977 order and Columbia's February 9, 1977 letter, accomplished by Pacific Lighting making the gas available to El Paso Natural Gas Company (El Paso) at the Waha Field, Texas. El Paso delivers the gas to the Pecos Gathering System of Delhi Gas Pipeline Corporation (Delhi). Delhi delivers the gas to LoVaca Gathering Company (LoVaca), and Lovaca redelivers the gas to Delhi's Blessing-Victoria System. Delhi delivers the gas in Victoria County, Texas, to United Gas Pipe Line Company (United) for the account of Columbia. United delivers the gas in Victoria County, Texas, to Transcontinental Gas Pipe Line Corporation (Transco). Transco delivers the gas to Columbia Gulf Transmission Company (Columbia Gulf) at an existing interconnection in Southern Louisiana.

By letter submitted February 19, 1977, Columbia proposes to transport this gas using the facilities and transportation networks authorized in Docket No. E77-21. Under this proposed arrangement, El Paso will deliver the subject volumes to Oasis Pipeline Company (Oasis) in Pecos County, Texas. Oasis will transport and deliver thermally equivalent volumes to Bronco Pipeline Company and Tenngasco, Inc. (Bronco-Tenngasco) near Katy, Waller County, Texas, and Bronco-Tenngasco will transport and deliver thermally equivalent volumes at a mutually agreeable point to Tennessee Gas Pipeline Company (Tennessee). Tennessee will transport the gas and deliver equivalent volumes in Mcf to Columbia Gulf Transmission Company, an affiliate of Columbia, at a point in Southern Louisiana. Columbia Gulf will transport the gas to Columbia.

Columbia has agreed to pay the following transportation charges: Oasis 13 cents per Mcf transported and 4 percent of the Btu's transported for fuel; Bronco-Tenngasco, 2 cents per Mcf transported; Tennessee, 7.6 cents per Mcf plus 1.3 percent of the volume transported for fuel. Columbia will also pay (i) El Paso approximately $144,000 to construct facilities to deliver the subject gas to Oasis and (ii) Tennessee approximately $440,000 to construct facilities to receive such gas from Bronco-Tenngasco.[1]

Pursuant to Section 6(c)(1) of the Act (91 Stat. 4, 8), I hereby authorize and order (i) El Paso, Oasis, Bronco-Tenngasco, Tennessee, Columbia Gulf, and Columbia to transport up to 60,000 Mcfd of gas for Columbia on the terms and at the charges set forth above, (ii) El Paso and Tennessee to construct and operate facilities necessary to deliver this gas to Columbia, and (iii) Columbia to pay the agreed upon transportation charges and reasonable actual costs of construction incurred by El Paso and Tennessee.

In the course of such transportation by Oasis and Bronco-Tenngasco from point of origin to destination, there may be a commingling of interstate natural gas with Oasis' or Bronco-Tenngasco's normal system gas supplies or with volumes of gas owned by third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of Pub. L. 95-2, the producers, of such gas which is so commingled, may not terminate existing contracts with such other parties, nor shall such other

[1] Columbia will pay only a proportionate share of these costs since the facilities will also be used by Southern Natural Gas Company. See Docket No. E77-5, order issued February 4, 1977.

parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95–2 since Oasis and Bronco-Tenngasco are transporting gas for Columbia pursuant to Section 6(a) of that Act. Oasis, Bronco-Tenngasco and any third person whose gas is commingled with Transco's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriae action.

According to the official files of the Federal Power Commission, Oasis and Bronco-Tenngasco are not classified as Natural Gas Companies within the meaning of the Natural Gas Act. Section 6(c) (2) of Pub. L. 95–2 provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the transportation of this gas will not subject Oasis and Bronco-Tenngasco to the provisions of the Natural Gas Act. See also § 6(b) (1) (A), 91 Stat. at 8.

To the extent not inconsistent with the provisions of this order, the provisions of the February 6 and 8, 1977 orders remain in full force and effect.

Columbia shall submit weekly reports as required by Order No. 4.

The order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia, Pacific Lighting, El Paso, Oasis, Bronco-Tenngasco, Tennessee, Columbia Gulf, Transwestern Pipeline Company, Delhi, LoVaca, and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

Dated: February 20, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77–5711 Filed 2–24–77;8:45 am]

[Docket No. E77–20]

EASTERN SHORE NATURAL GAS CO.

Emergency Natural Gas Act of 1977; Emergency Order

On February 15, 1977, Eastern Shore Natural Gas Company (Eastern Shore) filed a request for an order authorizing an emergency purchase of natural gas from Clajon Gas Company (Clajon) pursuant to Section 6 of the Emergency Natural Gas Act of 1977, Pub. L. 95–2 (91 Stat. 4 (1977)). Eastern Shore proposes to purchase up to 3,500 Mcf per day from Clajon and states that it is of the view that the contract price satisfies the requirements of Paragraph (1) of Order No. 2.[1] The initial proposed contract price was $2.25 per Mcf subject to proportional adjustment upward or downward to reflect Btu content greater or less than 1,000 Btu per cubic foot with additional gathering and metering charges.

By letter filed February 20, 1977, Eastern Shore states that the wellhead price has been amended to $2.12 per MMBtu and that the price, inclusive of gathering and metering charges, will not exceed $2.25 per MMBtu. In addition, Eastern Shore proposes to pay $10,000 for the installation of metering and treating facilities and connection to the wells.

The price is within the fair and equitable standards of Order No. 2. The additional charge for installation of facilities for treating and transportation of the gas from the wellhead may be added to the guidline price of Order No. 2 provided the costs are reasonable and necessary to effect the transportation beyond the wellhead. Therefore, I find the terms of the transaction to be fair and equitable provided that the $10,000 installation costs be reasonable and actual costs paid by Clajon for the services.

In the course of such transportation by Clajon from point of origin to destination, there may be a commingling of interstate natural gas with Clajon's normal system gas supplies or with volumes of gas owned by third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of Pub. L. 95–2, the producers, of such gas which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Pub. L. 95–2 since Clajon is transporting gas for Eastern Shore pursuant to Section 6(a) of that Act. Clajon and any third person whose gas is commingled with Eastern Shore's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

Clajon is according to the official files of the Federal Power Commission, not classified as a Natural Gas Company within the meaning of the Natural Gas Act. Section 6(c) (2) of Pub. L. 95–2 provides (91 Stat. 48):

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state

Thus, the transportation of this gas will not subject Clajon to the provisions of law.
the Natural Gas Act. See also § 6(b) (1) (A), 91 Stat. at 8.

Eastern Shore shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Eastern Shore, Clajon, United, and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

Dated: February 21, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77–5713 Filed 2–24–77;8:45 am]

[Docket No. E77–12]

MEMPHIS LIGHT, GAS & WATER DIVISION

Emergency Natural Gas Act of 1977; Supplemental Emergency Order

On February 11, 1977, I authorized Memphis Light, Gas and Water Division (Memphis) to purchase gas from B.V. Long, et al., Trustee (Long) at a wellhead price not to exceed $2.25 per MMBtu "subject to the submission of information by (Long's affiliate, Rusk County Well Service Company, Inc. (Rusk)) supporting the proposed transportation charge of $0.25 per Mcf." On February 18, 1977, Memphis submitted information from Rusk allegedly supporting the proposed transportation rate and requested that the proposed transportation charge be approved and that the parties be permitted to negotiate the same or lesser transportation charge if different facilities are used.[1]

I have reviewed the data submitted by Rusk and find that such data support the proposed transportation rate.[2] Such rate is, given the assumptions on which it is calculated, fair and equitable. Rusk is therefore authorized to collect such rate from Memphis. This authorization is subject to and conditioned upon the parties negotiating the same or lesser transportation rate if different facilities are used or the same facilities are used in a manner which reduces the transportation costs attributable to Memphis' purchase. Within seventy-two hours of the execution of any such agreement, Memphis shall submit all relevant information, including the justification for the new rate, to the Administrator. To the extent not

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[1] Clajon will deliver the gas to United Gas Pipe Line Company (United) at a new point of delivery in Panola County, Texas, and United will deliver the gas to Transcontinental Gas Pipe Line Corporation (Transco) for delivery to Eastern Shore.

[1] Memphis indicates that Rusk may be able, as the result of other transactions, to use facilities different from those on which the transportation rates are based and thereby realize a savings in transportation costs.

[2] Based upon a daily production volume of 3,000 Mcf, a sales period of 4.5 months, and costs of $121,537.32, the calculated rate is $0.3001 per Mcf.

inconsistent with the provisions of this order, the provisions of the February 11, 1977 order remain in full force and effect.

$$\frac{\$121,537.32}{(3,000)(4.5)(30)}=30.009$$

Memphis shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Memphis, Long, Rusk, United Gas Pipe Line Company, and Texas Gas Transmission Corporation. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

Dated: February 20, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77–5712 Filed 2–24–77;8:45 am]

[Docket No. E77–25]

PELTO OIL CO.

Emergency Natural Gas Act of 1977; Emergency Order

On February 18, 1977, Pelto Oil Company (Pelto) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), a request for a ruling that Pelto is entitled to recover, in addition $2.25 per MMBtu for gas delivered to Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), the costs incurred in installing a temporary line to deliver the gas to Alabama-Tennessee up to a maximum of $10,000.

Pelto asserts, and I find, that its wellhead price of $2.25 per MMBtu is fair and equitable in accordance with Order No. 2. The question is whether Pelto is also entitled to recover the costs incurred in installing a line to make deliveries. I find that Pelto is entitled to recover reasonable actual costs incurred to install the line not to exceed $10,000.

The $2.25 per MMBtu price prescribed in Paragraph (1) of Order No. 2 is, with respect to producer sales, a wellhead price. It includes all charges and taxes incurred in making the gas available at the wellhead; it does not encompass any costs associated with transporting the gas beyond the wellhead or the installation of facilities to effect such transportation. Thus, any producer which transports gas downstream of the wellhead or installs facilities to effect such transportation, is entitled to recover reasonable actual costs incurred in addition to $2.25 per MMBtu. This ruling is in accordance with § 6(c)(1) of the Act (91 Stat. 4, 8) which provides that a pipeline may recover the costs incurred in constructing facilities to transport gas purchased pursuant to § 6(a).

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Pelto and Alabama-Tennessee. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

Dated: February 20, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77–5714 Filed 2–24–77;8:45 am]

[Docket No. E77–5]

SOUTHERN NATURAL GAS CO.

Emergency Natural Gas Act of 1977; Supplemental Emergency Order

On February 18, 1977, Southern Natural Gas Company (Southern) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 100,000 Mcfd of natural gas from Pacific Gas and Electric Company (PG&E). The proposed sale is to continue through March 10, 1977.

On February 4, 1977, I denied Southern's request to make this purchase because the transaction required a greater than one-for-one payback of the volumes received and stated that I would approve a transaction based on a one-for-one payback plus monetary compensation of reasonable charges for storage or transportation services rendered by the seller. Southern asserts, and I find, as set forth below, that the terms of the proposed transaction are fair and equitable in accordance with Order No. 2.

The gas will be made available by PG &E at the Arizona-California border to El Paso Natural Gas Company (El Paso). El Paso will reduce deliveries to PG&E and deliver a thermally equivalent volume of gas to Oasis Pipe Line Company (Oasis) in Pecos County, Texas. Oasis will transport and deliver equivalent Btu's to Bronco Pipeline Company and Tenngasco, Inc. (Bronco-Tenngasco) near Katy, Waller County, Texas, and Bronco-Tenngasco will transport and deliver a thermally equivalent volume of gas at a mutually agreeable point to Tennessee Gas Pipeline Company (Tennessee) for the account of Southern. Tennessee will deliver equivalent volumes to Southern at existing interconnections. If Tennessee is unable to deliver the full volumes to Southern, it will deliver a portion of the volumes to Transcontinental Gas Pipe Line Corporation (Transco) and/or United Gas Pipe Line Company (United) which will transport such volumes to Southern.[1]

Southern will redeliver the gas purchased from PG&E commencing as soon as it initiates service to customers classified in categories below category 2 of its Federal Power Commission curtailment plan and will complete such redeliveries by August 1, 1977. Southern will make redelivery by transporting gas to Michigan-Wisconsin Pipeline Company (Mich-Wis). Mich-Wis will deliver the gas to Northern Natural Gas Company (Northern Natural) near Jamesville, Wisconsin. Northern Natural will exchange equivalent volumes with El Paso through an existing interconnection near Dumas, Moore County, Texas, and El Paso will deliver the gas to PG&E. If PG&E is delivering gas to other companies in the northeast at the time payback commences, Southern will make payback by delivering gas to such companies thereby permitting PG&E to reduce or terminate deliveries to such companies.[2]

Southern has agreed to pay the following transportation charges: El Paso—1 cent per Mcf transported; Oasis—13 cents per Mcf transported and 4 percent of the Btu's transported for fuel; Bronco-Tenngasco—2 cents per Mcf transported; and Tennessee—7.4 cents per Mcf plus 1.3 percent of the volumes transported for fuel for gas delivered to the Patterson Field, Louisiana, interconnection with Southern, 10.2 cents plus 1.7 percent fuel of gas delivered to the Monroe Field, Louisiana, interconnection with United, and 19.2 cents plus 3.3 percent fuel for gas delivered to the Pugh, Mississippi, interconnection with Southern. To repay the gas, Southern will pay Mich-Wis—30 cents per Mcf plus 10 percent of the volumes transported for fuel and shrinkage; and El Paso—1 cent per Mcf for gas transported plus appropriate fuel.

Pursuant to section 6(c)(1) of the Act (91 Stat. 4, 8), I hereby authorize and order (i) El Paso, Oasis, Bronco-Tenngasco, Tennessee, United, Transco, Mich-Wis, and Northern Natural to transport or redeliver up to 100,000 Mcfd of gas for Southern on the terms and at the charges set forth above, (ii) El Paso and Tennessee to construct and operate facilities necessary to deliver this gas to Southern; and (iii) Southern to pay the agreed upon transportation charges and reasonable actual costs of construction incurred by El Paso and Tennessee.

In the course of such transportation by Oasis and Bronco-Tenngasco from point of origin to destination, there may be a commingling of interstate natural gas with Oasis' or Bronco-Tenngasco's normal system gas supplies or with volumes of gas owned by third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of Pub. L. 95–2, the producers, of such gas which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as com-

[1] Southern has agreed to pay its proportion share of the costs of facilities installed by El Paso to deliver the gas to Oasis and by Tennessee to receive gas from Bronco-Tenngasco. The estimated costs of these facilities are $144,000 and $440,000, respectively. These facilities will also be used by Columbia Gas Transmission Corporation and UGI Corporation. See Columbia Gas Transmission Corporation, Docket No. E77–21 (February 18, 1977).

[2] This payback method would relieve Southern of the transportation charges otherwise associated with payback.

mon carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95-2 since Oasis and Bronco-Tenngasco are transporting gas for Southern pursuant to Section 6(a) of that Act. Oasis, Bronco-Tenngasco and any third person, whose gas is commingled with Southern's gas, shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Oasis and Bronco-Tenngasco are not classified as Natural Gas companies within the meaning of the Natural Gas Act. Section 6(c)(2) of Pub. L. 95-2 provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the transportation of this gas will not subject Oasis and Bronco-Tenngasco to the provisions of the Natural Gas Act. See also § 6(b)(1)(A), 91 Stat. at 8.

Southern will repay PG&E by delivering volumes of gas with a total Btu content to the total Btu content delivered by PG&E during the emergency sale. In addition, Southern shall reimburse PG&E 35 cents per Mcf for general storage and transportation charges, and 1.8 cents per Mcf for the balance of gas owed to PG&E on April 1, 1977, and thereafter on the outstanding volume to be repaid on the first of each month until repayment is complete. The charge of 1.8 cents per Mcf is to compensate PG&E for the carrying charges associated with payment to El Paso for the volumes delivered to Southern. I find the terms and conditions of the proposed purchase to be fair and equitable in accordance with Order No. 2.

Since January 29, 1977, Southern has purchased approximately 50,000 Mcfd from PG&E and requests that such purchases be authorized on the terms set forth above. Approximately 25,000 Mcfd of these volumes have been delivered to Southern by El Paso diverting deliveries from PG&E to Transwestern Pipeline Company (Transwestern). Transwestern delivered such volumes to Natural Gas Pipeline Company (Natural) which delivered to Transco. Transco delivered these volumes to Atlanta Gas Light Company for Southern's account. The remaining 25,000 Mcfd were delivered by El Paso to Transwestern to Texas Eastern Pipeline Company (Texas Eastern) which delivered to United for Southern's account. Southern has not indicated what transportation charges have been or will be paid to the above-named companies. To the extent that Southern pays PG&E for these volumes an amount which does not exceed the per unit charge set forth in the February 18, 1977 application, I find the terms of the sale to be fair and equitable in accordance with Order No. 2. This approval is limited to volumes delivered on and after February 2, 1977, the effective date of Pub. L. 95-2. Prior to that date, the terms and conditions of the sale are subject to and governed by § 2.68 of the Rules and Regulations of the Federal Power Commission (18 CFR 2.68). I make no finding with respect to the transportation charges paid for the delivery of such volumes since I lack sufficient information necessary to determine whether such charges are fair and equitable.

Southern shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Southern, PG&E, El Paso, Oasis, Bronco-Tenngasco, Tennessee, United, Transco, Transwestern, Texas Eastern, Mich-Wis, Northern Natural, and Natural. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

Dated: February 20, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-5710 Filed 2-24-77;8:45 am]

[Docket No. E77-22]

TEXAS GAS TRANSMISSION CORP.

Emergency Natural Gas Act of 1977; Emergency Order

On February 17, 1977, Texas Gas Transmission Corporation (Texas Gas) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to transport natural gas, which it purchases as agent for certain of its customers [1] pursuant to Section 6(a) of the Act.

Texas Gas, as agent, has executed a contract with McGoldrick Joint Venture No. 1-73 (McGoldrick) to purchase natural gas produced from the Leatherman Creek Field, Claiborne Parish, Louisiana. Initial deliveries are estimated to be 2,000 to 2,500 Mcfd, with additional volumes to be made available. The total price to be paid by Texas Gas, as agent, is $2.25 per Mcf. Thus, the proposed price is fair and equitable in accordance with Order No. 2.

Texas Gas will receive the subject gas in the Leatherman Creek Field and transport such gas in its existing facilities. Texas Gas' proposed transportation rates are based upon the cost data supporting the settlement rates in Texas Gas' most recent Federal Power Commission rate case in Docket No. RP76-17 and the retention of a percent of the transported volumes for compressor fuel and company use and loss. I find such rates to be fair and equitable.

Based upon the foregoing, Texas Gas is authorized to purchase gas, as agent, from McGoldrick and transport such gas for certain of its customers. This authorization is conditioned on (i) Texas Gas' submission of the names of the customers for which it is acting as agent and (ii) those customers agreeing to submit reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and McGoldrick. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

Dated: February 20, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-5715 Filed 2-24-77;8:45 am]

[1] These customers are local distribution companies and interstate pipelines are defined in §§ 2(1), (5) of the Act (91 Stat. 4).

[Docket No. CP77-126]

COLUMBIA GAS TRANSMISSION CORP.

Petition To Amend Order

FEBRUARY 22, 1977.

Take notice that on February 16, 1977, Columbia Gas Transmission Corporation (Petitioner), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP77-126 a petition to amend the Commission's order of January 18, 1977 (57 FPC), as amended on February 1, 1977 (57 FPC), issued in the instant docket pursuant to Section 3 of the Natural Gas Act so as to authorize the importation of additional volumes of natural gas from Canada to the United States, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to the Commission's order of January 18, 1977, it was authorized to import and purchase approximately 250,000 Mcf of gas per day for a sixty-day period from TransCanada Pipelines, Ltd. (TransCanada) commencing on January 19, 1977, at a cost of $1.94 per Mcf plus an additional charge to cover the compression and storage expenses incurred by TransCanada and/or its customers.

It is further stated that pursuant to the Commission's order of February 1, 1977, a portion of the gas supply authorized to be imported by Petitioner was allocated to Southern Natural Gas Company (Southern) in order to alleviate Southern's gas supply emergency with deliveries commencing February 2, 1977.

It is asserted that Petitioner's share of such gas is presently being delivered by TransCanada to Great Lakes Gas Transmission Company (Great Lakes) through

existing authorized facilities at the International Boundary near Emerson, Manitoba; Great Lakes is transporting and delivering this gas to Michigan Wisconsin Pipe Line Company (Mich-Wisc) through existing facilities at Crystal Falls, Michigan; Mich-Wisc is redelivering part of the gas to Petitioner's affiliate, Columbia Gulf Transmission Company (Columbia Gulf), at various existing points of interconnection between Mich-Wisc and Columbia Gulf in Louisiana, both offshore and onshore; the remainder is being delivered by Mich-Wisc, transported through the systems of Natural Gas Pipeline Company of America, Texas Eastern Transmission Corporation, Texas Gas Transmission Corporation, Trunkline Gas Company and United Gas Pipe Line Company and redelivered to Columbia Gulf in Louisiana, all through existing facilities. It is further asserted that Columbia Gulf is delivering all of the gas under this arrangement to Petitioner's pipeline facilities in Kentucky. Petitioner states that as of February 13, 1977, approximately 10,900,000 Mcf had been imported and purchased from TransCanada, 7,046,431 Mcf of which has been received by Petitioner and 353,500 Mcf by Southern. Petitioner further states that the remainder of the 10,900,000 Mcf is either en route to Petitioner and Southern or temporarily in storage.

Petitioner proposes to amend its import authorization to include the importation and purchase of an additional 12,000,000 Mcf from TransCanada, which addition has been approved by the Canadian National Energy Board. Petitioner states that the additional gas would be imported, purchased and transported generally under the same terms and conditions applicable in the original agreement, but requests an increase in the average daily rate at which it may receive the gas from TransCanada from 187,500 Mcf, i.e., 250,000 Mcf per day less than 62,500 Mcf per day allocated to Southern to 300,000 Mcf. Petitioner also proposes to extend the term during which it is required to import and purchase its share of the TransCanada gas for an additional forty-five days, or until May 3, 1977.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 4, 1977, 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 to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-5708 Filed 2-24-77;8:45 am]

[Docket No. E-7740, etc.]

INDIANA & MICHIGAN ELECTRIC CO.

Filing of Motion for Approval of Offer of Settlement

FEBRUARY 17, 1977.

Take notice that on February 9, 1977 Indiana & Michigan Electric Company filed an Offer of Settlement and motion for approval thereof in the captioned Dockets pursuant to § 1.18 of the Commission's rules of practice and procedure. An opportunity is hereby provided for comments thereon by any interested person.

According to Indiana & Michigan Electric Company, its Offer of Settlement would dispose of all of the issues in the captioned Dockets as they relate to the Cities of Anderson, Auburn and Fort Wayne, Indiana, including provisions for refunds of amounts collected pursuant to rate increases filed with this Commission on June 13, 1972. Copies of Indiana & Michigan Electric Company's Offer of Settlement are available for inspection in the offices of the Commission.

Any person desiring to comment with respect to any of the matters contained in the Offer of Settlement should file such comments with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426 on or before March 9, 1977. Comments will be considered by the Commission in determining the appropriate action it should take.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5720 Filed 2-24-77;8:45 am]

[Docket No. CP77-213]

MID LOUISIANA GAS CO.

Application

FEBRUARY 17, 1977.

Take notice that on February 10, 1977, Mid Louisiana Gas Company (Mid Louisiana), 21st Floor, Lykes Center, 300 Poydras Street, New Orleans, Louisiana, 70130, filed in Docket No. CP77-213, an application pursuant to Section 7 of the Natural Gas Act for temporary and permanent certificates of public convenience and necessity authorizing Mid Louisiana to transport certain gas for the account of United Gas Pipe Line Company (United) through Mid Louisiana's 6-inch transmission pipeline located in the southeastern end of Plaquemines Parish, Louisiana.

Mid Louisiana has contracted with United to transport certain gas for the account of United to Southern Natural Gas Company (Southern) through Mid Louisiana's 6-inch transmission pipeline located in the southeastern end of Plaquemines Parish, Louisiana. Specifically, Mid Louisiana is obligated to receive and transport for the account of United certain gas which United purchased from certain producers of the Block 140, Main Pass Area, offshore Louisiana, to be delivered to Mid Louisiana's 6-inch pipeline beginning near the Gulf Oil Company Grand Bay Receiving Station in Plaquemines Parish, Louisiana, and transported from there to an existing Southern platform located in Plaquemines Parish, Louisiana. The anticipated quantity of gas to be so transported will not exceed approximately 7,500 Mcf per day under ordinary operating conditions. Mid Louisiana's pipeline has sufficient capacity to transport said quantity of gas. Mid Louisiana will not charge United a fee for transporting the gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 8, 1977, 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 and 1.10) and the regulation under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5717 Filed 2-24-77;8:45 am]

[Docket No. ER77-198]

OHIO POWER CO.

Service Schedule Termination

FEBRUARY 17, 1977.

Take notice that Ohio Power Company (Ohio Power) tendered for filing a notice of the termination of Service Schedule A of Ohio Power's Rate Schedule FPC No. 35, pursuant to which Ohio Power rendered firm power service to The Toledo Edison Company (Toledo Edison).

Ohio Power states that in accordance with the terms of the contract dated December 1, 1965, Firm Power service to Toledo Edison automatically terminated on November 30, 1976. All other provisions of Ohio Power's Rate Schedule FPC No. 35 are intended to remain in effect.

Ohio Power requests the Commission waive the thirty day notice period as contemplated by § 35.15 of the Commission's regulations as of November 30, 1976.

Any person desiring to be heard or to protest said notice of termination should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests or petitions to intervene must be filed on or before March 7, 1977. All protests will be considered by the Commission 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 must file a petition to intervene in accordance with the rules of practice and procedure. The notice provided by Ohio Power is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5719 Filed 2-24-77;8:45 am]

[Docket No. CP77-207]

TEXAS GAS TRANSMISSION CORP.

Application

FEBRUARY 17, 1977.

Take notice that on February 9, 1977, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP77-207 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing May 30, 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $10,000,000, with no single onshore project to exceed $1,500,000 and no single offshore project to exceed $2,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 11, 1977, 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) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5718 Filed 2-24-77;8:45 am]

[Docket No. ER77-191]

TUCSON GAS & ELECTRIC CO.

Filing of Service Schedule C-1 to Interconnection Agreement

FEBRUARY 17, 1977.

Take notice that Tucson Gas & Electric Company ("Tucson") on February 1, 1977, tendered for filing Service Schedule C-1, Energy Banking, dated January 18, 1977, to the Interconnection Agreement between Utah Power & Light Company ("Utah") and Tucson, dated November 4, 1975.

Notice of this filing has been sent to the Utah Power & Light Company, Salt Lake City, Utah.

Any person desiring to be heard or to make any application with reference to Said Service Schedule C-1 should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1977. Protests will be considered by the Commission 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 must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5716 Filed 2-24-77;8:45 am]

[Docket No. E77-27]

EMERGENCY NATURAL GAS ACT OF 1977

Public Conference

Information available to the Administrator indicates that electric utility companies in the Southwest[1] can make natural gas available to the interstate pipelines and local distribution companies (as defined in Sections 2(2), (5) of Pub. L. 95-2, 91 Stat. 4 (1977)).[2] This gas will be made available by the utilities substituting alternate fuels for natural gas to generate electricity.

According to the information available to the Administrator, these gas supplies will cost approximately $2.90 to $3.50 per MMBTU at the point of delivery to the interstate pipeline companies. The proposed prices for these supplies are based upon the costs incurred by the utilities purchasing and using alternate fuels, including efficiency losses and storage costs, plus storage and transportation costs incurred in delivering these gas supplies to the interstate pipelines. The delivered price will be the above prices plus applicable transportation charges recoverable by the interstate pipeline companies.

I have determined that a public conference should be held to consider possible dispositions of these gas supplies to alleviate the gas shortage in the Eastern United States. All users of natural gas served by interstate pipeline companies and local distribution companies, all interstate pipelines, all local distribution companies, all interested Governors and State public service commissions, and any other interested persons may attend and participate in this public conference, which will consider, among other matters, the following issues:

i. The interstate pipelines' and local distribution companies' need for these gas supplies to serve (a) high priority uses (as defined in section 2(1) of Pub. L. 95-2), (b) other industrial and commercial uses of natural gas, and (c) storage requirements for the 1977-78 winter heating season;

ii. Whether the price for these supplies should be charged directly to those users served with these gas supplies, which would not otherwise be served;

[1] The term "Southwest" refers to the States of Arkansas, Louisiana, Oklahoma and Texas.

[2] The Administrator was informed, at a February 18, 1977 public conference held in Houston, Texas, that electric utility companies within that state could make available up to 300,000 Mcfd through July 31, 1977, depending upon the availability of alternate fuels and the demand for electricity. Information regarding the availability of gas from the other states was obtained from reports to the Administrator from the Bureau of Power of the Federal Power Commission.

iii. Whether any restrictions should be placed upon the uses in which the gas is consumed in the interstate market;

iv. The impact of the price of such gas on the users receiving such gas as compared to the impact of the price of other alternative supplies such as synthetic natural gas and imported liquefied natural gas; and

v. The procedures required to implement section 7 of Pub. L. 95-2 (91 Stat. 4, 8).

This public conference will be convened at 2 p.m. (EST), Monday, February 28, 1977, in Hearing Room A of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. This public conference will be conducted by the Administrator, and a transcript of the conference will be kept and made available for public inspection.

All persons desiring to participate in the public conference should notify the Office of the Administrator, Room 9200, 825 North Capitol Street NE., Washington, D.C. 20426, by 2 p.m. E.S.T., Friday, February 25, 1977. The notice should include the name of person desiring to participate and the names, addresses, and telephone numbers of the representatives appearing on behalf of such person. In addition, to the extent possible, all persons desiring to participate should submit written comments regarding the issues set forth above by 2 p.m., E.S.T., February 25, 1977.

This notice is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be published in the FEDERAL REGISTER.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 23, 1977.

[FR Doc.77-5992 Filed 2-24-77;10:28 am]

[Docket No. E77-19]

EMERGENCY NATURAL GAS ACT OF 1977

Supplemental Emergency Order

By telegram filed February 23, 1977, Phillips Petroleum Company (Phillips), indicated that its February 16, 1977 telegram in this proceeding requesting permission to make a sale of liquefied natural gas (LNG) from the Kenai LNG Plant, Kenai, Alaska, to Columbia Gas Transmission Corporation (Columbia) contains an error. Phillips states that it proposes to sell its 70 percent share of 440,000 barrels of LNG which is equivalent to 1,400,000 Mcf of natural gas to Columbia.[1] Phillips' February 16, 1977 telegram, and February 18, 1977 order in this proceeding stated that the proposed sales volume was 540,000 barrels of LNG.

Phillips states that the figure "540,000" is in error and requests correction of such error. According, I find that the first sentence of the second paragraph of the February 18, 1977 order should be revised to read as follows:

Phillips has agreed to sell its 70 percent share of 440,000 barrels of LNG to Columbia.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served on Phillips, Columbia, and Marathon Oil Company. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 23, 1977.

[FR Doc.77-5993 Filed 2-24-77;10:28 am]

[Docket No. E77-26]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On February 23, 1977, Marathon Oil Company (Marathon), filed a telegram requesting authorization pursuant to section 6 of the Emergency Natural Gas Act of 1977, Pub. L. 95-2 (91 Stat. 4 (1977)), to make a sale of liquefied natural gas (LNG) from the Kenai LNG Plant, Kenai, Alaska, to Columbia Gas Transmission Corporation (Columbia).[1] Marathon also requests confirmation that its sale of LNG to Columbia will not subject its LNG facilities to the jurisdiction of the Federal Power Commission (FPC) under the Natural Gas Act (15 U.S.C. 717, et seq.).

Marathon has agreed to sell its 30 percent share of 440,000 barrels of LNG to Columbia. The LNG price, F.O.B. Kenai LNG Plant, is $1.55 per MMBtu.

Columbia will transport the LNG from Kenai using the Kenai Multina. Columbia has secured from the Secretary of the Treasury the necessary waivers of the Jones Act (46 U.S.C. 883) to permit the Kenai Multina, a ship of Liberian registry, to engage in United States coastal trade as defined in the Jones Act.

Paragraph (1) of Order No. 2 established for wellhead sales a price of $2.25 per MMBtu below which prior approval of the Administrator is not required. While the Kenai sale is not technically a wellhead sale, the sale is more similar to that type of sale than the other types of sales described in Order No. 2. Therefore, I will consider the proposed sale to be a wellhead sale. Given this treatment, I find the terms and conditions of the proposed sale are fair and equitable in accordance with Order No. 2.

I further find that Marathon's sale to Columbia will not itself subject Marathon's LNG facilities to the jurisdiction of the FPC or affect Marathon's status as an independent producer. In this regard, section 6(b)(1) provides as follows (91 Stat. 4, 8):

The provisions of the Natural Gas Act shall not apply—

(A) To any sale of natural gas to an interstate pipeline or local distribution company under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with any such sale; or

(B) To any natural gas company (within the meaning of the Natural Gas Act) solely by reason of any such sale or transportation.

Thus, even though Marathon's sale to Columbia might otherwise subject such sale and/or Marathon to the jurisdiction of the FPC, Pub. L. 95-2, specifically prohibits the assertion of such jurisdiction.[2]

Section 6(b)(1)(A) provides that sales made pursuant to section 6(a) are not subject to the Natural Gas Act. Marathon's sale to Columbia is pursuant to section 6(a)(1): Marathon is a producer of natural gas, the gas is not produced from the Outer Continental Shelf, and the subject gas was not, prior to the execution of the Marathon-Columbia contract, certificated under the Natural Gas Act.

Columbia shall submit weekly reports as required by Order No. 4. In addition, Columbia shall submit a sworn statement that its purchase complies with Order No. 6 (February 22, 1977).

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia, Marathon, and Phillips Petroleum Company. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 23, 1977.

[FR Doc.77-5994 Filed 2-24-77;10:28 am]

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[1] By order issued in Docket No. E77-26 on February 23, 1977, Marathon Oil Company was authorized to sell its 30 percent share of this 440,000 barrels to Columbia.

[1] By order issued in Phillips Petroleum Company, Docket No. E77-19 (February 18, 1977), that company was authorized to sell its share of LNG from Kenai to Columbia. A supplemental order is being issued in that proceeding to reflect the correct volumes being sold to Columbia.

[2] By letter dated February 17, 1977, the FPC advised Phillips that its sale to Columbia is not subject to the FPC's jurisdiction and that Phillips' status under the Natural Gas Act will not be affected by such sale. I find that the same principles apply to Marathon.

DEPARTMENT OF LABOR

Employment and Training Administration

COMPREHENSIVE EMPLOYMENT AND TRAINING

Proposed Allocation of Funds

Notice is hereby given that the Employment and Training Administration has made the following proposed allocation of discretionary funds for Fiscal Year 1977 under Titles II and VI of the Comprehensive Employment and Train-

ing Act of 1973, Pub. L. 93–203, as amended:

RATIONALE FOR FORMULA USED IN ALLOCATING FY 1977 CETA DISCRETIONARY FUNDS

The Secretary is proposing to distribute $75 million of Title II discretionary funds and $1.26 million of Title VI discretionary funds to prime sponsors using a formula which meets, to the extent of the funds available, each prime sponsor's requirements for maintaining Public Service Employment (PSE) programs at June 30, 1976, levels through September of 1977. This decision is made in accordance with Congressional intent which stipulated that PSE programs were to be maintained at a level of 310,000.

The determination of the amount to be allocated to each prime sponsor was a three-step procedure. The first step was to determine the total amount required by each prime sponsor in order to continue Titles II and VI programs through September. The second step involved subtraction, from this total need, funds available to the prime sponsor as of June 30, and amounts allocated to each prime sponsor since June 30 for operation of Title II and VI programs. Finally each prime sponsor was allocated a portion of the total discretionary amount equal to the sponsor's net need (as determined in steps one and two) as a percentage of all sponsors net need.

Data for the computation of the total requirement for each prime sponsor were current enrollment and accrued expenditures as certified by that prime sponsor on quarterly reports to the Department of Labor. All data were combined for Titles II and VI before completing the computations below:

1. Average cost per enrollee for operating these programs for one year was computed for each prime sponsor by dividing accrued expenditures for the twelve month period from July 1, 1975 to June 30, 1976, by the average number of enrollees in the programs at the end of each quarter during that period.

2. Where necessary, annualized costs per enrollee were adjusted to account for changes in the geographic composition of prime sponsor areas during FY 1977, using data provided by affected prime sponsors to ETA regional offices. All rates were also incremented by two percent to offset expected normal increases in the cost of operating these programs in FY 1977.

3. This expected annual enrollee cost was then multiplied by the sponsor's June enrollment level (adjusted for prime sponsor changes, if necessary) and the resultant annualized total need was multiplied by a factor of 1.25 to obtain each prime sponsor's need for a fifteen month period (July, 1976 through September 1977).

The total requirement determined above for each prime sponsor was reduced by:

1. The remaining funds available to each prime sponsor as of June 30, 1976; i.e., difference between funds previously allocated and reported accrued expenditures, in Titles II and VI combined. Where necessary this figure was also adjusted for changes in prime sponsor areas.

2. The prime sponsor's transition quarter (TQ), Title II allocation.

3. The prime sponsor's FY 1977 Title II base allocation (i.e., for the period from October 1 through September 30).

4. The prime sponsor's FY 1977 Title VI base and discretionary allocation.

The result of these subtractions, if positive, represents each prime sponsor's unfunded need which is to be partially met by this allocation of discretionary funds.

The sponsor's unfunded needs were then summed to obtain a national total. This amount was divided into the $76.2 million available for allocation to determine the proportion the total need which could be funded, and this factor was applied to each sponsor's need to obtain the amounts shown in the accompanying table. All prime sponsors will receive Title II discretionary money except those listed with a double asterisk. Those prime sponsors footnoted with the double asterisk will receive Title VI discretionary funds.

The procedures described closely adhere to the explicit intent of the joint resolution. Every effort was made to ensure that the data used were as certified by prime sponsors and that extenuating circumstances admissible under the intent of the joint resolution were taken into account prior to allocating these funds.

Pursuant to Section 14, (b) of P.L. 94–444, the proposed distribution which follows is published for the purpose of receiving public comment for 30 days from the date of this publication. You are asked to address your comments to:

Albert J. Angebranndt, Administrator, Administration and Management, 601 D Street, N.W., Washington, D.C. 20213.

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION
FY 1977—PROPOSED DISCRETIONARY DISTRIBUTION
AS OF 2/17/77

	PROPOSED ALLOCATION
ATLANTIC COUNTY	2[illegible]
BURLINGTON COUNTY	2[illegible]
HUDSON CO CONST	3[illegible]
NEWARK CITY	3[illegible]
OCEAN COUNTY	1[illegible]
PAT OF PASSAIC COUNTY	1[illegible]
SOMERSET COUNTY	2[illegible]
TRENTON CITY	5[illegible]
NEW JERSEY	1,983,[illegible]
BERGEN COUNTY	2[illegible]
ESSEX COUNTY	1[illegible]
ORANGE COUNTY	2[illegible]
SARATOGA COUNTY	6[illegible]
STOCKTON COUNTY	4[illegible]
SYRACUSE CITY	1[illegible]
WESTCHESTER CONSORTIUM	2[illegible]
NEW YORK CITY	2,596,[illegible]
NEW YORK	4,183,[illegible]
BAYAMON MUNICIPIO	2[illegible]
CAMUY MUNICIPIO	1[illegible]
CAROLINA MUNICIPIO	[illegible]
MAYAGUEZ MUNICIPIO	3[illegible]
PONCE MUNICIPIO	2[illegible]
BALANCE OF PUERTO RICO	3,3[illegible]
PUERTO RICO	4,4[illegible]
REGION II	10,[illegible]

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION
FY 1977—PROPOSED DISCRETIONARY DISTRIBUTION
AS OF 2/17/77

	PROPOSED ALLOCATION
DELAWARE	4[illegible]
DISTRICT OF COLUMBIA	1,2[illegible]
REST OF COLUMBIA	1,2[illegible]
BALANCE OF MARYLAND	[illegible]
BALTIMORE	3[illegible]
LEHIGH VALLEY CONSORTIA	3[illegible]
PHILADELPHIA CITY/COUNTY	2,2[illegible]
ERIE COUNTY	1[illegible]
BAL OF LACKAWANNA COUNTY	[illegible]
SCRANTON CITY	5[illegible]
LUZERNE COUNTY	2[illegible]
PITTSBURGH CITY	4[illegible]
WASHINGTON COUNTY	3[illegible]
WESTMORELAND COUNTY	6[illegible]
SOUTHERN ALLEGHENY CONT	2[illegible]
CENTRE COUNTY	1[illegible]
PENNSYLVANIA	4,5[illegible]
ROANOKE CONSORTIUM	5[illegible]
BALANCE OF VIRGINIA	7[illegible]
VIRGINIA	2[illegible]
WEST VIRGINIA STATEWIDE CONT	2,3[illegible]
WEST VIRGINIA	2,3[illegible]
REGION III	9,2[illegible]

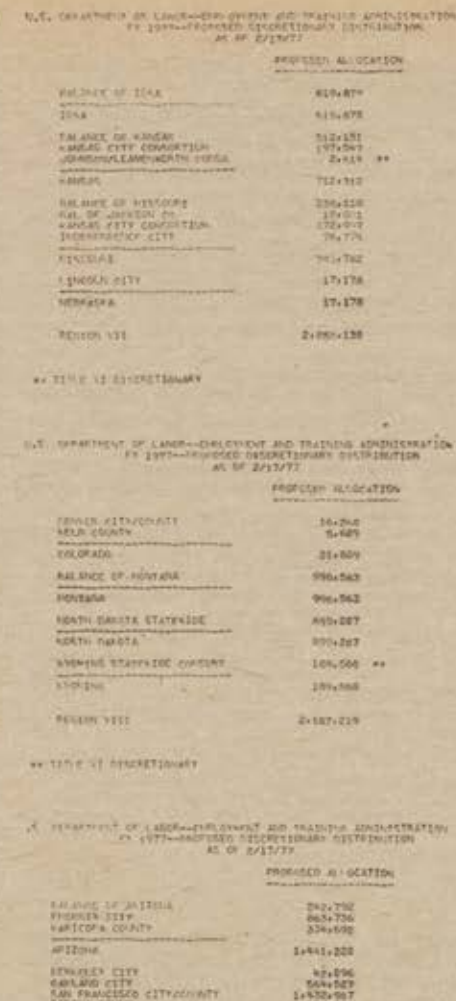
U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION
FY 1977—PROPOSED DISCRETIONARY DISTRIBUTION
AS OF 2/17/77

	PROPOSED ALLOCATION
ALABAMA	7[illegible]
BALANCE OF FLORIDA	4[illegible]
BREVARD COUNTY	9[illegible]
ESCAMBIA COUNTY	4[illegible]
HEARTLAND MANPOWERCONT	3[illegible]
PALM BEACH COUNTY	2[illegible]
TAMPA CONSORTIUM	1[illegible]
FLORIDA	1,7[illegible]
CSRA CONSORTIUM	1[illegible]
ATLANTA CITY	5[illegible]
COBB COUNTY	2[illegible]
COLUMBUS AREA CONSORTIUM	1[illegible]
MID GEORGIA CONSORTIUM	1[illegible]
SAVANNAH/CHATHAM CONT	[illegible]
GEORGIA	1,9[illegible]
BALANCE OF KENTUCKY	6[illegible]
KENTUCKY	6[illegible]
BALANCE OF MISSISSIPPI	6[illegible]
MISSISSIPPI	6[illegible]
ALAMANCE COUNTY	2[illegible]
BUNCOMBE COUNTY	[illegible]
CHARLOTTE CITY	1[illegible]
DURHAM CONSORTIUM	8[illegible]
GREENSBORO CONSORTIUM	1[illegible]
ONSLOW COUNTY	1[illegible]
RALEIGH CONSORTIUM	8[illegible]
WINSTON SALEM CONSORTIUM	3[illegible]
HARRISON COUNTY	2[illegible]
NORTH CAROLINA	6[illegible]
SOUTH CAROLINA STATEWIDE	3,2[illegible]

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION
FY 1977—PROPOSED DISCRETIONARY DISTRIBUTION
AS OF 2/17/77

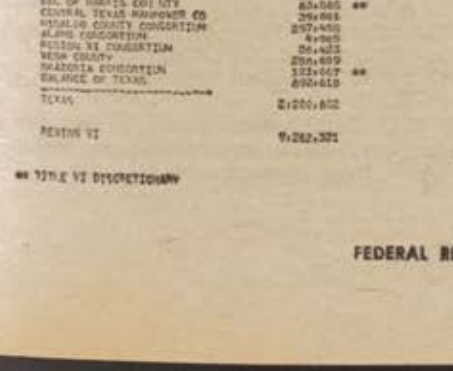
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MONTGOMERY CONSORTIUM	2[illegible]
CONNECTICUT	9[illegible]
PENOBSCOT/KNOX CONT	[illegible]
CUMBERLAND COUNTY	3[illegible]
MAINE	3[illegible]
WORCESTER CONSORTIUM	6[illegible]
LOWELL CONSORTIUM	2[illegible]
MASSACHUSETTS	1[illegible]
ANDROSCOGGIN COUNTY	6[illegible]
NEW HAMPSHIRE	6[illegible]
BALANCE OF RHODE ISLAND	4[illegible]
RHODE ISLAND	4[illegible]
VERMONT STATEWIDE CONT	1[illegible]
VERMONT	1[illegible]
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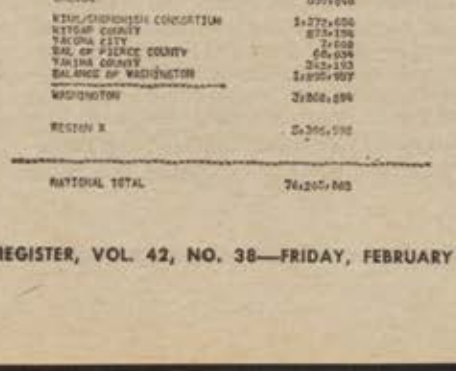












Signed at Washington, D.C., this 22nd day of February, 1977.

ALBERT J. ANGEBRANNDT,
Administrator,
Administration and Management.

[FR Doc.77-5807 Filed 2-24-77;8:45 am]

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS

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 permissibe to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 22nd day of February 1977.

WILLIAM B. HEWITT,
Acting Assistant Secretary for Employment and Training.

Applications received during the week ending Feb. 18, 1977

Name of applicant	Location of enterprise	Principal product or activity
Data Terminal Systems Inc	Maynard, Mass	Manufacture of electronic cash registers and POS systems.
Saltash, Inc	Shrewsbury and Plymouth, Vt.	Manufacture of maple syrup.
Vermont Law School, Inc	South Royalton, Vt	Law school.
Quality Health Services, Inc	Ponce, P.R	Medical hospital.
Hudson Cement Corp	Kingston, N.Y	Manufacture of portland cement and aggregate stone.
Humacao Industrial Park, Inc	Humacao, P.R	Construction and leasing of an industrial building.
Kentucky Fried Chicken, Inc	Morganton, N.C	Fried chicken restaurant.
New-Mill Wood Products, Inc	Wilkes County, N.C	Manufacture of wood furniture parts.
American National Housing Co., Inc	Manson, N.C	Erection of modular low- and moderate-cost homes.
Macks Stores, Inc	Sanford, N.C	Retail variety store.
Castleberry's Warehouse, Inc	do	Sales operation for flu cured tobacco, fertilizer, and Christmas tree business.
Plourde Bros. Hardware, Inc	Somerset, Wis	Retail hardware.
Lenny's Frozen Food Locker	New Ulm, Minn	Slaughter house for meats.
Crystal River Associates	Glen Arbor, Mich	Resort operations and hotel accommodation.
Iowa Pork Industries, Inc	Buffalo Lake, Minn	A meatpacking plant.
Staley Communication, Inc. (tenant of the village of Cadiz).	Cadiz, Ohio	Repairing of communication equipment.
Cramer Landscaping (tenant of the village of Cadiz).	do	Surface mine reclamation and commercial and residential landscaping.
Consolidation Coal Co. (tenant of the village of Cadiz).	do	Mining and sales of coal.
Robert T. Peterson and Charles H. Earp.	Biggsville, Ill	Bowling alley.
Capri Products, Inc (tenant of city of Greenbrier).	Greenbrier, Ark	Manufacturing of marine upholstery.
Farmers Market & Supply Co	Silver City, N. Mex	Retail nurseries, lawn and garden supplies.
Malner Gavranovic Grain	Wharton, Tex	Storage and sales of milo, corn and soybeans.
Thompson Electric & Hardware	Springerville, Ariz	Retail hardware and electrical.

[FR Doc.77-5775 Filed 2-24-77;8:45 am]

Occupational Safety and Health Administration

SOUTH CAROLINA

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 referred to as 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 December 6, 1972, notice was published in the FEDERAL REGISTER (37 FR 25932) of the approval of the South Carolina Plan and adoption of Subpart C of Part 1952 containing the decision and describing the plan. South Carolina was certified as having completed all developmental steps in a notice published in the FEDERAL REGISTER (41 FR 32424) on August 3, 1976. On May 28, 1976, South Carolina submitted a supplement to its plan involving a State-initiated change. The supplement is described below.

2. *Description of the supplement.* Article III, Section 3.10—Deviation from recordkeeping requirements. On May 27, 1976, the South Carolina Commissioner of Labor, Edgar L. McGowan, promulgated an amendment to Article III. The amendment distinguishes between variances in recordkeeping in the private and public sector. Private sector—Variances allowing deviation from recordkeeping requirements in the private sector can only be granted by the U.S. Department of Labor, Bureau of Labor Statistics. Public sector—In the public sector (through State coverage of State and local government employees) the Commissioner of the South Carolina Department of Labor may consider requests for variances for deviation from recordkeeping requirements in accordance with the State's general procedures for variances.

3. *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 South Carolina plan supplement described above is consistent with commitments contained in the approved plan and supplements which were previously made available for public comment. Accordingly, it is found that further public comment is unnecessary.

4. *Location of the plan and its supplement for inspection and copying.* A copy of the above supplement with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Directorate of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309; and Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29206.

5. *Decision.* After consideration, the South Carolina plan supplement containing an amendment to South Carolina Article III, Recordkeeping and Reporting Requirements, as outlined herein, is approved under Part 1953. This decision incorporates the requirement of the Act and implementing regulations applicable to State plans generally.

Signed at Washington, D.C. this 22nd day of February, 1977.

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

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-5783 Filed 2-24-77;8:45 am]

Office of the Secretary

MUSHROOMS

Determination on Increased Imports

On January 10, 1977, the International Trade Commission determined that increased imports of mushrooms are a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 3217).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on mushrooms. The report found as follows:

Statement of Findings. 1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received only one petition for certification of eligibility for adjustment assistance from workers engaged in the growing and processing of mushrooms. On October 22, 1976, the Department of Labor denied certification to workers of the Kennett Canning Company, Kennett Square, Pennsylvania.

2. Over the next 12 months, some of the estimated 100 or so employees on layoff status from processing plants since 1976

may apply for certification of eligibility to apply for adjustment assistance and may be certified by the Department of Labor. There is no evidence of any widespread or significant unemployment among the farm workers. Since the industry has only slight seasonality, these workers would not be excluded from trade readjustment and relocation allowances by the requirement in the Act that all eligible workers must have been employed at least 26 of the 52 weeks immediately preceding their separations.

3. Somewhat less than 100 workers are likely to be laid off from mushroom processing plants over the next year if the decline in the industry of the past few years continues. Many of these workers can be expected to apply for adjustment assistance.

4. The workers that were separated from the industry are located primarily in southeastern Pennsylvania and northern Delaware. Local unemployment rates in all of the impacted areas ranged from 5.3 percent up to 8.3 percent. In view of these generally high unemployment rates and a lack of demand for these workers in other food processing plants in the impacted areas, their employment prospects are not good.

5. The Comprehensive Employment and Training Act (CETA) programs appear to be capable of meeting the needs of the displaced workers. On balance, the actual levels of enrollment in many of these programs are somewhat below the expected levels. The Employment and Training Administration through the State Employment Service has the authority to purchase additional training when CETA funds are not available.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (phone 202-523-7665).

Signed at Washington, D.C. this 18th day of February 1977.

HERBERT N. BLACKMAN,
Acting Deputy Under Secretary, International Affairs.

[FR Doc.77-5784 Filed 2-24-77;8:45 am]

[TA-W-1244]

BERNARD SCREEN PRINTING 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-1244: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 8, 1976 in response to a worker petition received on November 8, 1976 which was filed on behalf of workers and former workers producing printed textiles at Bernard Screen Printing Corporation, New Hyde Park, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Bernard Screen Printing Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers 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 of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at Bernard declined 12.6 percent in the first ten months of 1976 compared to the same period in 1975. Average weekly hours worked declined 7.7 percent in the first ten months of 1976 compared to the same period in 1975.

Labor turnover data indicate major layoffs in the fourth quarter of 1975 and in the first, second and fourth quarters of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by Bernard declined 41.2 percent by value in the first ten months of 1976 compared to the same period in 1975. Production yardage of printed textiles decreased 40.7 percent in the first ten months of 1976 compared to the same period in 1975.

INCREASED IMPORTS

Imports of cotton broadwoven printcloth increased relative to domestic production from 1974 to 1975. Imports increased from 24.7 million square yards in the first nine months of 1975 to 116.8 million square yards in the first nine months of 1976, an absolute increase of 372 percent. The ratio of imports to domestic production increased from 5.6 percent in the January-September period in 1975 to 17.9 percent in the January-September period in 1976.

Imports of man-made printed textile fabric increased from 5.1 million square yards in the first ten months of 1975 to 7.8 million square yards in the first ten months of 1976, an absolute increase of 52.9 percent.

CONTRIBUTED IMPORTANTLY

Customers of Bernard Screen Printing Corporation are converters who purchase screen printed fabric from Bernard and finish the fabric in accordance with apparel manufacturers' specifications. During the course of the Department's investigation it was established that converters, in general, do not import screen printed or finished fabric. The Department's survey of customers of converters, who are apparel manufacturers, revealed that these manufacturers import printed and/or finished fabric for use in men's and women's wearing apparel. The converters reported that a growing trend is for apparel manufacturers to by-pass the converter and purchase finished fabric offshore.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printed textiles produced at Bernard Screen Printing Corporation contributed importantly to the total or partial separations of the workers at Bernard Screen Printing Corporation, New Hyde Park, New York. In accordance with the provisions of the Act, I make the following certification:

All workers at Bernard Screen Printing Corporation, New Hyde Park, New York who became totally or partially separated from employment on or after October 28, 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 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5454 Filed 2-24-77;8:45 am]

[TA-W-1344]

B.I.F.

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-1344: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1976, in response to a worker petition received on November 29, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing equipment for water and wastewater treatment and in-

dustrial processes at the West Warwick, Rhode Island plant of B.I.F.

The notice of investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55601). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of B.I.F., 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.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

Annual sales by B.I.F. increased 43.8 percent in 1975 compared to 1974. Sales increased 31.6 percent in the first 9 months of 1976 compared to the first 9 months of 1975. Sales increased in every quarter of 1975 and in the first three quarters of 1976 when compared to the same quarter of the previous year.

Annual production at B.I.F. increased 24.4 percent in 1975 compared to 1974. Production increased 27.8 percent in the first 9 months of 1976 compared to the first 9 months of 1975. Production increased in every quarter of 1975 and in the first three quarters of 1976 when compared to the same quarter of the previous year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that neither sales nor production at B.I.F. in West Warwick, Rhode Island have decreased as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5467 Filed 2-24-77;8:45 am]

[TA-W-1396]

DONNER-HANNA COKE CORP.

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-1396: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 13, 1976 in response to a worker petition received on December 13, 1976 which was filed by the United Steelworkers of America on behalf of workers producing coke and by-products at the Buffalo New York plant of the Donner-Hanna Coke Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 875). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the Donner-Hanna Coke Corporation.

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 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 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.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Buffalo plant of Donner-Hanna Coke Corporation have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5456 Filed 2-24-77;8:45 am]

[TA-W-1289]

E. T. WRIGHT & CO., 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-1289: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 16, 1976 in response to a worker petition received on November 16, 1976 which was filed on behalf of workers and former workers producing men's shoes at the Rockland, Massachusetts plant of E. T. Wright & Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53088). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of E. T. Wright & Co., Inc., 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 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.

Without regard to whether any of the other criteria, have been met, the investigation has revealed that the first and second criteria have not been met.

Employment increased in the fourth quarter of 1975 compared to the same quarter of 1974, and increased 13 percent in the first nine months of 1976 compared to the same period of 1975.

Sales and production each increased in the third and fourth quarters of 1975 compared to the same quarters of 1974. In the first nine months of 1976, sales increased 13 percent and production increased 21 percent compared to the same period of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales and production have not de-

clined and that separations of workers have not ocurred at the Rockland, Massachusetts plant of E. T. Wright & Co., Inc. as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5457 Filed 2-24-77;8:45 am]

[TA-W-1215]

J. F. MCELWAIN 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-1215: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 2, 1976 in response to a worker petition received on that date which was filed by the New Hampshire Shoe Workers Union on behalf of workers and former workers producing men's cement dress shoes at the D-Factory of J. F. McElwain Company, Division of Melville Shoe Co., Manchester, New Hampshire.

The notice of investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51141). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of J. F. McElwain Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the 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 of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average employment of production workers at D-Factory decreased 5.5 percent in 1974 compared with 1973, increased 24.7 percent in 1975 compared with 1974 and decreased 3.7 percent in the first ten months of 1976 compared with the first ten months of 1975. The D-Factory was closed November 1, 1976, resulting in the layoff of all workers.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of men's dress shoes by D-Factory in terms of quantity decreased 30.2 percent in 1974 compared with 1973, increased 48.5 percent in 1975 compared with 1974 and decreased 18.6 percent in the first ten months of 1976 compared with the first ten months of 1975.

Production of men's dress shoes at D-Factory in terms of quantity decreased 23.6 percent in 1974 compared with 1973, increased 47.5 percent in 1975 compared with 1974 and decreased 17.6 percent in the first ten months of 1976 compared with the first ten months of 1975. All sales and production of men's shoes ended when D-Factory was closed November 1, 1976.

INCREASED IMPORTS

Imports of men's dress and casual footwear with leather uppers increased 5.6 percent in 1972 compared with 1971, increased 3.3 percent in 1973 compared with 1972, decreased 5.1 percent in 1974 compared with 1973, increased 11.8 percent in 1975 compared with 1974 and increased 27.4 percent in the first ten months of 1976 compared with the first ten months of 1975. The ratios of imports to domestic production and consumption increased from 43.1 and 30.1 percent, respectively, in the first three quarters of 1975 to 49.1 and 32.9 percent, respectively, in the first three quarters of 1976.

CONTRIBUTED IMPORTANTLY

All shoes produced at the D-Factory of the J. F. McElwain Company are transferred to the Melville Corporation and are sold through one of its retailing divisions. The Department's investigation revealed that this retailing division, the only customer of D-Factory's production, has increased purchases of imported shoes while decreasing orders for shoes produced at the D-Factory of J. F. McElwain Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's dress shoes formerly manufactured at the D-Factory of J. F. McElwain Company, Manchester, New Hampshire 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 engaged in employment related to the production of men's cement dress shoes at the D-Factory of J. F.McElwain Company, Manchester, New Hampshire who became totally or partially separated from employment on or after July 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 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5455 Filed 2-24-77;8:45 am]

[TA-W-1218]

LA CROSSE RUBBER MILLS 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-1218: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 2, 1976 in response to a worker petition received on that date which was filed by the United Rubber Workers of America on behalf of workers and former workers producing rubber/canvas footwear at the La Crosse Rubber Mills Company, La Crosse, Wisconsin.

The notice of investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51141). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of La Crosse Rubber Mills Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the 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 at La Crosse Rubber Mills Company declined 10 percent in 1975 compared to 1974 and declined 11 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at La Crosse Rubber Mills Company declined 2 percent in 1975 compared to 1974 and declined 15 percent in the first eleven months of 1976 compared to the first eleven months of 1975.

INCREASED IMPORTS

Imports of rubber/canvas footwear increased from 20.1 million pairs in the first three quarters of 1975 to 23.6 million pairs in the first three quarters of 1976. During the same period, imports as a percentage of domestic production increased from 18.3 percent in the first three quarters of 1975 to 25.4 percent in the first three quarters of 1976.

Imports of rubber footwear increased from 139.0 million pairs in 1971 to 192.0 million pairs in 1974. Imports of rubber footwear declined in 1975 to 122.0 million pairs. Imports increased from 89.0 million pairs during the first three quarters of 1975 to 132.0 million pairs during the first three quarters of 1976.

CONTRIBUTED IMPORTANTLY

Customers of La Crosse Rubber Mills Company increased purchases of imports directly or by increasing purchases from domestic sources that supply imported rubber and rubber/canvas footwear.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with rubber and rubber/canvas footwear produced by La Crosse Rubber Mills Company contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the La Crosse Rubber Mills Company, La Crosse, Wisconsin, who became totally or partially separated from employment on or after May 29, 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 14th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5458 Filed 2-24-77;8:45 am]

[TA-W-1227]

LA SALLE CUTTING & MFG. CO., 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-1227: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 8, 1976 in response to a worker petition received on November 8, 1976 which was filed on behalf of workers and former workers producing women's and misses dresses and sportswear at the Pittston, Pennsylvania plant of La Salle Cutting and Mfg. Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51631). No public hearing was requested and none was held.

The information upon which the determination was made was obtained prinicipally from officials of La Salle Cutting and Mfg. Co., Inc., its customers, 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.

Without regard to whether any of the other criteria have been met, criteria (1) and (2) have not been met.

La Salle Cutting and Manufacturing Company, Inc., Pittston, Pennsylvania is a contractor producing women's and misses' dresses and sportswear.

The average number of production workers increased 50.3 percent in 1975 compared to 1974 and increased 17.0 percent in the first nine months of 1976 compared to the first nine months of 1975.

Sales and production are the same. Sales, in quantity, increased 121.4 percent in 1975 compared to 1974 and increased 7.0 percent in the first nine months of 1976 compared to the first nine months of 1975.

Sales, in value, increased 63.3 percent in 1975 compared to 1974 and increased 50.6 percent in the first nine months of 1976 compared to the first nine months of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that employment, production and sales at the Pittston, Pennsylvania plant of La Salle Cutting and Mfg. Co., Inc., have not decreased as required for certification in section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5459 Filed 2-24-77;8:45 am]

[TA-W-1401]

MISSOURI ROLLING MILL CORP.

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-1401: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 13, 1976 in response to a worker petition received on December 13, 1976 which was filed by the United Steelworkers of America on behalf of workers producing merchant bars at the St. Louis, Missouri plant of the Missouri Rolling Mill Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 890). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the Missouri Rolling Mill Corporation.

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 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 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.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

that a significant number or proportion of the workers at the St. Louis, Missouri plant of the Missouri Rolling Mill Corporation have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5460 Filed 2-24-77;8:45 am]

[TA-W-1351]

MUELLER CO.

Negative Determinaiton 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-1351: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers producing steel, alloy, copper, and brass fittings, valves, couplings, flanges, etc. at the Chattanooga, Tennessee plant of the Mueller Company.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1537). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the Mueller Company.

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 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 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.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Chattanooga, Tennessee plant of the Mueller Company produces fire hydrants and gate valves of cast iron.

Pursuant to the requirements of 29 CFR 90.2 total or partial separations must be the equivalent to a total unemployment of five percent or 50 workers, whichever is less. Evidence developed in the Department's investigation revealed that the total or partial separations which occurred during the period of possible coverage amounted to less than five percent of the workforce employed at the Mueller Company. The total number of workers experiencing separations during the period November 1, 1975, one year prior to the signature date of the petition, to the present was less than 50 workers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Chattanooga, Tennessee plant of the Mueller Company have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5461 Filed 2-24-77;8:45 am]

[TA-W-1404]

NORTH STAR STEEL CO.

Negative Determinaiton 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-1404: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 13, 1976 in response to a worker petition received on December 13, 1976 which was filed by the United Steelworkers of America on behalf of workers producing reinforcing rods, and round angles of carbon and alloy steel at the St. Paul, Minnesota plant of the North Star Steel Company, a subsidiary of Cargill, Inc., Minneapolis, Minnesota.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 892). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the North Star Steel Company.

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 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 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.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the St. Paul, Minnesota plant of the North Star Steel Company have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5454 Filed 2-24-77;8:45 am]

[TA-W-1038]

RIVER FALLS MANUFACTURING CO. AND FIELDSTON CLOTHES, 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-1038: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 20, 1976, in response to a worker petition received on August 20, 1976, which was filed by three workers on behalf of workers and former workers engaged in the sale and distribution of children's clothing and outerwear at Fieldston Clothes, Inc., New York, New York. The investigation revealed that Fieldston Clothes sells the garments that are manufactured by River Falls Manufacturing Company, Fall River, Massachusetts. Because the two companies share common ownership, the investigation was expanded on October 20, 1976, to include workers producing children's outerwear at River Falls Manufacturing Company, Fall River, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on September 10, 1976 (41 FR 38568). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fieldston Clothes and its customers, the U.S. Department of Commerce, the U.S. Interna-

tional 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 with respect to both Fieldston Clothes and River Falls Manufacturing Company, all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment at Fieldston Clothes increased 7.1 percent in 1974 compared with 1973, decreased 40.0 percent in 1975 compared with 1974 and decreased 22.2 percent in the first three quarters of 1976 compared with 1975.

Average annual employment at River Falls Manufacturing Company decreased 10.1 percent in 1974 compared with 1973, increased 37.4 percent in 1975 compared with 1974 and decreased 16.6 percent in the first three qarters of 1976 compared with the first three quarters of 1975. Employment has steadily declined since the third quarter of 1975 and is currently at its lowest level since December 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Sales of children's outerwear by Fieldston Clothes, in terms of value, decreased 13.8 percent in 1974 compared with 1973, decreased 5.6 percent in 1975 compared with 1974 and decreased 3.9 percent in the first three quarters of 1976 compared with the first three quarters of 1975.

Sales of boys' suits and raincoats under the Young Masters label by Fieldston, in terms of value, decreased 63.2 percent in 1974 compared with 1973, decreased 87.5 percent in 1975 compared with 1974. No sales have been recorded under the Young Masters label in 1976 to date.

Production of children's outerwear by River Falls Manufacturing Company, in terms of value, decreased 27.2 percent in 1974 compared with 1973, decreased 3.4 percent in 1975 compared with 1974 and decreased 19.8 percent in the first three quarters of 1976 compared with the first three quarters of 1975.

INCREASED IMPORTS

Imports of women's, misses', and children's coats and jackets, in terms of quantity, increased 22.8 percent in 1972 compared with 1971, increased 2.2 percent in 1973 compared with 1972, decreased 18.2 percent in 1974 compared with 1973, increased 2.6 percent in 1975 compared with 1974 and increased 51.1 percent in the first three quarters of 1976 compared with the first three quarters of 1975. The ratios of imports to domestic production and consumption increased from 30.9 and 23.6 percent, respectively, in 1974 to 31.1 and 23.7 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

Customers reduced purchases from Fieldston Clothes, Inc. during the 1975–76 period while increasing purchases of imported children's outerwear. In addition to the lower price differential of imported clothing, a growing consumer trend toward more casual and all-purpose outerwear prompted customers to switch purchases to imported garments and decrease purchases of the more dressy domestic items.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that increases of imports like or directly competitive with children's outerwear sold by Fieldston Clothes, Inc., New York, New York and produced by River Falls Manufacturing Company, Fall River, Massachusetts contributed importantly to the total or partial separations of the workers of these plants. In accordance with the provisions of the Act, I make the following certification:

All workers at Fieldston Clothes, Inc., New York, New York and River Falls Manufacturing Company, Fall River, Massachusetts who became totally or partially separated from employment on or after August 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 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5463 Filed 2-24-77;8:45 am]

[TA-W-1148]

TRUE TEMPER CORP.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 222 of the Trade Act of 1974 and in accordance with section 223(a) of such Act, on December 23, 1976, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the Tackle Division of True Temper Corporation, Anderson, South Carolina (TA-W-1148). The notice of certification was published in the FEDERAL REGISTER January 4, 1977 (42 FR 898).

At the request of a former employee of the Tackle Division, further investigation was conducted by the Office of Trade Adjustment Assistance to determine if all workers separated from employment related to the production of fishing rods and reels at the Tackle Division after September 26, 1975 were covered by the certification. The investigation revealed that the Tackle Division continued to employ certain workers in inventory reduction operations at the Anderson plant through the end of 1976 after production operations were ceased and, thus, after the August 1, 1976 termination date included in the certification as issued on December 23, 1976.

Since the intent of the certification is to cover all workers separated from the Tackle Division as a result of increased imports of rods and reels, the certification is revised to include all workers separated from the Tackle Division on or after September 26, 1975 and before December 31, 1976.

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I have determined that the termination date, included in TA-W-1148 Notice of Certification, issued on December 23, 1976, should be revised. The revised certification applicable to TA-W-1148 is hereby issued as follows:

All workers engaged in employment related to the production of fishing rods and reels at the Tackle Division of True Temper Corporation, Anderson, South Carolina who became totally or partially separated from employment on or after September 26, 1975 and before December 31, 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 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5464 Filed 2-24-77;8:45 pm]

[TA-W-1190]

VILLAGER INDUSTRIES, 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-1190: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on October 19, 1976 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses, pants, shirts, vests, jackets, skirts and sweaters at the Cornwell Heights, Pennsylvania plant of The Villager Industries, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48818). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of The Villager Industries, Inc.

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 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 criterion (2) has not been met.

Villager Industries, Inc., is operated as a separate sales division of Jonathan Logan. Villager sells women's dresses, pants, shirts, vests, jackets, skirts and sweaters.

All production is performed by outside contractors. No production is performed by Villager.

Sales increased 13.6 percent in the fourth quarter of 1975 compared to the fourth quarter of 1974. Company sales increased 4.6 percent, 29.2 percent and 37.1 percent, respectively, in the first, second and third quarters of 1976 compared to the first, second and third quarters of 1975. Company sales increased 23.1 percent in the first three quarters of 1976 compared to the first three quarters of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production at the Cornwell Heights, Pennsylvania facility of the Villager Industries, Inc. has not decreased as required under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5465 Filed 2-24-77;8:45 am]

[TA-W-1261]

VULCAN CORP.

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-1261: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 11, 1976 in response to a worker petition received on that date which was filed by the United Shoeworkers of American on behalf of workers and former workers producing shoe lasts at the Walnut Ridge, Arkansas plant of Vulcan Corporation, Cincinnati, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53097). No public hearing was requested and none was held.

The information upon which the determination was made, was obtained principally from officials of Vulcan Corporation, the U.S. International Trade Commission, the U.S. Department of Commerce 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 requirement 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.

Without regard as to whether the other criteria have been met, criterion (3) has not been met.

Vulcan Corporation (Vulcan) is primarily a supplier of lasts, heels and other component parts and capital equipment to the footwear manufacturing industry. The Walnut Ridge, Arkansas plant produces shoe lasts for domestic shoe manufacturers.

Imports of shoe lasts are negligible. Only two firms are known to import lasts and those firms supply only their own domestic shoe manufacturing operations.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with shoe lasts produced at the Walnut Ridge, Arkansas plant of Vulcan Corporation, Cincinnati, Ohio have not increased as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5466 Filed 2-24-77;8:45 am]

[TA-W-1277]

VULCAN CORP., KENTON, TENNESSEE

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-1277: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Trade Act.

The investigation was initiated on November 15, 1976 in response to a worker petition received on that date which was filed by the United Shoeworkers of America on behalf of workers and former workers producing shoe heels at the Kenton, Tennessee plant of Vulcan Corporation, Cincinnati, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53098). No public hearing was requested and none was held.

The information upon which the determination was made, was obtained principally from officials of Vulcan Corporation, the U.S. International Trade Commission, the U.S. Department of Commerce 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.

Without regard as to whether the other criteria have been met, criterion (3) has not been met.

Vulcan Corporation (Vulcan) is primarily a supplier of lasts, heels and other component parts and capital equipment for the footwear manufacturing industry in the United States. The Kenton, Tennessee plant produced molded plastic shoe heels which were sold to shoe manufacturing companies. The plant closed in October 1976.

Imports of shoe heels are negligible, having amounted to less than one half of one percent of the domestic market in recent years.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with shoe heels produced at the Kenton, Tennessee plant of Vulcan Corporation, Cincinnati, Ohio have not increased as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-5785 Filed 2-24-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

COMMITTEE MANAGEMENT

Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I have hereby determined that the establishment of the Advisory Panel for Population Biology and Physiological Ecology is necessary, appropriate, and in the public interest in connection with performance of duties imposed upon the National Science Foundation (NSF) by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to Section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular A-63, Revised.

1. *Designation:* Advisory Panel for Population Biology and Physiological Ecology.

2. *Purpose:* To provide advice and recommendations in the support of research in population biology and physiological ecology and to evaluate the Population Biology and Physiological Ecology Program.

3. *Establishment and Duration:* The panel is effective upon filing of the charter with the Acting Director, NSF, and with the standing committees of the Congress having legislative jurisdiction of the Foundation. The panel's duration shall be two years from the effective date.

4. *Membership:* The membership of the panel will be fairly balanced in the terms of the points of view represented and the panel's function. Membership will consist of approximately seven individuals selected from the population biology and physiological ecology community (primarily university faculties). Members will be chosen so as to insure a balance of subspecialty competence, geographical distribution, and representation among women and minorities. There will be no discrimination on the basis of race, color, national origin, religion, or sex.

5. *Advisory Panel Operation:* The panel will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463), Foundation policy and procedures; OMB Circular A-63, Revised; and other directives and instructions issued in implementation of the Act.

Dated: FEBRUARY 18, 1977.

RICHARD C. ATKINSON,
Acting Director.

[FR Doc.77-5675 Filed 2-24-77;8:45 am]

INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Proposal Review Panel for the Office of Internation Decade of Ocean Exploration, Ad Hoc Subpanel for the Cenozoic Paleoceanography Project.

Date and Time: March 14-15, 1977—9:00 am to 5:00 pm each day.

Place: Room 642, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Mr. Freenan D. Jennings, Head, Office for the International Decade of Ocean Exploration, Room 605, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7356.

Purpose of Panel: To provide the IDOE Proposal Review Panel members with additional expertise in the review and evaluation of proposals relating to oceanography research related to Cenozoic Paleoceanography.

Agenda: Detailed review and evaluation of new proposals for support of the Cenozoic Paleoceanography Project.

Reason for Closing: The proposals being reviewed included information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-5676 Filed 2-24-77;8:45 am]

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

MEETING

Pursuant to Subsection 10(a) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the National Study Commission on Records and Documents of Federal Officials will meet on March 7 and 8, 1977 beginning at 1 p.m. on March 7 and 9:30 a.m. on March 8 in Room 6320 of the Department of State Building, 2201 C Street, N.W., Washington, D.C.

Purpose: The Commission was established under Title II of the Presidential Recordings and Materials Preservation Act (Pub. L. 93-526; 88 Stat. 1698 (44 U.S.C. 3315 et seq.)) to study problems involving the control, disposition, and preservation of records and documents produced by or on behalf of Federal officials.

Agenda: The purpose of the meeting is to review and discuss the preliminary draft of the final report of the Commission.

The meeting will be open to the public. Individuals are welcome to attend to the extent of available space.

Dated: February 18, 1977.

HERBERT BROWNELL,
Chairman.

[FR 77-5671 Filed 2-24-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Administrative Proceeding File No. 3-5173]

STANDARD OIL CO.

Application and Opportunity for Hearing

FEBRUARY 22, 1977.

In the matter of Standard Oil Co. (an Ohio corporation), File Nos. 2-52263 (22-8125), 2-57682 (22-9055), Trust Indenture Act of 1939 section 310(b)(1)(ii).

Notice is hereby given that The Standard Oil Company (an Ohio corporation) (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the trusteeships of Morgan Guaranty Trust Company of New York ("Morgan Guaranty") under certain indentures which are qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan Guaranty from acting as trustee under any of such indentures.

Section 310(b) of the Act provides, inter alia, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under

the indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The Applicant alleges that:

1. Morgan Guaranty, as Trustee, has entered into an Indenture dated as of December 1, 1974 (the "Capital Indenture") with Sohio/BP Trans Alaska Pipeline Finance Inc. (which name has since been changed to Sohio/BP Trans Alaska Pipeline Capital Inc.), a Delaware corporation ("Capital"), pursuant to which there have been issued $250,000,000 principal amount of Capital's 9¾ percent Debentures Due 1999 (the "Capital Debentures"). The Capital Indenture was filed as Exhibit 4 to Registration Statement No. 2-52263 under the Securities Act of 1933 and has been qualified under the Act.

2. On December 14, 1976 the Applicant issued $75,000,000 principal amount of its 6⅛ percent Notes Due December 1, 1979, $75,000,000 principal amount of its 6½ percent Notes Due December 1, 1981 and $200,000,000 principal amount of its 7½ percent Notes Due December 1, 1986 (collectively, the "Notes"), under three separate indentures (collectively, the "New Indentures") each dated as of December 1, 1976 and between the Applicant and Morgan Guaranty, as Trustee. The New Indentures were filed as Exhibits 2 (a), (b), and (c) to Registration Statement No. 2-57682 filed under the Securities Act of 1933 and have been qualified under the Act.

3. Capital is owned 67.8 percent by Sohio Pipe Line Company, a wholly-owned subsidiary of the Applicant ("Sohio Pipe Line"), and 32.2 percent by BP Pipelines Inc. ("BP Pipelines"), a wholly-owned subsidiary of The British Petroleum Company Limited ("BP"). Simultaneously with the issuance and sale of the Capital Debentures, Capital applied the proceeds thereof to the purchase of a note of Sohio Pipe Line (the "Sohio Pipe Line Note") in a principal amount equal to 67.8 percent of the Capital Debentures and a note of BP Pipelines in a principal amount equal to 32.2 percent of the Capital Debentures. The Sohio Pipe Line Note is guaranteed by the Applicant and has been pledged to Morgan Guaranty, as Trustee under the Capital Indenture, to secure payment of the Capital Debentures. The Capital Debentures are also secured by the pledge of rights under the completion agreement and throughput agreement of the Applicant referred to below. The Applicant is obligated with respect to 67.8 percent in principal amount of the Capital Debentures pursuant to its unsecured guarantee of the Sohio Pipe Line Note and it is also committed under a completion agreement and a throughput agreement with Sohio Pipe Line to advance funds sufficient to enable Sohio Pipe Line to pay its share of the construction costs of its interest in the Trans Alaska Pipeline System and all of its financial obligations, including those which relate to the Capital Debentures, as they become due. BP is obligated with respect to the remaining 32.2 percent in principal amount of the Capital Debentures.

4. No default has at any time existed under either the Capital Indenture or the New Indentures. The Applicant's obligations in respect of the Capital Debentures and the Notes are wholly unsecured and rank equally pari passu. There are no material differences between the provisions of the Capital Indenture and the New Indentures relating to the covenants of the Applicant which apply to the future.

5. Such differences as exist between the New Indentures and the Capital Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan Guaranty from acting as Trustee under any of the said Indentures.

6. Section 6.08(c)(1) of each of the New Indentures contains the provision permitted by the proviso of Section 310 (b)(1) of the Act and specifically permits Morgan Guaranty to act as Trustee under the Capital Indenture, as well as under each of the other New Indentures. Accordingly, no conflict is deemed to exist under the New Indentures, each of which has been qualified under the Act, as a result of Morgan Guaranty's acting as Trustee thereunder and under the Capital Indenture.

7. Section 8.09(c) of the Capital Indenture provides in part as follows:

(c) For the purposes of this § 8.09 the Trustee shall be deemed to have a conflicting interest if

(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of an Obligor are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of the Debentures; *provided*, That there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of an Obligor, are outstanding if such Obligor shall have sustained the burden of proving, on application to the securities and exchange Commission and after opportunity for hearing thereon, that the trusteeship under this Indenture (including the Note Purchase Agreements) and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures;

The Applicant is an "Obligor" as defined in the Capital Indenture.

8. As stated above, under the provisions of each of the New Indentures no conflict is deemed to exist by reason of Morgan Guaranty's also acting as Trustee under the Capital Indenture. However, under § 8.09(c)(1) of the Capital Indenture, Morgan Guaranty is deemed to have a conflicting interest because it is acting as Trustee under the New Indentures and the Capital Indenture, unless it is deemed not to have such a conflicting interest by reason of a finding by the Commission after an opportunity for a hearing that its acting as Trustee under said Indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan Guaranty from so acting.

The Applicant has waived: (a) Notice of hearing, (b) Hearing on the issues raised by said application, and (c) All rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, NW., Washington, D.C.

Notice is further given, That any interested person may, not later than March 14, 1977, 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 law or fact raised by such 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. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-5688 Filed 2-24-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 165-13]

MISSION DIRECTOR, USAID/DOMINICAN REPUBLIC

Redelegation of Authority

Pursuant to the authority vested in me as Assistant Administrator, Bureau for Latin America, Agency for International Development, by Section 607 of the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Mission Director, USAID/Dominican Republic, authority to execute an Agreement with the Government of the Dominican Republic to make available Power Barge Weber to the Dominican Republic. The term of this Agreement shall be for one year and may be renewed annually.

This Delegation of Authority shall be effective for 120 days from the date of execution hereof.

Dated: February 4, 1977.

E. N. S. GIRARD, II,
Assistant Administrator.

[FR Doc.77-5766 Filed 2-24-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket RST-1, Waiver Petition No. 17]

PENN CENTRAL TRANSPORTATION CO. AND ITS SUCCESSORS IN INTEREST

Supplemental Report and Order No. 2

On February 25, 1974, the Federal Railroad Administration (FRA) issued a final report and order (39 FR 7827) on a petition filed by the Penn Central Transportation Company (Penn Central) which requested a temporary waiver of compliance with the provisions of the Federal Railroad Administration Track Safety Standards for track geometry (49 CFR 213.51-63) and crossties (49 CFR 213.109). In that report and order Penn Central was granted a temporary waiver of compliance with those specific provisions of the Track Safety Standards subject to certain terms and conditions.

On December 31, 1975, the Railroad Safety Board (Board) of the FRA reviewed that final report and order and issued a supplemental report and order in this proceeding (41 FR 1312). Acting upon delegated authority, the Board examined the efforts made by Penn Central to comply with the terms and conditions of the final report and order. The Board concluded that Penn Central had not fully complied with the terms and conditions of the final report and order. In particular, the Board noted that Penn Central clearly had not completed the restoration program which provided for the restoration of all trackage covered by the petition prior to January 1, 1976. For the reasons set forth in the supplemental report and order, the Board concluded that the public interest would be served best by continuing the waiver under new terms and conditions despite the failure of Penn Central to adhere to the conditions of the final report and order.

Consequently, the Board continued the waiver under revised terms and conditions which were set forth in the supplemental report and order. Among those conditions were provisions premitting the transfer of the waiver to parties who became successors in interest to Penn Central for any of this trackage.

Four railroads subsequently utilized provisions of this supplemental report and order to obtain a transfer of this waiver. These railroads, Consolidated Rail Corporation (Conrail), Hillsdale County Railroad Company (Hillsdale), Providence and Worcester (P&W) and Michigan Northern (Michigan No.), either acquired ownership of the former Penn Central trackage or agreed to maintain service on certain trackage pursuant to the Regional Rail Reorganization Act of 1973, as amended, (45 U.S.C. 751 et seq.) (Rail Act).

Each of these railroads notified FRA that it would not be feasible to complete the restoration of the trackage to at least Class 1 standards prior to January 1, 1977. The information submitted by these railroads established good cause for FRA to consent in writing to a change in the completion date for the individual restoration programs submitted by these railroads. Accordingly, FRA notified these railroads in writing that it was consenting to a later completion date. In no instance did FRA's consent permit a railroad to extend the completion date for the restoration program beyond December 31, 1977.

In reviewing the requests for an extension of the completion date for these restoration programs, the Board determined that it would be appropriate to modify the conditions under which operations would be permitted prior to the completion of these restoration programs. These revised conditions reflect the changes that have occurred since the issuance of the prior orders in this proceeding and are intended to ensure that operations over the remaining noncomplying trackage are conducted in a manner that is fully consistent with railroad safety.

The issuance of these revised terms and conditions does not constitute a revocation of any of the provisions of the prior reports and orders, except to the extent that they are inconsistent with this report and order. Furthermore, the issuance of these revised terms and conditions does not constitute a waiver of any rights or powers which FRA may have by virtue of those prior reports and orders including, without limitation, the ability to impose penalties for failure to comply with the terms and conditions of the prior reports and orders.

For the reasons stated in this report and order the Board continues in effect the temporary waiver granted to Penn Central and subsequently transferred to Conrail, Hillsdale, P&W and Michigan No. This waiver of compliance with the provisions of the FRA Track Safety Standards for track geometry (49 CFR 213.51-63) and for crossties (49 CFR 213.109) is subject, effective March 1, 1977, to the following terms and conditions:

1. No trains in revenue passenger service shall be operated over any track that does not comply with Class 1 standards or over any track immediately adjacent to track that does not comply with Class 1 standards.

2. All track not complying with Class 1 standards classified in the petition as other than yard track shall be inspected by a person designated under 49 CFR 213.7 ahead of every train. Each inspection must be made during daylight hours and not more than 6 hours prior to train movement. A written record of each inspection required in this paragraph shall be on file at the division headquarters not later than 7 days after the inspection and retained at that location for at least 1 year after the inspection. Each record must indicate the date of inspection, track inspected, time inspection is begun, time inspection is concluded, limits of the inspection, following train identification and number, a statement certifying in writing the inspector's opinion that the track is safe for the intended train movement and be signed by the inspector.

All tracks not complying with Class 1 standards classified as yard track shall be inspected by a person designated under 49 CFR 213.7 weekly or prior to usage where the track is used less than once a week. A written record of each yard track inspection shall be on file at the division headquarters not later than 7 days after the inspection and retained at that location for at least 1 year after the inspection. Each record must indicate the date of inspection, the track inspected, the limits of the inspection and the statement certifying in writing the inspector's opinion that the track is safe for the intended train movement and be signed by the inspector.

3. Operating speed on all track that does not comply with Class 1 standards is restricted to a maximum of 8 miles per hour for Main, Branch and Secondary track and to 6 miles per hour for all other track.

4. Beginning on March 1, 1977, and continuing monthly after that date, each railroad shall submit a report of work completed and in progress on track subject to this waiver. Such report shall contain the name of the organization performing the work, the work completed on each line, the track identification, the mile post limits of track brought into compliance and the percent complete.

5. All derailments occurring on track covered by this petition are to be reported weekly to FRA irrespective of injury or estimated dollar damage.

6. Each railroad may add any other operating restrictions, including the prohibition of all operations, if deemed necessary to avoid unsafe operations, and shall take special care to assure that employees subject to their supervision are informed of the provisions of this waiver.

In the event of any failure to comply with the terms and conditions of this waiver, FRA may, at any time, revoke the waiver or invoke the penalty provisions of 45 USC 438, or both.

Issued in Washington, D.C. on February 17, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.77-5728 Filed 2-24-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular, Public Debt Series—No. 5–77]

TREASURY NOTES OF SERIES M–1979

Interest Rates

FEBRUARY 18, 1977.

The Secretary of the Treasury announced on February 17, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 5–77, dated February 11, 1977, will be 5⅞ percent per annum. Accordingly, the notes are hereby redesignated 5⅞ percent Treasury Notes of Series M–1979. Interest on the notes will be payable at the rate of 5⅞ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77–5682 Filed 2–24–77;8:45 am]

VETERANS ADMINISTRATION

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a meeting of the Central Office Education and Training Review Panel, authorized by section 1790(b), Title 38, United States Code, will be held in Room A53, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C. on Tuesday, April 5, 1977 at 10 a.m. The meeting will be held for the purpose of reviewing the decision of the Director, Veterans Administration Regional Office, Portland, Oregon, that disapproved further enrollments or reenrollments and discontinued educational assistance allowance to veterans and other eligible persons enrolled in West Coast Training, Inc., P.O. Box 22468, Milwaukie, Oregon 97222, effective August 31, 1976.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Bernard D. Duber, Acting Chief, Field Operations, Education and Rehabilitation Service, Veterans Administration Central Office (phone 202–389–2850) prior to March 25, 1977.

Dated: February 17, 1977.

By direction of the Administrator.

A. J. SCHULTZ, Jr.
Associate Deputy Administrator.

[FR Doc.77–5737 Filed 2–24–77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[AB 132]

AKRON & BARBERTON BELT RAILROAD CO.

Abandonment of Services

FEBRUARY 14, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Akron and Barberton Belt Railroad Company of 3.4 miles of its Fairlawn Branch near Norton, in Summit County, Ohio, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2) (C) of the NEPA.

It was concluded, among other things, that the diversion of the current one rail car per year would not affect ambient enviromnental conditions in the affected corridor. The potential postabandonment use of the property for a electrical transmission corridor precludes significant changes to wildlife or vegetation habitat. No historic or archeological sites are involved in this proposed action.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before March 29, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–5808 Filed 2–24–77;8:45 am]

Assignment of Hearings

[Notice No. 333]

FEBRUARY 22, 1977.

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 10761 Sub-No. 281, Transamerican Freight Lines, Inc., now being assigned March 9, 1977 (13 days), at Dallas, Texas, and will be held in Room 7A23, New Federal Building, 1100 Commerce Street and April 12, 1977 (9 days), for continued hearing at Dallas in a hearing room to be later designated.

MC 124679 Sub 71, C. R. England & Sons, Inc., and MC 13018 Sub 31, Refrigerated Foods, Inc., now being assigned April 20, 1977 (3 days), at Denver, Colorado, in a hearing room to be later designated.

MC–C–9025, Kane Transfer Co. v Jacobs Transfer, Inc., and MC 59099 Sub-No. 1, Jacobs Transfer, Inc., now being assigned March 29, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 142308, Bob Forman Associates, Inc., now being assigned April 4, 1977 (1 week), at Austin, Texas, in a hearing room to be later designated.

MC 141824 Sub 1, William E. Egbert, d.b.a. Bill Egbert Horse Transportation now being assigned April 18, 1977 (1 week), at Seattle, Washington, in a hearing room to be later designated.

MC–F–12623, Anderson Trucking Service, Inc.—Purchase (Portion)—Jenkins Truck Line, Inc., and MC 95876 Sub-No. 179, Anderson Trucking Service, Inc., now being assigned April 13, 1977 (3 days), at Seattle, Washington, in a hearing room to be later designated.

MC 141532 Sub 11, Pacific States Transport, Inc., now being assigned April 12, 1977 (1 day), at Seattle, Washington, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–5814 Filed 2–24–77;8:45 am]

[Rule 19; Ex parte No. 241; 24th Rev. Exemption No. 90]

BALTIMORE & OHIO RAILROAD, CO. ET AL.

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 402, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1, 2(a), and 2(b).

The Baltimore and Ohio Railroad Company
Reporting Marks: BO
Cadiz Railroad Company
Reporting Marks: CAD
The Chesapeake and Ohio Railway Company
Reporting Marks: CO-PM
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP

* * * * *

Green Mountain Railroad Corporation
Reporting Marks: GMRC
Greenville and Northern Railway Company
Reporting Marks: GRN
Lake Erie, Franklin & Clarion Railroad Company
Reporting Marks: LEP[1]
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railway Company
Reporting Marks: LNAC
Missouri-Kansas-Texas Railroad Company
Reporting Marks: BKTY-MKT
New Jersey, Indiana & Illinois Railroad Company
Reporting Marks: NJII
Norfolk and Western Railway Company
Reporting Marks: N&W-ACY-NKP-P&WV-WAB
Ogdensburg Bridge and Port Authority
Reporting Marks: NSL
Pearl River Valley Railroad Company
Reporting Marks: PRV
The Pittsburgh and Lake Erie Railroad Company
Reporting Marks: P&LE
Providence and Worcester Company
Reporting Marks: PW[2]
Raritan River Rail Road Company
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Johnsbury & Lamoille County Railroad
Reporting Marks: SJL
Sierra Railroad Company
Reporting Marks: SERA
Tidewater Southern Railway Company
Reporting Marks: TS
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Company
Reporting Marks: WCTR
Western Maryland Railway Company
Reporting Marks: WM
Yreka Western Railroad Company
Reporting Marks: YW

Effective February 15, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 7, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-5812 Filed 2-24-77;8:45 am]

[S.O. 1252; I.C.C. Order No. 20; Amdt. 2]

GRAND TRUNK WESTERN RAILROAD CO.

Rerouting of Traffic

To all railroads: Upon further consideration of I.C.C. Order No. 20, (Grand Trunk Western Railroad Company) and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 20 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1977, unless otherwise modified, changed or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., February 15, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 14, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-5815 Filed 2-24-77;8:45 am]

[ICC Order No. 24 under S.O. No. 1252]

GREEN BAY & WESTERN RAILROAD CO. AND ANN ARBOR RAILROAD

Rerouting of Traffic

To all railroads: In the opinion of Joel E. Burns, Agent, the Green Bay and Western Railroad Company and the Ann Arbor Railroad, Consolidated Rail Corporation operator for the State of Michigan (AA), are unable to interchange traffic because of ice conditions in Lake Michigan which prevent the operation of the AA's car ferry.

It is ordered, That: (a) The Green Bay and Western Railroad Company and the Ann Arbor Railroad, Consolidated Rail Corporation operator for the State of Michigan (AA), being unable to interchange traffic because of ice conditions which prevent the operation of the AA's car ferry, these carriers are hereby authorized to reroute and divert such traffic, via any available route, to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving road to be obtained.* The railroad diverting the traffic shall receive the concurrence of the lines over which the traffic is rerouted or diverted before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carriers' disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 9:00 a.m., February 14, 1977.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 18, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 14, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-5811 Filed 2-24-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

FEBRUARY 18, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before March 7, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 35890 (Sub-No. E13), filed September 16, 1976. Applicant, BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between Holland, Lowell, Otsego and Zeeland,

[1] Elgin, Joliet, and Eastern Railway Company deleted.
[2] Addition.

Mich., on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of Warren County, Pa.

No. MC 35890 (Sub-No. E14), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., 3801 Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Lake, Porter, Newton, Jasper, LaPorte, Starke, Pulaski, White, Benton, Warren, Tippecanoe, Fountain, Montgomery, Vermillion, Parke, Putnam, Vigo, Clay, Owen, Sullivan, Greene, Knox, Daviess, Gibson, Pike, Posey, Vanderburgh, and Warrick Counties, Ind., to points in Vermont. The purpose of this filing is to eliminate the gateways of Grand Rapids, Mich. and Jamestown, N.Y.

No. MC35890 (Sub-No. E15), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., 3801 Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Furniture*, from points in Lake, Porter, Newton, Jasper, LaPorte, Starke, Pulaski, White, Benton, Warren, Tippecanoe, Fountain, Montgomery, Vermillion, Parke, Putnam, Vigo, Clay, Owen, Sullivan, Greene, Knox, Daviess, Gibson, Pike, Posey, Verderburgh and Warren Counties, Ind., to points in Connecticut, Massachusetts and Rhode Island. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E16), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., 3801 Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from those points in Indiana on and south of a line beginning at the Indiana-Illinois State line and extending along Indiana Highway 26 to juncion Interstate Highway 65, thence along Interstate Highway 65 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line, to those points in Utah on and south and east of a line beginning at the Utah-Colorado State line and extending along Interstate Highway 70 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Utah-Arizona State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E17), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., 3801 Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Church furniture, school desks, theater seats and folding chairs*, from points in Illinois, to points in Maine, Vermont, New Hampshire and Rhode Island. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 105886 (Sub-No. E2), filed June 4, 1974. Applicant: MARTIN TRUCKING, INC., P.O. Box 67, Bessemer, Pa. 16112. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick*, from points in Columbiana, Mahoning and Trumbull Counties, Ohio, to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Darlington Township, Beaver County, Pa. (2) *Brick*, from points in Ashtabula, Trumbull, Lake, Mahoning, and Columbiana Counties, Ohio, to points in Tennessee. The purpose of this filing is to eliminate the gateway of Darlington Township, Beaver County, Pa. (3) *Brick*, from points in Cuyahoga, Lake, Ashtabula, Trumbull, Mahoning, and Columbiana Counties, Ohio, to points in New Jersey. The purpose of this filing is to eliminate the gateway of Darlington Township, Beaver County, Pa. (4) *Brick*, from points in Cuyahoga, Lake, Ashtabula, Trumbull, Mahoning and Columbiana Counties, Ohio, to points in Delaware, Virginia, and Maryland. The purpose of this filing is to eliminate the gateway of Darlington Township, Beaver County, Pa. (5) *Brick*, from points in Ashtabula, Trumbull, Mahoning, and Columbiana Counties, Ohio, to points in West Virginia on and south of U.S. Highway 60. The purpose of this filing is to eliminate the gateway of Darlington Township, Beaver County, Pa. (6) *Brick*, from points in Trumbull, Mahoning, and Columbiana Counties, Ohio, to points in Illinois. The purpose of this filing is to eliminate the gateway of Darlington Township, Beaver County, Pa.

No. MC 105886 (Sub-No. E3), filed June 4, 1974. Applicant: MARTIN TRUCKING, INC., P.O. Box 67, Bessemer, Pa. 16112. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *High temperature*, bonding mortar, magnesite and dolomite, lime and lime products, and limestone, and limestone products, restricted to commodities transported in dump trucks, (1) From points in Ashtabula, Columbiana, Cuyahoga, Lake, Mahoning, and Trumbull Counties, Ohio, Lawrence County, Pa. (except New Beaver Borough) and Stark County, Ohio, to points in Virginia; (2) from points in Cuyahoga, Jefferson, Ashtabula, Trumbull, Mahoning, Columbiana, and Stark Counties, Ohio and Lawrence County, Pa. (except New Beaver Borough), to points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending along Interstate Highway 81 to junction Pennsylvania Turnpike near Clarks Summit, thence along the Pennsylvania Turnpike to Norristown, thence along the Pennsylvania Turnpike to junction Interstate Highway 76 and 676, thence along Interstate Highways 76 and 676 to the Pennsylvania-New Jersey State line; (3) from points in Lawrence County, Pa. (except New Beaver Borough) and points in Ashtabula, Trumbull, Mahoning, and Columbiana Counties, Ohio, to points in West Virginia on and south of U.S. Highway 60; (4) from points in Lawrence County, Pa. (except New Beaver Borough) and points in Cuyahoga, Lake, Ashtabula, Trumbull, Mahoning, Columbiana, Stark, and Jefferson Counties, Ohio and Hancock County, W. Va., to points in Delaware; (5) from points in Lawrence County, Pa. (except New Beaver Borough) and points in Ashtabula, Trumbull, Mahoning and Columbiana Counties, Ohio, to points in Kentucky on and south of U.S. Highway 60; (6) from points in Lawrence County, Pa. (except New Beaver Borough) and points in Cuyahoga, Lake, Ashtabula, Trumbull, Mahoning, Columbiana and Stark Counties, Ohio, to points in Maryland. The purpose of this filing is to eliminatet he gateway of New Beaver Borough, Lawrence County, Pa.

No. MC 112070 (Sub-No. E79), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) Between points in Nebraska, on the one hand, and, on the other, to those points in New Mexico on and west of a line beginning at the Colorado-New Mexico State line, and extending along Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 56, thence along U.S. Highway 56 to junction New Mexico Highway 39, thence along New Mexico Highway 39 to junction New Mexico Highway 65, thence along New Mexico Highway 65 to junction New Mexico Highway 104, thence along New Mexico Highway 104 to junction New Mexico Highway 129, thence along New Mexico Highway 129 to junction U.S. Highway 66, thence along U.S. Highway 66 to the Texas-New Mexico State line; (b) between points in Nebraska, on the one hand, and, on the other, those points in Utah and on and east of a line beginning at the Arizona-Utah State line, and extending along Interstate Highway 91 to the Utah-Idaho State line, and those points in New Mexico on and west of a line beginning at the Colorado-New Mexico State line, and extending along Interstate Highway 25, thence along Interstate Highway 25 to the Texas-New Mexico State line; (c) between those points in Nebraska on and east of a line beginning at the South Dakota-Nebraska State

line, and extending along U.S. Highway 183 to the Nebraska-Kansas State line, on the one hand, and, on the other, to those points in Utah on and south of a line beginning at the Utah-Colorado State line, and extending along U.S. Highway 50, thence along U.S. Highway 50 to the Utah-Nevada State line. The purpose of this filing is to eliminate the gateways of Denver, Colo., and points within 10 miles thereof.

No. MC 112070 (Sub-No. E84), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Utah, on the one hand, and, on the other, to those points in Texas on and south and east of a line beginning at the Texas-Oklahoma State line, and extending along U.S. Highway 69/75, thence along U.S. Highway 75 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Texas Highway 123, thence along Texas Highway 123 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 77, thence along U.S. Highway 77 to the International Boundary between United States and Mexico. The purpose of this filing is to eliminate the gateways of points in Colorado, and Denver, Colo., and points within 10 miles thereof.

No. MC 112070 (Sub-No. E85), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in South Dakota on the one hand, and, on the other, points in New Mexico, and those points in Utah on and south and east of a line beginning at the Utah-Wyoming State line, and extending along Utah Highway 44, thence along Utah Highway 44 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Utah Highway 33, thence along Utah Highway 33 to junction Utah Highway 31, thence along Utah Highway 31 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Utah Highway 153, thence along Utah Highway 153 to junction State Highway 21, thence along State Highway 21 to the Utah-Nevada State line. The purpose of this filing is to eliminate the gateways of Denver, Colo., and points within 10 miles thereof.

No. MC 112070 (Sub-No. E87), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission. (a) Between those points in Colorado on and west of a line beginning at the Colorado-Wyoming State line, and extending along Interstate Highway 25, to junction U.S. Highway 6, thence along U.S. Highway 6 to the S. Platte River, thence north along S. Platte River to the Colorado-Nebraska State line, on the one hand, and, on the other, those points in New Mexico on and west of a line beginning at the Colorado-New Mexico State line and extending along Interstate Highway 25, thence along Interstate Highway 25 to junction Interstate Highway 40, thence west along Interstate Highway 40 to the Arizona-New Mexico State line; (b) between those points in Colorado on and north and east of a line beginning at the Colorado-Utah State line, and extending along U.S. Highway 40 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-Wyoming State line, on the one hand, and, on the other, to those points in New Mexico on, east and south of a line beginning at the Colorado-New Mexico State line, and extending along Interstate Highway 25 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Arizona-New Mexico State line; (c) between those points in Colorado on and east of a line beginning at the Colorado-Wyoming State line, and extending along Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 50, thence east along U.S. Highway 50 to the Colorado-Kansas State line, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateways of Denver, Colo., and points within 10 miles thereof.

No. MC 112070 (Sub-No. E88), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission. (a) Between those points in Wyoming on and east of a line beginning at the Wyoming-Colorado State line, and extending along Interstate Highway 25 to junction Wyoming Highway 59, thence along Wyoming Highway 59 to junction U.S. Highway 14 and 16, thence along U.S. Highway 14 to the Montana-Wyoming State line, on the one hand, and, on the other, to those points in Utah on and south of a line beginning at the Utah-Colorado State line, and extending along Interstate Highway 70, thence along Interstate Highway 70 to the junction of Utah Highway 26, thence along Utah Highway 26 to junction U.S. Highway 6 and 50, thence along U.S. Highway 6 and 50 to the Utah-Nevada State line; (b) between points in Wyoming, on the one hand, and on the other, to those points in New Mexico, on and east of a line beginning at the Colorado-New Mexico State line, and extending along Interstate Highway 25 to junction U.S. Highway 85, thence along U.S. Highway 85 to the New Mexico-Texas State line; (c) between those points in Wyoming on and east of a line beginning at the Montana-Wyoming State line, and extending along Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 25, thence along Interstate Highway 25 to Wyoming-Colorado State line, on the one hand, and, on the other, points in New Mexico; (d) between points in Laramie County, Wyo., on the one hand, and, on the other, to those points in Utah on and east of a line beginning at the Wyoming-Utah State line, and extending along Utah Highway 44 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Utah Highway 53, thence along Utah Highway 53 to Utah Highway 10, thence along Utah Highway 10 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Utah Highway 20, thence along Utah Highway 20 to junction Interstate Highway 15, thence along Interstate Highway 15 to the Utah-Arizona State line. The purpose of this filing is to eliminate the gateway of Denver, Colo., and points within 10 miles thereof.

No. MC 112070 (Sub-No. E90), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission. (a) Between Cheyenne and Herman, Counties, Kans., on the one hand, and, on the other, points in New Mexico on and west of a line beginning at the Colorado-New Mexico State line and extending along New Mexico Highway 3 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction New Mexico Highway 219, thence along New Mexico Highway 219 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 285, thence along U.S. Highway 285 to the New Mexico-Texas State line; (b) between those points in Kansas on and north and west of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 183 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Colorado-Kansas State line, on the one hand, and, on the other, to those points in New Mexico on and west of a line beginning at the Colorado-New Mexico State line, and extending along U.S. Highway 285 to junction U.S. Highway 85, thence along U.S. Highway 85 to the New Mexico-Texas State line; (c) between points in Kansas on and north of a line beginning at the Kansas-Missouri State line, and extending along U.S. Highway 59 to Kansas Highway 116, thence along Kansas Highway 116 to junction Kansas Highway 16, thence along Kansas Highway 16 to junction Kansas Highway 177, thence along Kansas Highway 177 to

junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Colorado-Kansas State line, on the one hand, and, on the other, those points in New Mexico on and west of a line beginning at the Colorado-New Mexico State line, and extending along U.S. Highway 285 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction Interstate Highway 40, thence along Interstate Highway 40 to Valencia, Catron, Grant and Hidalgo Counties, N. Mex.; (d) between points in Kansas on and north of a line beginning at the Kansas-Missouri State line, and extending along Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 40, then along Highway 40 to the Kansas-Colorado State line, on the one hand, and, on the other, points in San Juan County, N. Mex.; (e) between points in Kansas, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateways of Denver, Colo., and points within 10 miles thereof.

No. MC 114868 (Sub-No. E6), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: H. E. Newlon, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) Between points in Cortland, Tompkins, Schuyler, Chemung, Seneca, and Cayuga Counties, N.Y., on the one hand, and, on the other, points in Alexander, Union, Johnson, Hardin, Pope, Massac and Pulaski Counties, Ill. (2) Between points in Tioga, Madison, Chenango, and Broome Counties, N.Y., on the one hand, and, on the other, points in Illinois on and south of Illinois Highway 15. (3) Between points in New York on and east of a line beginning at the Pennsylvania-New York State line and extending along Interstate Highway 81 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 320, thence along New York Highway 320 to junction New York Highway 80, thence along New York Highway 80 to junction New York Highway 5S, thence along New York Highway 5S to junction New York Highway 30A, thence along New York Highway 30A to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 8, thence along New York Highway 8 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction New York Highway 73, thence along New York Highway 73 to junction New York Highway 9N, thence along New York Highway 9N to junction New York Highway 22, thence along New York Highway 22 to the International Boundary line between the United States and Canada, on the one hand, and, on the other, points in Illinois. (4) Between points in Suffolk, Nassau, Queens, Kings, Richmond, New York, Bronx, Westchester, Rockland, Orange, Putnam, Sullivan, Ulster, Albany, Rensselaer, Columbia, Greene, and Dutchess Counties, N.Y., on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 114868 (Sub-No. E7), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: H. E. Newlon, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission. (1) Between points in Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line and extending along Pennsylvania Highway 75 to junction Pennsylvania Highway 274, thence along Pennsylvania Highway 274 to junction Pennsylvania Highway 34, thence along Pennsylvania Highway 34 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 209, thence along U.S. Highway 209 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, points in Illinois. (2) Between points in Wayne, Pike, Lackawanna, Susquehanna, Luzerne, Wyoming, Northumberland, and Monroe Counties, Pa., on the one hand, and, on the other, points in Illinois on and south of U.S. Highway 136. (3) Between points in Columbia, Centre, Montour, Union, Northumberland, Snyder, Juniata, Perry, Mifflin, Lycoming, Tioga, Bradford, Huntington, Fulton, and Franklin Counties, Pa., on the one hand, and, on the other, points in Illinois on and south of Illinois Highway 13. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 114868 (Sub-No. E9), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: H. E. Newlon, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission. (1) Between points in Virginia on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 501 to junction U.S. Highway 360, thence along U.S. Highway 360 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Virginia Highway 20, thence along Virginia Highway 20 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction Virginia Highway 33, thence along Virginia Highway 33 to the Virginia-West Virginia State line, on the one hand, and, on the other, points in Illinois on and north of U.S. Highway 24. The purpose of this filing is to eliminate the gateway of Washington, D.C. (2) Between points in Virginia on and east of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 85 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction U.S. Highway 33, thence along U.S. Highway 33 to the Virginia-West Virginia State line, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 114868 (Sub-No. E12), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: H. E. Newlon, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission. (1) Between points in Illinois on and north of Interstate Highway 80, on the one hand, and, on the other, points in South Carolina on, east and north of a line beginning at the South Carolina-North Carolina State line and extending along Interstate Highway 95 to junction U.S. Highway 521, thence along U.S. Highway 521 to Georgetown, S.C. The purpose of this filing is to eliminate the gateway of Washington, D.C. (2) Between points in Illinois, on the one hand, and, on the other, points in North Carolina on and east of U.S. Highway 15. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 114868 (Sub-No. E16), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: H. E. Newlon, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Georgia, on the one hand, and, on the other, points in Ohio within 10 miles north of the Ohio River. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville.

No. MC 114868 (Sub-No. E28), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: H. E. Newlon, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*. (1) Between points in Illinois, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville. (2) Between points in Illinois on and north of Interstate Highway 80, on the one hand, and, on the other, points in South Carolina on, east, and north of a line beginning at the North Carolina-South Carolina State line and extending along Interstate Highway 95 to junction U.S.

Highway 521, thence along U.S. Highway 521 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Washington, D.C. (3) Between points in Illinois, on the one hand, and, on the other, points in Michigan. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville and Washington, D.C. (4) Between points in Illinois, on the one hand, and, on the other, points in Maryland within 125 miles of Washington, D.C. The purpose of this filing is to eliminate the gateways of Washington, D.C. and points in Kentucky within 125 miles of Nashville. (5) Between points in Illinois, on the one hand, and, on the other, Washington, D.C. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville.

No. MC 114868 (Sub-No. E39) filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: H. E. Newlon, Jr., (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, (1) Between points in South Carolina, on, east, and north of a line beginning at the South Carolina-North Carolina State line and extending along Interstate Highway 95 to junction U.S. Highway 521, thence along U.S. Highway 521 to the Atlantic Ocean, on the one hand, and, on the other, points in Illinois on and north of Interstate Highway 80. The purpose of this filing is to eliminate the gateway of Washington, D.C. (2) Between points in South Carolina, on the one hand, and, on the other, points in Maryland within 125 miles of Washington, D.C. The purpose of this filing is to eliminate the gateway of Washington, D.C. (3) Between points in South Carolina, on the one hand, and, on the other, points in Ohio within 10 miles north of the Ohio River. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville. (4) Between Dillon, S.C., on the one hand, and, on the other, Cleveland, Ohio. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 133485 (Sub-No. E3), filed January 9, 1977. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1828 Westminster St., Providence, R.I. 02909. Applicant's representative: Morris J. Lewis, Suite 613, 1620 Eye St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bullion, coin and precious metals*, in armored vehicles escorted by armed guards, between Chicago, Ill., on the one hand, and, on the other, points in New Jersey and Connecticut. The purpose of this filing is to eliminate the gateway of New York, N.Y.; (2) *bullion, coin, and precious metals*, in armored vehicles escorted by armed guards, between Chicago, Ill., on the one hand, and, on the other, points in Barnstable, Bristol, Middlesex, Norfolk, Plymouth, Suffolk, and Worcester Counties, Mass. The purpose of this filing is to eliminate the gateway of Providence, R.I.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-5810 Filed 2-24-77;8:45 am]

[Notice No. 24]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 16, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 720 (Sub-No. 26TA), filed February 9, 1977. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, Wis. 53968. Applicant's representative: Michael J. Wyngaard, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and bone chews*, from the plantsites and facilities of Sanna Division of Beatrice Foods Company, at Menomonie, Vesper, Cameron, Wisconsin Rapids and Eau Claire, Wis., to points in Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, New York, Pennsylvania, New Jersey, Maryland, Virginia, West Virginia, Indiana and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sanna Div.—Beatrice Foods Co., 2801 W. Beltline Highway, P.O. Box 8046, Madison, Wis. 53708. Send protests to: Gail Daugherty, Transportation Assistant, U.S. Courthouse & Federal Bldg., 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 3062 (Sub-No. 37TA), filed February 8, 1977. Applicant: INMAN FREIGHT SYSTEM, INC., 321 N. Spring Ave., P.O. Box 538, Cape Girardeau, Mo. 63701. Applicant's representative: James R. Ponsot (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Norris City, Ill., and Cave-in-Rock, Ill., serving all intermediate points, and the off-route point of Ridgway, Ill.; from Norris City over Illinois Highway 1 to Cave-in-Rock, and return over the same route; between Harrisburg, Ill., and Rosiclare, Ill., serving all intermediate points; from Harrisburg over Illinois Highway 34 to Rosiclare, and return over the same route; between Vienna, Ill., and junction Illinois Highways 146 and 1, serving all intermediate points; from Vienna over Illinois Highway 146 to junction Illinois Highway 1, and return over the same route; between Harrisburg, Ill., and junction Illinois Highways 145 and 146, serving all intermediate points; from Harrisburg over Illinois Highway 145 to junction Illinois Highway 146, and return over the same route; between Harrisburg, Ill., and Shawneetown, Ill., serving all intermediate points; from Harrisburg over Illinois Highway 13 to Shawneetown, and return over the same route; between New Harmony: Ind., and Evansville, Ind., serving all intermediate points; from New Harmony over Indiana Highway 69 to junction Indiana Highway 62, thence over Indiana Highway 62 to Evansville, and return over the same route. Applicant intends to tack its existing authority with MC 3062 and subs. Applicant also intends to interline at Evansville, Ind.; St. Louis, Mo., and Memphis, Tenn., for 180 days. Supporting shippers: There are approximately 37 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: J. P. Werthmann, District Supervisor, 210 N. 12th St., Room 1465, St. Louis, Mo. 63101.

No. MC 59640 (Sub-No. 50TA) filed February 9, 1977. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, N.J. 07016. Applicant's representative: Charles J. Williams, 1815 Front St., Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Health care products and surgical and*

hospital supplies, materials and equipment (except commodities in bulk), between Covington, Ga., and Columbus, Miss., under a continuing contract with C. R. Bard, Inc., for 180 days. Supporting shipper: C. R. Bard, Inc., 731 Central Ave., Murray Hill, N.J. 07974. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 82063 (Sub-No. 73TA) filed February 9, 1977. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, Sunset Hills, Mo. 63127. Applicant's representative: W. E. Klipsch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid wood preservative paste*, in bulk, in tank vehicles, from Memphis, Tenn., to Whitewood, S. Dak.; New Brighton, Minn.; Ispheming, Mich.; Charles City, Iowa; and Scotland Neck, N.C., and points in the commercial zones thereof, for 180 days. Supporting shipper: Commercial Chemical Co., Div. Osmose Wood Preserving, Inc., of America, 1172 Thomas, Memphis, Tenn. 38207. Send protests to: J. P. Werthmann, District Supervisor, 210 N. 12th St., Room 1465, St. Louis, Mo. 63101.

No. MC 108835 (Sub-No. 38TA) filed February 8, 1977. Applicant: HYMAN FREIGHTWAYS, INC., 1745 University Ave., P.O. Box 3393, St. Paul, Minn. 55165. Applicant's representative: Rodney L. Trocke, 2690 N. Prior Ave., Roseville, Minn. 55113. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and/or microwave ovens and such commodities* as are used in the manufacture of electric ranges and/or microwave ovens, including materials, supplies and accessories related thereto, between the plantsite and/or storage facilities utilized by Litton Microwave Cooking Products, at Sioux Falls, S. Dak., on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Ohio, Oklahoma, Texas, and Wisconsin, restricted to traffic originating at or destined to the above-named facilities at Sioux Falls, S. Dak., for 180 days. Supporting shipper: Litton Microwave Cooking, 1405 Xenium Lane, Minneapolis, Minn. 55441. Send protests to: Marlon L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 114004 (Sub-No. 160TA) filed February 8, 1977. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Winston Chandler, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except travel trailers and recreational vehicles), *and buildings*, in sections (except prefabricated buildings), in initial movements in truckaway movements, from Fullerton, Riverside, Vacaville, Sacramento and Santa Ana, Calif., and Albany, Oreg., and points in their Commercial Zones, to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, for 80 days. Supporting shipper: Golden West Mobile Homes, Inc., 1308 E. Wakeham, Santa Ana, Calif. 92705. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 114004 (Sub-No. 164TA), filed February 8, 1977. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Winston Chandler, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except travel trailers and recreational vehicles), *and buildings*, in sections (except pre-fabricated buildings), in initial movements, in truckaway service, from Riverside, Visalia, Vacaville, Perris, and Rubidoux, Woodland, Calif.; Plant City, Haines City, and Lakeland, Fla.; Douglas, Ga.; Brazil, Ind.; Emporia, Kans.; Bowling Green and Greenwich, Ohio; Woodburn, Oreg.; Ringstown, Pa.; Westmoreland, Tenn.; Waco and Sulphur Springs, Tex.; Lexington, Miss.; Rocky Mount, Va.; and Portage, Wis., and points in their commercial zones, to points in the United States, including Alaska, but excluding Hawaii, for 180 days. Supporting shipper: Fleetwood Enterprises, Inc., 3125 Myers St., Riverside, Calif. 92530. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 114569 (Sub-No. 163TA), filed February 8, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: Norman L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), from Bethlehem, Camp Hill, Hazelton, Lebanon, Lititz, Middletown, Reading, Temple, and West Reading, Pa., and their commercial zones, to Derry Township, Dauphin County, Pa., restricted to joiner and tacking with existing authority at Derry Township, Dauphin County, Pa., to serve points in Arizona, Colorado, Kansas, Kentucky, Louisiana, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming, restricted to traffic originating at the named origins and destined to the states of Arizona, Colorado, Kansas, Kentucky, Louisiana, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 114632 (Sub-No. 98TA) filed February 3, 1977. Applicant: APPLE LINES, INC., 212 S.W. Secons St., P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Robert T. Meisner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products*, as defined by the Commission, from Huron, S. Dak., to points in Texas, for 180 days Supporting shipper: Armour Food Company, 111 W. Clarendon, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 123778 (Sub-No. 32TA) filed February 10, 1977. Applicant: JALT CORP., doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Dock Road, P.O. Box 398, Woodbridge, N.J. 07095. Applicant's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazine parts and inserts*, from Albany, N.Y., to Strasburg, Va., under a continuing contract with McGraw-Hill Publications Company, for 180 days. Supporting shipper: McGraw-Hill Publications Company, 1221 Avenue of the Americas, New York, N.Y. 10020. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 124078 (Sub-No. 714TA), filed February 9, 1977. Applicant: SCHERMAN TRUCKING COMPANY, 611 S. 28th St., Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bulk, in tank vehicles, from Gordon, Ga., to Blanchester, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Freeport Kaolin Co., 733 Third Ave., New York, N.Y. 10017. Send protests to: Gail Daugherty, Transportation Assistant, U.S.

Courthouse and Federal Bldg., 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 124735 (Sub-No. 17TA), filed February 9, 1977. Applicant: R. C. KERCHEVAL, JR., 2201 6th Ave., South, Seattle, Wash. 98134. Applicant's representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires, tubes, wheels, and wheel attaching parts*, from Clarksdale and Jackson, Miss.; Texarkana and Little Rock, Ark.; Finley, Ohio; Tuscumbia, Ala.; West Allison, Wis.; Ontario, Los Angeles; and Hanford, Calif.; and Reno, Nev., to points in Washington and Portland Oreg., under a continuing contract with Wesco Distributors, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wesco Distributors, Inc., 1246 First Avenue South, Seattle, Wash. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 124813 (Sub-No. 165TA), filed February 7, 1977. Applicant: UMTHUN TRUCKING CO., 910 S. Jackson St., P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible meat by-products*, in hopper trailers, from Chippewa Falls, Wis., to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Commodity Corporation, P.O. Box 699, Marshall, Mo. 65340. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 125470 (Sub-No. 21TA), filed February 9, 1977. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1511, Norfolk, Nebr. 68701. Applicant's representative: Gailyn L. Larsen, 521 S. 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberglass and vinyl coating* (except in bulk), from the plantsite and storage facilities of Specification Chemicals, Inc., at or near Boone, Iowa, to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Louisiana, Mississippi, Arkansas, Tennessee, Kentucky, Missouri, and Minnesota; and (2) *Fiberglass* from Waterville, Ohio, to the plantsite and storage facilities of Specification Chemicals, Inc., at or near Boone, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clarence E. Ball, rPesident, Specification Chemicals, Inc., Boone, Iowa 50036. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 125764 (Sub-No. 8TA), filed February 9, 1977. Applicant: LILAC CITY EXPRESS, INC., P.O. Box 532, Puyallup, Wash. 98371. Applicant's representative: Elmer H. Loehlein, 6619 E. Riverside, Spokane, Wash. 99206. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned, bottled, and packaged foodstuff*, from points in Alameda, Sacramento, Contra Costa, San Joaquin, Stanislaus, Butte, Solano, San Francisco, Sonoma, Monterey, Merced, Fresno, and Orange Counties, Calif., to Spokane, Wash., under a continuing contract with Roundup Co., for 180 days. Supporting shipper: Roundup Co., E. 11016 Jackson, Spokane, Wash. 99206. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 135325 (Sub-No. 2TA), filed February 4, 1977. Applicant: WEMCO, INC., 10111 Mercier, Dearborn, Mich. 48120. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground coal or foundry facing*, in bulk, in pneumatic equipment, from the facilities of Smith Facing & Supply Company, at Cleveland, Ohio, to points in the lower peninsula of Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Foundries Materials Company, Secretary Russell W. Collard, 8951 Schaefer, Detroit, Mich. 48228. Send protests to: James A. Augustyn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 136711 (Sub-No. 29TA), filed February 7, 1977. Applicant: McCORKLE TRUCK LINE, INC., 2840 S. High St., P.O. Box 95181, Oklahoma City, Okla. 73109. Applicant's representative: G. Timothy Armstrong, 6161 N. May Ave., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferromanganese* (in bulk, in dump vehicles), from the Port of Catoosa, Okla., to the facilities of Colorado Fuel and Iron Co., at Pueblo, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Leonard J. Buck Co., Inc., agents for Autlan Metals International Co., 299 Madison Ave., Morristown, N.J. 07960. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 138635 (Sub-No. 31TA), filed February 7, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, 650 Eastwood Drive, Gastonia, N.C. 28050. Applicant's representative: Eric Melerhoefer, Suite 712, 1511 K St., N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Appendix I in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodites in bulk), from Wallula, Wash., to points in New York, New Jersey, and Massachusetts, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Columbia Foods, Inc., Division of Iowa Beef, Box 926, Pasco, Wash. 99301. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 139482 (Sub-No. 13TA), filed February 8, 1977. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, County Rd. No. 29 West, New Ulm, Minn. 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Butter*, from New Ulm, Minn., to points in Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, and Massachusetts, for 180 days. Supporting shipper: Associated Milk Producers, Inc., New Ulm, Minn. 56073. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 139973 (Sub-No. 17TA), filed February 9, 1977. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pool, billiard and game tables, amusement devices and games, and accessories, parts and equipment* for such commodites: (1) from Tipton and California, Mo., to points in the United States (except Alaska and Hawaii); and (2) from Columbia, Mo., to points in Ohio, Illinois, Indiana, Michigan, Colorado, Texas, Minnesota, Oregon, Washington, Tennessee, Kansas, Iowa, and Pennsylvania, for 180 days. Supporting shipper: Play Master, Inc., 5909 Paris Road, Columbia, Mo. 65201. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 141546 (Sub-No. 11TA), filed February 9, 1977. Applicant: BULK TRANSPORT SERVICE, INC., 1 Dundee Park, Andover, Mass. 01810. Applicant's representative: Kenneth B. Williams, 84 State St., Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Hartford, Conn., to points in New York, Massachusetts, New Hampshire, Ver-

mont, and Rhode Island, restricted to shipments having a prior movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Independent Cement Corporation, 65 William St., Wellesley Office Park, Wellesley, Mass. 02181. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway St., Boston, Mass. 02114.

No. MC 142810 (Sub-No. 1TA), filed February 8, 1977. Applicant: LEWIS TRANSPORT, INC., 114 N. Reed St., Columbia, Ky. 42728. Applicant's representative: Rudy Yessin, 314 Wilkinson St., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Knoxville, Tenn., to Somerset, Ky., for 180 days. Supporting shipper: Phelps Oil Co., Inc., P.O. Box 684, Somerset, Ky. 42501. Send protests to: H. C. Morrison, Sr., Interstate Commerce Commission, 216 Bakhaus Bldg., 1500 W. Main St., Lexington, Ky. 40505.

No. MC 142841 (Sub-No. 1TA), filed February 3, 1977. Applicant: BYRON G. DAVENPORT, doing business as DRILLING AND MINING INTERNATIONAL, 1350 Sage, Unit S, P.O. Box 1901, Rock Springs, Wyo. 82901. Applicant's representative: Byron G. Davenport (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Light oil field equipment and supplies*, restricted to shipments weighing 5,000 lbs. or less, from Rock Springs, Wyo., to points in Colorado and points in Utah on and east of Interstate Highway 15, under a continuing contract with Baker Service Tools; Dowell, a Division of Dow Chemical; Land and Marine Rental Tools; and Baker Packers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Baker Service Tools, 420 Mitchelson; Dowell, a Division of Dow Chemical, 1145 Elk St.; Land and Marine Rental Tools, 1912 Elk St.; and Baker Packers, P.O. Box 546, Rock Springs, Wyo. 82901. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Bldg. and U.S. Courthouse, 111 S. Wolcott, Casper, Wyo. 82601.

No. MC 142892TA, filed February 8, 1977. Applicant: J. H. FOODS, INC., 915 W. 80th St., Minneapolis, Minn. 55420. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat and poultry*, from the facilities of J. H. Foods, Inc., in Bloomington, Minn., to points in Anoka, Dalota, Hennepin, Ramsey, and Washington Counties, Minn., under a continuing contract with Country Club Markets, Inc., for 180 days. Supporting shipper: Country Club Markets, Inc., 6984 Oxford St., St. Louis Park, Minn. 55426. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 142893TA, filed February 8, 1977. Applicant: SHIPPERS CONTRACT CARRIERS, INC., 2001 N. Tyler, Suite G, South E. Monte, Calif., 91733. Applicant's representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, Calif. 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coil and bar steel*, requiring heat and humidity control, in mechanical refrigerated units, from Farrell, Pa.; Youngstown, Ohio; Indianapolis, Ind.; and Chicago, Ill.; to the Port of Entry on the International Boundary Line between the United States and Canada, at or near Blaine, Wash., restricted to traffic terminating at Burnaby and Victoria, British Columbia, Canada, under a continuing contract with Windsor Machine Company, Ltd., for 180 days. Supporting shipper: Windsor Machine Company Ltd., 2965 Lake City Way, Burnaby, B. C., Canada. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142894TA, filed February 2, 1977. Applicant: CHARLES MILLER, doing business as MILLER DELIVERY SERVICE, 134 Shinkle St., Findlay, Ohio 45840. Applicant's representative: A. Charles Tell, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobile and truck panels*, from Findlay, Ohio, to Detroit, Detroit Metropolitan Airport, Warren, and Willow Run Airport, Mich. Restricted: (1) To the use of 2-axle vehicles; (2) to the transportation of shipments weighing 2,000 pounds or less; and (3) to emergency operations with deliveries made within four hours of pickup, under a continuing contract with Findlay Industries, Inc., and Superior Trim Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Findlay Industries, Inc., 4000 Forstoria Road; and Superior Trim Company, 211 Jefferson St., Findlay, Ohio 45840. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 142895TA, filed February 4, 1977. Applicant: EIGHTY EIGHT ENTERPRISES, INC., 8100 S. 100 East Sandy, Utah 84070. Applicant's representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick and clay tile*, (a) From Brownwood, Malakoff and Denton, Tex., to points in Utah; (b) from Denver, Boulder and Pueblo, Colo., to points in Utah; (c) from Denver and Pueblo, Colo., to Portland, Oreg., and Seattle and Spokane, Wash.; (d) from Tulsa and Sapulpa, Okla., to points in Utah; and (e) from Sumas, Wash., to Pueblo, Denver, and Colorado Springs, Colo., to points in Utah; and Dallas, Tex., under a continuing contract with Miller Brick Sales Inc., 8100 S. 100 E., Sandy, Utah 84070. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 142896TA, filed February 7, 1977. Applicant: CENTURY TRUCKING, 3740 N. Golden State Blvd., Turlock, Calif. 95380. Applicant's representative: Vern O. Stock, 347 N. Golden State Blvd., Turlock, Calif. 95380. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass tanks, pipe and ducting*, uncrated, including all necessary dunnage, cradles, blocks and tie downs, from the plantsites in Anaheim and Chowchilla, Calif., to points in Arizona, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oregon, Texas, Utah and Washington, with return movements to the plantsites in Anaheim and Chowchilla, Calif., under a continuing contract with Century Fiberglass, Inc., for 180 days. Supporting shipper: Century Fiberglass, Inc., 1145 Red Bum St., P.O. Box 6069, Anaheim, Calif. 92806. Send protests to: Claud W. Reeves, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-5813 Filed 2-24-77;8:45 am]

[Notice No. 25]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 17, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protest to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must cerify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon

which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 80265 (Sub-No. 3TA), filed January 10, 1977. Applicant: FRED L. YORK, 4888 Hamilton-Trenton Road, Hamilton, Ohio 45013. Applicant's representative: John L. Alden, 1396 W. Fifth Ave., Columbus, Ohio 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Finished paper and paper products*, from the facilities of Champion International Corporation, at Cincinnati, Ohio, to Chicago and St. Charles, Ill., and South Bend, Ind.; and (2) *paper and paper products*, from the facilities of Champion International Corporation, at Cincinnati, Ohio, to points in Illinois on and north of a line beginning at the Illinois-Indiana State Line and extending along U.S. Highway 40 to junction unumbered highway (formerly portion U.S. Highway 40), thence along unnumbered highway through Marshall, Ill., to junction U.S. Highway 40, thence along U.S. Highway 40 to junction unnumbered highway (formerly portion U.S. Highway 40), thence along unnumbered highway through Martinsville and Casey, Ill., to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Alternate U.S. Highway 40 (formerly portion U.S. Highway 40), thence along Alternate U.S. Highway 40 through Vandalia and Greensville, Ill., to junction U.S. Highway 40, thence along U.S. Highway 40 to junction unnumbered highway (formerly portion U.S. Highway 40), thence along unnumbered highway through Highland, Ill., to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Bypass U.S. Highway 40 (formerly portion U.S. Highway 40), thence along Bypass U.S. Highway 40 to the Illinois-Missouri State line (except Chicago and St. Charles, Ill.), those in Indiana on and north of U.S. Highway 40 (except South Bend, Ind.), those in Michigan on and south of Michigan Highway 21, and to Milwaukee, Racine, and Beloit, Wis.; St. Louis, Mo.; Erie, Pa.; and Buffalo and Rochester, N.Y., under a continuing contract with Champion International Corporation, for 180 days. Supporting shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, Ohio 45020. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 105636 (Sub-No. 36TA), filed February 7, 1977. Applicant: ARMELLINI EXPRESS LINES, INC., Oak and Brewster Roads, Vineland, N.J. 08360. Applicant's representative: Clarence William Vandegrift, 734 Fifteenth St., N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, frozen foods, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of the permitted Part IV freight forwarder common carrier Florida-Texas Freight, Inc., from Akron, Ohio; Baltimore, Md.; Boston, Mass.; Cincinnati, Ohio; Cleveland, Ohio; Milford, Conn.; Moonachie, N.J.; Philadelphia, Pa.; and Syracuse N.Y., to Amarillo, Dallas, Fort Worth, El Paso, Houston, Laredo, Lubbock and San Antonio, Tex., restricted to shipments originating at or destined to facilities of Florida-Texas Freight, Inc., a permitted Part IV common carrier freight forwarder, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Florida Texas Freight, Inc., 11405 N.W. 36th Ave., Miami, Fla. 33167. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 E. State St., Room 204, Trenton, N.J. 08608.

No. MC 107478 (Sub-No. 28TA), filed February 7, 1977. Applicant: OLD DOMINION FREIGHT LINE, P.O. Box 2006, High Point, N.C. 27261. Applicant's representative: Harry J. Jordan, Suite 502, 1000 16th St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing, building and insulating materials* (except iron and steel articles and commodities in bulk), from the plantsite and warehouse facilities of CertainTeed Corporation, in Granville County, N.C., to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan (Lower Peninsula), Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia; (2) *materials, equipment and supplies* used in the manufacture, installation and distribution of roofing and building materials (except iron and steel articles and commodities in bulk), from points in the above described territory to the plantsite and warehouse facilities of CertainTeed Corporation, in Granville County, N.C.; and (3) *roofing, building and insulating materials and materials, equipment and supplies* used in the manufacture, installation and distribution of roofing and building materials (except iron and steel articles and commodities in bulk), between the plantsites and warehouse facilities of CertainTeed Corporation, in Granville County, N.C. on the one hand, and, on the other, the plantsites and warehouse facilities of CertainTeed Corporation, in Clarke and Chatham Counties, Ga.; Cook and St. Clair Counties, Ill.; Scott County, Minn.; Jackson County, Mo.; Erie Couny, Ohio; Mayes County, Okla.; York County, Pa., and Dallas County, Tex., for 180 days. Supporting shipper: CertainTeed Corporation, Shelter Materials Group, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 110525 (Sub-No. 1180TA), filed February 9, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., P.O. Box 200, Downington, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Waterford, N.Y., to Fitchburg, Mass., for 180 days. Supporting shipper: General Electric Co., Silicone Products Department, Waterford, N.Y. 12188. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 110563 (Sub-No. 196TA), filed February 7, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, 113 N. Ohio Ave., Ohio Bldg., Sidney, Ohio 45365. Applicant's representative: John L. Maurer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Denver, Colo., to points in Massachusetts, New York, New Jersey, Pennsylvania, and Connecticut, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flavorland Industries, Inc., P.O. Box 16345, Denver, Colo. 80216. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 113651 (Sub-No. 209TA), filed February 7, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 N. Broadway, Muncie, Ind. 47303. Applicant's representative: Daniel C. Sullivan, 327 S. LaSalle St., Chicago, Ill. 60604. Authority sought to operate as a *com-*

mon carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), (1) from Kinston, N.C., and Nashville, Tenn., to points in New York, New Jersey, Massachusetts, Pennsylvania, Virginia, Maryland, Ohio, Indiana, New Hampshire, Connecticut, and Rhode Island, and (2) from Clarksville and Nashville, Tenn., and Kinston, N.C., to points in Maine, Vermont, North Carolina, Kentucky, Tennessee, West Virginia, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Frosty Morn Meats, Inc., Frosty Morn Ave., Clarksville, Tenn. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 115162 (Sub-No. 348TA), filed February 8, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Tractors* (except truck tractors); *and attachments, parts and accessories* for tractors when moving at the same time and in the same equipment with tractors; and all having a prior movement by rail, from the rail ramps located at or near Evergreen, Ala., to points in Mississippi located on and south of Interstate Highway 20, that part of Alabama on and south of a line beginning at the Mississippi-Alabama State line and extending along Interstate 20 to U.S. Highway 82, thence along U.S. Highway 82 to Alabama Highway 22, thence along Alabama Highway 22 to the Alabama-Georgia State line; and all points in Florida located on and west to the Apalachicola River, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ford Motor Company, Ford Tractor Operations, 2500 E. Maple, Troy, Mich. 48084. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 115162 (Sub-No. 349TA), filed February 8, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, cable, conduit, wire and strip steel and attachments therefor*, between Glendale (Marshall County), W. Va., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin and the District of Columbia, for 180 days. Supporting shipper: Triangle PWC, Inc., Jersey Ave., New Brunswick, N.J. 08901. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 119789 (Sub-No. 323TA), filed February 8, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Bldg., Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, chocolate, chocolate-coating, chocolate-syrup, cocoa* (dry with or without sugar), *cocoa compounds, edible flour, soup mix, and beverage preparation*, dry, from Fulton, Syracuse and Oswego, N.Y., to points in California, Missouri, Oregon and Texas, and limited to traffic originating at the plantsite and warehouse facilities of The Nestle Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Nestle Company, Inc., 100 Bloomingdale Road, White Plains, N.Y. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 123090 (Sub-No. 3TA), filed February 9, 1977. Applicant: FRANK MARCELLO AND PAUL R. MARCELLO, doing business as, MARCELLO'S SERVICE, 431 Portzer, Quakertown, Pa. 18951. Applicant's representative: Paul F. Gilligan, 330 S. Berks St., Allentown, Pa. 18104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Shirts*, on hangers and in boxes, from Abbeville, S.C., to Richland Township, Bucks County, Pa.; (2) *Shirts*, on hangers, from the plantside of Salisbury Manufacturing Co., Salisbury, Md., and the plantsite of Gaylor Manufacturing Co., Ashland, Va., to Richland Township, Bucks County, Pa.; and (3) *Buttons, paper boxes*, set up, *trimmings and hangers*, from Richland Township Bucks County, Pa., to Abbeville, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nik-Nik Industries, Inc., 105 Penn Am Drive, Quakertown, Pa. 18951. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 126276 (Sub-No. 171TA), filed February 9, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 N. La Salle, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper products; plastic products; metal foil products; products composed of combinations of paper, plastic or metal foil; toothpicks; wire goods; scouring pads; holders and/or dispensers* for above-named commodities *and materials and supplies* used in the manufacture distribution and sale of the above-named commodities (except commodities in bulk), from the plantsite of American Can Company, at Lexington, Ky., to points in Illinois, Michigan, Indiana and Ohio, under a continuing contract with American Can Company, for 180 days. Supporting shipper: American Can Company, Paul Gillen, Transportation Planning Manager, American Lane, Greenwich, Conn. 06830. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 128746 (Sub-No. 30TA), filed February 9, 1977. Applicant: D'AGATA NATIONAL TRUCKING COMPANY, 3224–44 S. 61st St., Philadelphia, Pa. 19153. Applicant's representative: Leonard A. Jaskiewicz, 1730 M St., N.W., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages* (beer) *and related advertising materials*, from South Volney, N.Y., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Pennsylvania, Vermont, Virginia, West Virginia and the District of Columbia; and (2) *Materials, supplies and equipment* used in the manufacture, sale and distribution of malt beverages, including returned empty malt beverage containers, from points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia, to Volney, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller Brewing Company, 4000 W. State St., Milwaukee, Wis. 53208. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 136446 (Sub-No. 9TA), filed February 10, 1977. Applicant: PRINCETON MESSENGER SERVICE, INC., U.S. Route 1 and Farber Road, Princeton, N.J. 08540. Applicant's representative: Mel P. Booker, Jr., 118 North St. Asaph St., Alexandria, Va. 22124. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media; computer data, computer records and computer materials; video tapes, film and printed matter and materials, equipment and supplies* used or useful in the manufacture and distribution of video tapes, film and printed matter (except commodities in bulk), and

inter-office communications, in specialized delivery service, between points in Montgomery Township, South Brunswick Township, and Plainsboro, N.J., and their respective commercial zones, and Mercer and Burlington Counties, N.J., on the one hand, and, on the other, Philadelphia, Pa., and its commercial zone, restricted against shipments having prior or subsequent by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 E. State St., Room 204, Trenton, N.J. 08608.

No. MC 136446 (Sub-No. 10TA) filed February 10, 1977. Applicant: PRINCETON MESSENGER SERVICE, INC., U.S. Route 1 and Farber Road, Princeton, N.J. 08540. Applicant's representative: Mel P. Booker, Jr., 118 North St. Asaph St., Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media, computer data, computer records, computer materials and film*, between Mercer County, N.J., on the one hand, and, on the other, points in Harleysville and Blue Bell, Pa., and their commercial zones, restricted against shipments having prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Cash Register, P.O. Drawer 15, Old Trenton Road, Cranbury, N.J. 08512. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 E. State St., Room 204, Trenton, N.J. 08608.

No. MC 138824 (Sub-No. 5TA), filed February 9, 1977. Applicant: REDWAY CARRIERS, INC., 5910 49th St., Kenosha, Wis. 53140. Applicant's representative: Paul J. Maton, 10 S. LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, bottles, or jars*, N.O.I. other than cut; with or without their equipment of caps, covers, stoppers, or tops between the plantsite and warehouses of Glass Container Corporation, at or near Knox, Clarion County, Pa., and the plantsites and warehouses of Ocean Spray Cranberries, Inc., in Kenosha, County, Wis., under a continuing contract with Ocean Spray Cranberries, Inc., for 180 days. Supporting shipper: Ocean Spray Cranberries, Inc., 7800 S. 60th Ave., Kensoha, Wis. 53140. Send protests to: Gail Daugherty, Transportation Assistant, U.S. Courthouse and Federal Bldg., 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 140829 (Sub-No. 39TA), filed Feburay 8, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Farmland Foods, Inc., at or near Crete, Nebr., Denison, Carroll and Iowa Falls, Iowa, to points in New Jersey, New York and Massachuetts. Restriction: The operations authorized above are restricted to the transportation of traffic originating at the named origins and destined to points in the above-named destination states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dean D. Wilson, Fleet Operations Superintendent, Farmland Foods, Inc., P.O. Box 403, Denison, Iowa 51442. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission Suite 520, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 140855 (Sub-No. 3TA), filed February 9, 1977. Applicant: TAB TRUCKING, INC., E. 3628 Syndicate Blvd., Spokane, Wash. 99202. Applicant's representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Recycled garnet, magnesium and zinc oxide*, in sacks and in bins, from Spokane, County Wash., on the one hand, to points in Idaho, Montana, Wisconsin, Kansas, Nebraska, Illinois, Minnesota, Iowa, Utah, California and Oregon, and Indiana on the other, under a continuing contract with Inland Zinc Company, for 180 days Supporting shipper: Inland Zinc Company, Spokane Industrial Park, P.O. Box 3572 Ta, Spokane, Wash. 99220. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-5809 Filed 2-24-77;8:45 am]

federal register

FRIDAY, FEBRUARY 25, 1977

PART II



COMMODITY FUTURES TRADING COMMISSION

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CONTRACT MARKET DISCIPLINARY PROCEDURES

Proposed Rulemaking

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 8]

CONTRACT MARKET DISCIPLINARY PROCEDURES

Proposed Rulemaking

The Commodity Futures Trading Commission ("Commission") proposes to adopt regulations to govern the procedures used by contract markets to suspend, expel, otherwise discipline or to deny access to any person.

Pursuant to section 5a(8) of the Commodity Exchange Act ("Act") each contract market must "enforce all bylaws, rules, regulations and resolutions made or issued by it or by the governing board thereof or any committee, which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements * * *." This obligation to enforce their own rules is the primary self-regulatory responsibility of the various contract markets.[1]

During the past year the Commission's staff has conducted inspections of several contract markets to determine how well they are performing this self-regulatory responsibility and to make recommendations respecting needed improvements in the contract markets' rule enforcement programs. The Commission found, as a result of its inspections, that many exchanges were failing to comply with the minimum requirements set forth in the Commission's regulation § 1.51 and Rule Enforcement Guideline II.[2] In letters to the various exchanges following inspections, the Division of Trading and Markets recommended that the exchanges hire adequate enforcement staffs which would be authorized to carry out the exchanges' rule enforcement responsibilities and would follow procedures designed to assure that potential rule violations are detected, investigated and resolved. The Commission also urged the exchanges "to establish fair and equitable procedures which comply with the mandates of Section 8c of the Act for the protection of rights of members and persons who are subjects of any investigation or disciplinary action," and to establish complete and systematic record-keeping procedures which enable the Commission to review exchange actions. The regulations proposed herein address many of the problems with contract market rule enforcement programs which were observed during those inspections.

The Commission believes, particularly in light of the information obtained through the various exchange inspections, that it is appropriate and necessary to adopt regulations which establish standards pertaining to the investigation of rule violations, the imposition of disciplinary penalties and record keeping, which amplify those requirements contained in § 1.51.[3] The Commission's objectives in proposing to adopt rules governing contract market disciplinary procedures are thus three-fold: (1) To improve the investigation and prosecution of contract market rule violation, (2) to ensure that proceedings to discipline or deny access to a person are conducted fairly, and (3) to provide sufficient records for the purpose of the Commission's periodic contract market rule enforcement inspections and Commission review of specific exchange disciplinary and access denial actions conducted pursuant to Section 8c of the Act. If adopted, the exchanges would be required to implement the Commissions' regulations through the adoption of exchange rules which establish contract market disciplinary procedures.

One principle which the Commission has tried to incorporate in the proposed regulations is that the contract market should retain a certain amount of discretion in carrying out its rule enforcement responsibilities. However, in order for the Commission to function in its oversight capacity, the proposed rules provide that records which reflect the exercise of that discretion must be maintained by each contract market so that the Commission may determine whether the contract market, its staff or its members are exercising that discretion consistent with their self-regulatory responsibility.[4] The Commission's oversight in this area is primarily accomplished through periodic contract market rule enforcement inspections[5] and Commission review of specific exchange disciplinary and access denial action under Section 8c of the Act.[6] Therefore, the proposed regulations contain various reporting and recordkeeping requirements which will aid the Commission in its oversight role.

The discussion below provides an overview of the proposed regulations regarding contract market disciplinary procedures. The discussion is not intended to cover all of the details of the proposed regulations.

Enforcement Staff

The proposed regulations provide that an enforcement staff consisting of employees of the contract market shall have the authority to investigate and prosecute possible contract market rule violations. It is the Commission's objective that the investigation and prosecution of rule violations be conducted in as vigorous and thorough a manner as possible, and it believes that this is best accomplished by persons with no inherent conflicts of interest. To that end, § 8.02 of the proposed regulations specifies that the enforcement staff shall be composed of employees of the contract market rather than members. This prohibition against member participation on the enforcement staff extends not only to their direct participation but also to any supervisory capacity as well; that is, the enforcement staff may not operate under the direction of a contract market committee such as a Business Conduct Committee which is composed of members. The Commission, however, is interested in receiving comments concerning whether honorary members or other members who do not have trading privileges may be permitted to act in a supervisory capacity over the enforcement staff. Although members may not serve on the enforcement staff, the proposed regulations permit contract market members to serve on the disciplinary committee which may be delegated decision making authority at two other important stages of the exchange disciplinary procedures; i.e., after an investigation report is prepared by the enforcement staff, the committee may determine whether the alleged violations should be prosecuted, and the committee is the body which ultimately determines whether a violation has been committed and assesses the penalty. These areas of authority are further discussed below.

While the Commission is aware of the fact that the investigation and prosecution functions presently are performed by members on certain exchanges, it believes that compliance with § 8.02 will not be overly burdensome. Indeed, the Commission has previously stated, in May 1975, in its Guideline II respecting Contract Market Rule Enforcement programs that exchanges are required to have "a suitable staff engaged in actively and continuously looking for possible

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[1] In addition, section 5a(9) requires each contract market with approved financial standards and related reporting requirements to enforce those rules against members who are futures commission merchants. Contract markets are further required pursuant to section 6(a) of the Act to enforce rules made a condition of designation. Also, the Commission has adopted regulations which require contract markets to enforce certain of their rules in effect on July 18, 1975, § 1.53, 17 CFR 1.53.

[2] Section 1.51 of the Commission's regulations requires each contract market to establish an adequate rule enforcement program which includes surveillance, investigations, a disciplinary procedure and adequate records of rule enforcement activities. The Commission further explained the surveillance requirement contained in § 1.51 in Guideline II which was promulgated in connection with the designation process in May of 1975, CCH Comm. Fut. L. Rep. ¶ 6430.

[3] It should be noted that §1.51 will be amended to delete any duplication or overlap with the proposed regulations as they are finally adopted.

[4] The proposed regulations are not intended to discourage exchanges from taking substantial disciplinary actions when such action is necessary, but to provide a uniform procedure which will be employed by all exchanges so that respondents will be afforded minimum protections which are designed to assure fair treatment.

[5] In this regard, the Commission found, as a result of its inspections, that a majority of the exchanges' rule enforcement records were so inadequate that it would be impossible for the Commission to determine from a review of those records whether the exchanges were conducting adequate investigations and taking appropriate disciplinary actions.

[6] The Commission is also preparing a separate set of rules regarding the procedures that will apply to Commission review, under Section 8c of the Act, of exchange disciplinary, access denial or other adverse actions.

rule violations" and that this staff could consist of exchange employees or persons hired on a contractual basis to conduct an exchange rule enforcement program. Persons from outside the exchange hired on a contractual basis would be eligible to serve on the enforcement staff so long as there is no conflict of interest on the part of the persons under contract and so long as the exchange maintains a sufficient degree of control over the persons to assure the effective investigation and prosecution of rule violations.

Requirements to Conduct Investigations

Proposed § 8.03 would require exchange staff investigations to be conducted in three situations (1) When information is discovered through the surveillance program or otherwise which indicates that a violation may have occurred, (2) upon receipt of a customer or member complaint of an alleged violation, or (3) when the Commission or officials of the contract market request that an investigation be conducted. The scope and kind of investigation which is conducted is a matter of enforcement staff discretion; however, the investigation must be one that is appropriate in light of the circumstances.

Section 8.03(b) requires the exchange enforcement staff, in other than the more complex cases, to complete its investigation within three months, and in those cases in which the investigation cannot be completed in that time, to keep the Commission apprised of its status.[7] The three month period thus serves as a general guideline for completing exchange investigations and brings into effect the periodic reporting requirement when investigations cannot be completed within that time. The requirements of § 8.03(b) implement certain recommendations by the Comptroller General;[8] they help to assure that the exchange will have adequate staff to carry out its enforcement responsibilities promptly and keep the Commission apprised of the exchange enforcement staff's activities and progress on its more complex and lengthy investigations.

Investigation Reports

At the conclusion of an investigation, § 8.04 would require the enforcement staff to prepare a written investigation report. This report would serve two purposes. First, it would provide the disciplinary committee, which must decide whether to issue charges of a violation, with an orderly presentation of the facts that are known about a possible violation, and second, it would serve as a record of the investigation and resultant conclusions by the enforcement staff which may be examined by the Commission during its periodic inspections of the contract market's rule enforcement procedures.

The investigation report must contain a summary of the customer or other complaint, if any, the relevant facts and the enforcement staff's conclusions as to whether there is a reasonable basis for finding a violation. If the enforcement staff concludes that there is a reasonable basis for finding a violation, the report must also include a recommendation for appropriate action and be promptly submitted to a disciplinary committee. When the enforcement staff determines, following an investigation, that there is no reasonable basis for finding a violation, the investigation report shall become part of the file and the file may thereafter be closed. In such cases, the Commission's regulation would not require the enforcement staff to send its report to the disciplinary committee; the contract market could, however, include this requirement in its rules if it so desires.

The investigation report requirement is important both in terms of providing a source of information to the disciplinary committee and in providing a record for Commission review in determining the adequacy of a contract market's rule enforcement program. The Commission does not intend for the investigation report requirement to be unnecessarily burdensome. For example, many investigation files may appropriately be closed with a one page memorandum and many customer complaint files can probably be closed merely with a copy of the letter of response, so long as these documents contain the requisite information.

Disciplinary Committee

Under the proposed rules, contract markets are required to establish one or more disciplinary committees to perform the following functions: (1) Determine what action should be taken after the enforcement staff submits an investigation report of a possible violation (§ 8.05) (2) hear evidence and make a determination as to whether a violation has been committed (§§ 8.05 and 8.12) (3) assess and impose appropriate penalties (§§ 8.05, 8.06, 8.08 and 8.12) and (4) approve settlement agreements (§ 8.11). The disciplinary committee may consist of contract market members and/or employees; however, no enforcement staff member may serve on a disciplinary committee. Because the enforcement staff performs investigatory and prosecutory functions whereas the disciplinary committee performs adjudicatory functions, the Commission believes it would be inappropriate for persons on the enforcement staff to take part in a disciplinary committee's determinations.

The proposed regulations would require the disciplinary committee to review the investigation report and recommendation prepared by the enforcement staff and determine whether to adjudicate the possible violation. The committee could determine to go farward with the case, could disagree with the enforcement staff regarding whether information had been adduced which indicates a reasonable basis for finding a violation, or could determine that even though the staff had presented evidence which indicates a reasonable basis for finding a violation, the violation is one which, in light of all of the circumstances, should not be adjudicated. Section 8.05 provides, however, that if the disciplinary committee determines, for any reason, not to adjudicate a possible violation brought to its attention by a staff investigation report, that decision must be in writing and contain a statement of the reasons for the decision. Such documents will be reviewed by the Commission's staff during its periodic review of exchange disciplinary procedures to determine generally whether the disciplinary committee is excercising its discretion in accordance with the policies of the Act. As to those instances in which the disciplinary committee determines that there is a reasonable basis for finding a violation which should be adjudicated, the Commission believes that the exchanges have an obligation to inform the Commission of such violations which are within the Commission's enforcement jurisdiction. The Commission is therefore considering adopting a provision requiring contract markets to prepare a brief report to the Commission whenever a disciplinary committee has determined that there is a reasonable basis for finding a violation, and the actions or omissions in question would, if proven, constitute a direct violation of the Act, the Commission's regulations or a Commission order.

Pursuant to the proposed regulations, the various functions of the "disciplinary committee" may be retained by the board of governors[9] or may be delegated, in full or in part, to one or more bodies of an exchange.[10] The Commission is aware that the present disciplinary procedure followed by some exchanges divides, among two or more groups, those functions which would be required of the disciplinary committee under the proposed rules. The regulation permits the exchange, if it desires, to divide the disciplinary committee responsibilities on either a functional or subject matter basis. For example, one "disciplinary committee" may have the authority to determine whether there is sufficient evidence of a violation to go forward

[7] The contract market rule inspections conducted by the Commission revealed that in certain instances investigations of customer complaints and other possible rule violations were unnecessarily prolonged. For example, in one case over ⅔ of the investigations remained open after six months and many of these were over one year old.

[8] See Comptroller General of the United States, Report to the Congress, Improvement Needed in Regulation of Commodity Futures Trading (June 24, 1975).

[9] An exchange whose board of governors functions as a disciplinary committee must ensure that the press of other business does not prevent the board from promptly carrying out its disciplinary tasks.

[10] This format is permitted under the proposed rules which define "Disciplinary Committee" as that body or bodies provided for in § 8.05(a). Section 8.05(a) states that each contract market shall establish one or more disciplinary committees which shall be assigned certain authority and responsibility.

with a notice of charges, while a separate "disciplinary committee" may thereafter hear evidence, make a decision and assess a penalty. The exchange might also, for example, establish one "disciplinary committee" to handle floor violations and another to handle violations of financial requirements.

HEARING PROCEDURE

Once the disciplinary committee has determined that a matter is one which should be adjudicated, the enforcement staff would assume the role of prosecutor, preparing the notice of charges and proceeding with a hearing when one is requested by the respondent. The disciplinary committee would hear the evidence, make a decision and assess a penalty. The proposed rules provide that the respondent must be afforded certain procedural protections throughout the disciplinary procedures and particularly during any hearing. The Commission believes these standards, along with a right to legal counsel (§ 8.14), are the minimum necessary to assure procedural fairness. The following is a brief summary of the proposed requirements pertaining to hearing procedures. Several of these requirements are discussed in greater detail below.

§ 8.06 Notice of Charges—sets forth requirements concerning the minimum information which must be included in a notice charging a person with a violation.

§ 8.07 Answer to charges—requires that each person charged with a violation be given the opportunity to answer the charge.

§ 8.08 Admission or failure to deny charges—authorizes a contract market to permit its disciplinary committee to establish and impose penalties if the respondent either admits or fails to deny a charge of violation. However, unless the penalty was predetermined by a rule of the contract market, the respondent must be given an opportunity for a hearing on the penalty.

§ 8.09 Denial of charges and right of a hearing—provides that a respondent must be given opportunity for a hearing on the charges or on the penalty (except penalties set by contract market rules) if one is requested.

§ 8.10 Hearing—sets forth the minimum requirements for a fair hearing and requires that a record of the hearing be made [12] and become a part of the record of the proceeding.

§ 8.11 Settlement offers—provides that the contract market may adopt rules permitting a respondent to submit offers of settlement and permitting the disciplinary committee to accept or reject the offer of settlement.

§ 8.13 Appeal—provides for a right of appeal of an adverse initial determination by a disciplinary committee to the board of governors. However, if the board of governors rendered the initial decision, the contract market is not required to provide for any further appeal.

PENALTIES

The provisions regarding assessment of penalties have been structured to give the contract markets a great degree of flexibility. The contract markets may establish pre-set penalties in their rules for certain violations (§ 8.06), may, on a case by case basis, indicate penalties in the notice of charges (§ 8.06), may, subsequent to the notice of charges, summarily impose a penalty for charges admitted or not specifically denied (§ 8.08) or may establish a penalty after a hearing on the case (§ 8.12). In situations where the penalty is pre-set in the rules, the respondent must be notified of the pre-set penalty in the notice of charges and advised that such penalty will be imposed if he admits or fails to deny the charges; the respondent would not be entitled to a hearing on the penalty if he admits or fails to deny the charges. In those cases where the contract market has not adopted pre-set penalties in its rules, it is authorized to state in the notice of charges the penalties which will be assessed for those charges admitted or not specifically denied; however, the respondent must be informed in the notice that, although his failure to deny the charges may be deemed to be an admission as to those charges, he is entitled to a hearing on any penalties to be assessed. In addition, where the disciplinary committee, subsequent to issuing the notice of charges, summarily establishes a penalty, pursuant to § 8.08, for charges admitted or not specifically denied, the respondent must be notified of the penalty to be imposed and be given opportunity for a hearing on the penalty.

Section 8.12(b) sets forth the criteria which must be considered in determining an appropriate penalty. The Commission wishes to emphasize that it expects serious or repeated rule violations to be dealt with sternly. Nevertheless, in some cases a warning letter or order to cease and desist may be an appropriate penalty. It should be made clear that the Commission considers letters of this nature to constitute a penalty as that term is defined in §8.01(g). It would therefore be inconsistent with these proposed regulations for the disciplinary committee to determine that no further action should be taken, but that a warning letter should be sent to the individual who is the subject of an investigation. This does not mean that a hearing must be conducted in every case in which the disciplinary committee believes, on the basis of the investigation report, that a violation has occurred but that the appropriate sanction under the circumstances is a warning letter or order to cease and desist. A hearing is required only when it is requested by the individual who is charged with a violation. In those instances where the disciplinary committee determines that a warning letter or an order to cease and desist a particular activity would be the appropriate sanction if it is ultimately determined that a violation has been committed or if the respondent admits or fails to deny the violation, a statement of the sanction could be included in the notice of charges, which the respondent could agree to accept without hearing.[13] Of course, if the respondent denies the charges or requests a hearing on the penalty, a hearing would be required.

Section 8c(1)(B) of the Act requires an exchange which has taken a disciplinary action to provide the Commission and the person against whom such action was taken with written notice which includes the reasons for the action.[14] Certain individuals have expressed concern that the Commission will use those notices as a basis for not granting the reregistration of persons who have been disciplined for exchange rule violations. The Commission policy in this area is that minor violations, alone, will generally not be considered grounds for refusing reregistration. As noted above, exchanges are presently required by the Act to provide the Commission with notices of disciplinary actions. The Commission has not relied on notices of minor violation in the past to deny reregistration, nor is it anticipated that the Commission's policy in this area will be modified when the proposed rules concerning the form and content of such notices are issued.

SETTLEMENT

The proposed regulations permit exchange rules to provide for a settlement procedure. Pursuant to § 8.11 a respondent may propose and negotiate a settlement with the enforcement staff. The enforcement staff would be required to submit any proposed settlement along with a recommendation of approval or disapproval to the disciplinary committee. Only the disciplinary committee would have the authority to accept or reject the offer of settlement. If the offer of settlement is accepted by the disciplinary committee, the committee would be required to issue written findings of facts and conclusions as to rules violated. Any settlement agreed to by the disciplinary

[12] The proposed rules provide that a record of the hearing shall be made, but does not specify the type of record required. While a stenographic record of the proceeding would certainly be an adequate record, the cost of transcribing the material may make this method somewhat undesirable if the contract market were required to transcribe all such records. One alternative might be to require a stenographic record of the hearing which would have to be transcribed only if the decision of the disciplinary committee is appealed to the board of governors or the record is requested by the Commission. Another alternative may be to use an electronic tape recording of the hearing; however, the Commission believes that unless the tape recording is made by a court reporter, it may not provide an adequate record of the hearing. The Commission is interested in receiving comments on alternative methods of assuring an adequate record for review while reducing the cost of such records.

[13] For example, the notice of charges could include a statement to the effect that if the respondent either admits or fails to deny the alleged violation and does not request a hearing on the penalty, the notice of charges would serve as an order to cease and desist from further violations of the rule. (This is intended only as an example of a procedure which may be used under the regulations, and should not be construed as model language for a notice of charges.)

[14] Proposed regulations governing the form and manner of such notice will be contained in a separate part. See footnote 6 supra.

committee would constitute an exchange disciplinary action under section 8c(1)(A) of the Act just as if the matter were fully adjudicated. As such it would be subject to Commission review under section 8c(2) of the Act.

RIGHT TO ATTORNEY

Section 8.14 provides that any person charged with a contract market rule violation is entitled to be represented fully by legal counsel throughout the disciplinary procedure which includes the right to counsel during the investigation stage. The Commission believes that right to legal counsel is necessary to assure that the person charged with a violation is adequately represented; however, the Commission is interested in receiving comments concerning whether the right to be represented by counsel should be limited to the adjudication stage of the disciplinary procedure.

MEMBER RESPONSIBILITY ACTIONS AND VIOLATIONS OF RULES OF DECORUM

The Commission recognizes that the disciplinary procedure outlined above may be inappropriate in circumstances which require immediate action. Therefore, § 8.15 would authorize an exchange to take immediate action in certain circumstances, such as upon a reasonable belief that a member has failed to perform contracts, is insolvent or whose financial or opeartional condition is such that it has imperiled customers, creditors, the contract market or its clearing house, or other members of the contract market. Immediate action may also be taken to prevent undue adverse effects on trading or on prices. In addition, the regulation would permit each exchange to adopt rules, subject to the Commission's approval under section 5a(12) of the Act and regulation § 1.41, which specify other situations or circumstances for which immediate action may be taken.

A summary proceeding may also be established by an exchange under § 8.16 to impose minor sanctions for violations of rules of decorum or attire or similar rules.

In situations covered by proposed §§ 8.15 and 8.16, the person who is the subject of the exchange's action must be promptly given opportunity for a subsequent hearing and appeal.

REPORTS AND RECORDS

All reports and other records required by this part would, of course, be subject to the Commission's general record retention and inspection provisions contained in 17 CFR 1.31.

DENIAL OF MEMBERSHIP

The Commission's General Counsel has stated in interpretative letter 76-23 that a denial of membership constitutes a denial of access within the meaning of section 8c(1)(A) of the Act. In discussing such actions, the General Counsel indicated that an exchange has the burden of ensuring that there is sufficient reason to deny access and is obligated to hold a hearing or otherwise permit an applicant to rebut evidence against him. In addition, letter 76-23 specifically stated that to deny the applicant notice of the reasons for a denial and an opportunity to rebut evidence is inconsistent with elements of due process and with an exchange's obligations as a quasi-public institution. In this regard, the proposed regulations are intended to apply to membership denial cases as well as disciplinary actions. The Commission is particularly interested in obtaining views concerning the application of the proposed rules to denial of membership actions. Although the Commission believes that persons seeking exchange membership should be protected by certain due process safeguards and that records must be kept so that the Commission may review exchange denial of membership actions when appealed pursuant to section 8c(2) of the Act, the Commission does recognize that a denial of membership is different from a disciplinary action in many respects. Therefore, persons who believe these regulations, as proposed, should not apply *in toto* to membership denial cases are requested to suggest how the proposed rules might be modified or what other rules might be adopted to achieve appropriate safeguards for persons who are denied membership on an exchange.

Interested persons are invited to participate in this proposed rule making proceeding by submitting such written data, views or arguments as they may desire. Communications should include a reference to "Contract Market Disciplinary Procedures—Proposed Rules" and be submitted to: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Atten: Secretariat. All communications received on or before April 26, 1977 will be considered by the Commission before taking action on the proposed regulations. Copies of all comments received will be available for examination by interested persons at the Commission's office in Washington, D.C.

This notice of proposed rule making is issued under the authority of sections 5a, 8a and 8c of the Act, 7 U.S.C. 7a, 12a and 12c (Supp. V 1975).

In consideration of the foregoing, the Commission hereby proposes to amend 17 CFR by adding a new Part 8 to read as follows:

PART 8—CONTRACT MARKET DISCIPLINARY PROCEDURES

Sec.

8.01 Definitions.
8.02 Enforcement staff.
8.03 Complaints and Investigations.
8.04 Investigation reports.
8.05 Disciplinary committee review of investigation report.
8.06 Notice of charges and pre-hearing penalties.
8.07 Answer to charges.
8.08 Admission or failure to deny charges.
8.09 Denial of charges and right of hearing.
8.10 Hearing.
8.11 Settlement offers.
8.12 Decision and penalty.
8.13 Appeal.
8.14 Right to attorney.
8.15 Member responsibility actions.
8.16 Violations of rules of decorum.

AUTHORITY: Secs. 5a, 8a and 8c of the Act, 7 U.S.C. 7a, 12a and 12c (Supp. V 1975).

§ 8.01 Definitions.

As used in this part, the following terms shall have the following meanings:

(a) "Board of governors" shall mean the governing body of a contract market, whether referred to in the rules of a contract market as the "board of governors," "board of directors," or some other term.

(b) "Disciplinary committee" shall mean that body or bodies provided for in § 8.05(a).

(c) "Disciplinary procedure" shall mean the rules of a contract market utilized by the contract market for the purpose of adjudicating access denial actions and investigating and adjudicating possible violations within the disciplinary jurisdiction of the contract market and imposing appropriate penalties on persons found to have committed such violations.

(d) "Enforcement staff" shall mean that body provided for in § 8.02.

(e) "Investigation report" shall mean a report required by § 8.04.

(f) "Notice of charges" shall mean the notice required by § 8.06.

(g) "Penalty" shall mean any restriction, limitation, censure, fine, suspension, revocation, access denial, reprimand, cease and desist order, sanction or any other disciplinary action for any amount or of any definite or indefinite period imposed upon any person within the disciplinary jurisdiction of a contract market pursuant to a disciplinary procedure.

(h) "Rules" of a contract market shall mean any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy or instrument corresponding thereto.

(i) "Respondent" shall mean any person named in a notice of charges who has been served with such notice.

§ 8.02 Enforcement staff.

Each contract market shall establish an adequate enforcement staff which shall be assigned or delegated the authority by the contract market to investigate, report and prosecute possible rule violations within the disciplinary jurisdiction of the contract market. The enforcement staff shall consist of employees of the contract market and/or persons hired on a contract basis, but may not include members of the contract market or persons whose interests conflict with enforcement duties. The contract market shall be responsible for maintaining an effective and diligent enforcement staff regardless of whether the enforcement staff consists of employees or persons hired on a contract basis.

§ 8.03 Complaints and investigations.

(a) Each contract market shall establish and maintain a disciplinary proce-

dure which requires the enforcement staff of the contract market to investigate possible violations within the disciplinary jurisdiction of the contract market. Such investigations shall be conducted:

(1) Upon request by the Commission, the board of governors, a disciplinary committee or other officials specified by the contract market;

(2) Upon receipt of a complaint from a customer, a member of the contract market, or any other person which alleges injury as a result of, or specifies the nature of, one or more violations within the disciplinary jurisdiction of the contract market and which, in the judgment of the enforcement staff, indicates a reasonable basis for finding a violation within the disciplinary jurisdiction of the contract market; or

(3) Upon discovery by enforcement staff of information which indicates a possible violation within the disciplinary jurisdiction of the contract market.

(b) Investigations by the enforcement staff shall be completed within three months, except where the complexity of the investigation is such that completion is not possible within that period.

(1) Where an investigation cannot be completed within three months, the contract market shall submit a report to the Commission stating the nature of the investigation, setting forth the reasons why the investigation cannot be completed within three months and specifying the expected time when the investigation will be completed. Subsequent reports on the status of such investigations shall be made to the Commission each succeeding six weeks until the investigation is completed.

(c) The disciplinary procedure established and maintained by each contract market may provide that if a complainant wants a response from the contract market, his complaint must be in writing. Nevertheless, a contract market is not relieved of its obligations under any provision of the Act or the regulations thereunder, which requires the contract market to enforce its rules, solely because a complaint alleging violations was not made in writing or in any other prescribed form.

§ 8.04 Investigation reports.

(a) The enforcement staff of each contract market shall submit a written investigation report to a disciplinary committee of the contract market in every instance in which the enforcement staff has determined from surveillance or from an investigation that there is a reasonable basis for finding a violation within the disciplinary jurisdiction of the contract market. The investigation report shall set forth a summary of the complaint, if any, the relevant facts, findings and conclusions, and a recommendation of appropriate action.

(b) If after conducting an investigation the enforcement staff has determined that there is no reasonable basis for finding a violation within the disciplinary jurisdiction of the contract market, it shall prepare a written report containing a summary of the complaint, if any, the relevant facts and the enforcement staff's findings and conclusions. The report shall become part of the investigation file which may thereafter be closed.

§ 8.05 Disciplinary committee review of investigation report.

(a) Each contract market shall establish one or more disciplinary committees which shall be assigned or delegated the authority by the contract market to determine whether violations within the disciplinary jurisdiction of the contract market have been committed and to impose penalties therefor. The disciplinary committee shall consist of one or more members of the contract market or persons on the staff of the contract market; however, persons on the enforcement staff may not serve on a disciplinary committee.

(b) A disciplinary committee of each contract market shall promptly review each investigation report and, within a reasonable period of time, take one of the following actions:

(1) If the disciplinary committee determines that no reasonable basis exists for finding a violation within the disciplinary jurisdiction of the contract market which should be adjudicated, the committee shall direct that no further action be taken. Such determination must:

(i) Be in writing and contain a brief statement setting forth the reasons for the committee's action; and

(ii) Be transmitted to the Commission upon request; or

(2) If the disciplinary committee determines that there is a reasonable basis for finding a violation within the disciplinary jurisdiction of the contract market which should be adjudicated, it shall direct that the person alleged to have committed the violation be served with a notice of charges and proceed with the action in accordance with the rules of this part.

§ 8.06 Notice of charges and pre-hearing penalties.

The notice of charges shall:

(a) Set forth the acts, practices or conduct in which such person is alleged to have engaged;

(b) Specify the rules alleged to have been violated (or about to be violated);

(c) State any predetermined penalty established for such violation by the rules of the contract market or any penalty determined to be appropriate by the disciplinary committee;

(d) Advise the person that he may request a hearing on the charges and penalty, but that failure to request a hearing within the period prescribed in the notice, except upon good cause shown, will be deemed a waiver of the right to a hearing; and

(e) Advise the person that he may file an answer to the charges and specify the period of time for filing an answer.

§ 8.07 Answer to charges.

The respondent shall be given a reasonable period of time to file an answer to the charges. The answer must be in writing and include a statement that the respondent admits, denies or does not have and is unable to obtain sufficient information to admit or deny each allegation. A statement of a lack of sufficient information shall have the effect of a denial of an allegation. Failure to file an answer on a timely basis shall be deemed an admission of all allegations contained in the notice of charges; failure in an answer to deny expressly charges contained in a notice of charges shall be deemed to be an admission of each allegation not expressly denied.

§ 8.08 Admission or failure to deny charges.

In the event a respondent served with a notice of charges required by § 8.06 admits or fails to deny any of the charges contained in the notice of charges by failing to answer or otherwise:

(a) A disciplinary committee may, if the contract market so provides, impose any penalty specified in the notice of charges for those charges admitted or not expressly denied.

(b) If no penalties were included in the notice of charges a disciplinary committee may, if the contract market so provides, without prior notice to the respondent, establish a penalty for charges admitted or not specifically denied. The respondent must be promptly notified of the penalty to be imposed.

(c) The respondent must be given an opportunity for a hearing on a penalty established by the disciplinary committee pursuant to § 8.06(c) or paragraph (b) of this section; however, no hearing is required for a predetermined penalty which is established for a particular violation by the rules of the contract market. The hearing shall be conducted in conformance with § 8.10. If a respondent fails to request a hearing within a reasonable period of time, the respondent may be deemed to have accepted the penalty.

§ 8.09 Denial of charges and right of hearing.

In every instance where a charge contained in a notice of charges is denied, the respondent shall be given an opportunity for a hearing conforming to the requirements of § 8.10. Except upon good cause shown, the hearing, if requested, shall be concerned only with those charges denied and/or penalties to be imposed in conformance with §§ 8.06(c) (except penalties set by contract market rules) and 8.08(b).

§ 8.10 Hearing.

The following minimum requirements shall apply to any hearing required by this part:

(a) The hearing shall be fair and shall be conducted before disinterested members of a disciplinary committee. The hearing may be conducted before all of the disinterested members of a disciplinary committee or a panel thereof.

(b) The enforcement staff shall be a party to the hearing and shall present the charges contained in the notice of charges.

(c) The hearing shall be promptly convened after reasonable notice to the respondent.

(d) The respondent shall be entitled to appear personally at the hearing.

(e) The formal rules of evidence need not apply at the hearing; nevertheless, the procedures established for the hearing may not be so informal as to deny due process.

(f) The respondent shall be entitled in advance of the hearing to examine all relevant documents in the possession or under the control of the contract market which are to be relied upon by the enforcement staff in presenting the charges contained in the notice of charges, or which are relevant to the notice of charges or which may lead to relevant evidence.

(g) The respondent shall be entitled to cross-examine any persons appearing as witnesses at the hearing.

(h) The respondent shall be entitled to present such witnesses and documents as may be relevant to the charges contained in the notice of charges.

(i) A record of the hearing shall be made and shall become a part of the record of the proceeding.

§ 8.11 Settlement offers.

(a) The disciplinary procedure may permit a respondent to make an offer of settlement any time after being served with a notice of charges and before final determination. If the disciplinary procedure permits offers of settlement they shall be submitted in writing to the enforcement staff which shall present the offer to the disciplinary committee with the enforcement staff's recommendation. The respondent must be informed if the recommendation will be unfavorable in which event the offer shall not be presented to the disciplinary committee unless the respondent so requests. The disciplinary committee may accept the offer of settlement, on the terms proposed by the respondent or as the respondent and the enforcement staff may agree, provided that the penalty consented to in the offer of settlement is sufficiently remedial to deter future violations of the rules of the contract market.

(b) If an offer of settlement is accepted, the disciplinary committee shall issue a written decision containing findings of fact and conclusions as to rules violated by the respondent and imposing a penalty in conformance with the terms of the settlement.

(c) If an offer of settlement is rejected by the disciplinary committee, the respondent shall not be deemed to have made any admissions by reason of the offer of settlement and shall not otherwise be prejudiced by having submitted the offer of settlement.

§ 8.12 Decision and penalty.

(a) Promptly following a hearing conducted in accordance with § 8.10, the disciplinary committee shall render a decision in writing, based solely on the record. The decision shall include:

(1) A statement of the charges,

(2) A summary of the respondent's answer,

(3) A summary of the evidence and testimony produced at any hearing,

(4) A statement of conclusions and findings with respect to each charge,

(5) A statement setting forth the specific rules which the respondent is found to have violated, if any, and

(6) A declaration of any penalty imposed and the effective date of such penalty.

(b) The disciplinary committee shall be authorized to impose a penalty upon a respondent. In determining the nature and amount of any penalty, the disciplinary committee shall consider, where appropriate:

(1) The gravity of the offense,

(2) Whether the penalty will be sufficiently remedial to deter future violations by the respondent and others,

(3) The number and kinds of other violations engaged in by the respondent, if any,

(4) The size of the respondent's business, and

(5) The extent of the respondent's ability to continue in business.

§ 8.13 Appeal.

(a) A respondent shall be permitted to appeal an adverse decision of a disciplinary committee to the board of governors within a reasonable period of time. The petition may be required to be in writing and may be required to specify the findings and conclusions to which objection is made.

(b) The board of governors may, on its own initiative, order review of a decision by the disciplinary committee within a reasonable period of time after the decision has been made final by that committee.

(c) An appeal or review proceeding may be conducted at a meeting of all disinterested members of the board of governors or a panel thereof. No member of the board of governors shall participate in an appeal or review proceeding if such member participated on the disciplinary committee which heard the case or is in any way involved in the case. Except for good cause shown, the appeal or review shall be conducted solely upon the record before the disciplinary committee, the written exceptions filed by the parties, and the oral or written arguments of the parties.

§ 8.14 Right to attorney.

Any person subject to the disciplinary jurisdiction of the contract market may be represented fully by legal counsel in every aspect of the disciplinary procedure.

§ 8.15 Member responsibility actions.

(a) This part shall not be construed to prohibit a contract market from establishing a procedure to suspend immediately, or to take other immediate action with respect to, a person subject to the disciplinary jurisdiction of the contract market, upon a reasonable belief that:

(1) Such person has failed to perform contracts; is insolvent; or is in such financial or operational condition or conducting business in such manner that such person cannot be permitted to continue in business with safety to customers, creditors, the contract market, members of the contract market, or the clearing mechanism of the contract market;

(2) Such action is necessary to prevent immediate and serious adverse effects on the trading or the prices of futures contracts traded through the facilities of the contract market; or

(3) Certain conditions or circumstances exist which have been specified in a rule of a contract market which has been approved by the Commission.

(b) A person against whom action has been taken pursuant to this section shall promptly be given opportunity for a subsequent hearing and appeal conforming to the requirements of §§ 8.10, 8.12 and 8.13, including the right to legal counsel provided for in § 8.14.

(c) A contract market shall prepare and retain a record of any member responsibility action taken, which shall include a description of the penalty imposed and the reasons for such penalty.

§ 8.16. Violations of rules of decorum.

(a) This part shall not be construed to prohibit a contract market from granting authority to any committee or to contract market officials to impose minor sanctions against persons for violating rules of decorum, attire or similar rules, on a summary basis without complying with the requirements of this part other than paragraph (b) of this section.

(b) A person adversely affected by such summary procedures shall promptly be given opportunity for a subsequent hearing and appeal conforming to the requirements of §§ 8.10, 8.12 and 8.13, including the right to legal counsel provided for in § 8.14.

Issued in Washington, D.C. by the Commission on February 17, 1977.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-5736 Filed 2-24-77;8:45 am]

federal register

FRIDAY, FEBRUARY 25, 1977

PART III



COMMODITY FUTURES TRADING COMMISSION

■

AGGREGATION OF ACCOUNTS—CONTROLLED OR DISCRETIONARY

Proposed Policy

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Chapter I]

AGGREGATION OF ACCOUNTS—CONTROLLED OR DISCRETIONARY

Proposed Policy and Request for Comment

The Commodity Futures Trading Commission ("Commission") has received petitions and inquiries from futures commission merchants and others requesting that the Commission establish guidelines and interpretations (reversing prior interpretations) concerning aggregation of certain accounts for purposes of reporting requirements and speculative trading and position limits under the Commodity Exchange Act. Due to the general importance of these issues, the Commission sought comment from interested persons and subsequently these issues were addressed by two advisory committees formed by the Commission. At this time the Commission is proposing to adopt a policy concerning account aggregation that incorporates certain deviations from the current policy and is seeking comment from interested persons on these proposals. In addition, the Commission is seeking comment on the need for and benefit of uniform Commission and exchange rules concerning aggregation of accounts for compliance with Federal- and/or exchange-imposed speculative limits.

BACKGROUND

One of the primary objectives of the Commodity Exchange Act, 7 U.S.C. 1 et seq. (Supp. V, 1975) ("Act"), as amended by the Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93-463 (October 23, 1974) ("CFTC Act"), is to maintain highly competitive futures markets by limiting the impact of large trading or positions. The Commission is authorized by section 4a(1) of the Act to establish limits on the amount of trading which may be done or positions which may be held by any person under commodity futures contracts.[1] That section further provides that, in determining whether

> * * * any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person * * *.

Prior to the adoption of the CFTC Act, this section had been the subject of interpretative statements issued by the Administrator of the Commodity Exchange Authority ("CEA"). One interpretative statement, Administrative Determination 229 (October 14, 1971) ("A.D. 229"), concerned "customer trading programs" of futures commission merchants and stated that these programs have the following elements:

> They normally require the customer to sign an agreement not obtained from other customers and to make a minimum deposit in excess of that required of other customers. Those in the program are given specific advice or recommendations not made available to other customers of the firm. Although participants are not required to follow specific recommendations, the programs are designed to provide best results when such recommendations are followed.

A.D. 229 concluded with respect to customer trading programs that:

> All trades and positions in all customers' accounts included in a trading program must be combined for reporting and speculative limit purposes. Any officer, partner or employee of a futures commission merchant who operates a customer trading program is acting on behalf of the futures commission merchant * * *.

Subsequent to the issuance of AD 229, futures commission merchants were informed by the Administrator that section 4a(1) of the Act also requires aggregation of discretionary accounts for reporting and speculative limit purposes. Objection has been made to the determinations of the Administrator.

A related determination (AD 232), April 20, 1972, was also made by the Administrator concerning uniform application of AD 229 to regulated commodities in which exchanges had established speculative limits. This AD requested:

> * * * That each exchange which has speculative limits in a regulated commodity notify members that the Commodity Exchange Authority interpretation of the application of speculative limits to customer trading programs applies equally to exchange limits.

With regard to questions raised by AD 232, the Commission is seeking comment on whether or not uniform exchange and CFTC rules would significantly ease compliance and reporting burdens; whether CFTC rules should be established as a basic standard, allowing exchange rules only to be more rigid or whether exchanges should be given the latitude to determine their own aggregation policy with respect to their limits and on what basis; or whether some other interrelationship between CFTC and exchange aggregation requirements is preferable and if so on what basis. After reviewing such comments, the Commission will express its intended policy with regard to this issue.

In proposing to adopt the policy set forth below, the Commission has considered objections to the Administrator's determination contained in petitions currently before the Commission from futures commission merchants (FCM's), public comments it received in response to its FEDERAL REGISTER notice of September 30, 1975, 40 FR 44864 (1975), and the recommendations of its two advisory committees that addressed these issues. Below is a brief summary of the recommendations and public comments received by the Commission. For purposes of this summary and the proposed policy statement, the Commission has employed certain terms and requests comments on the appropriateness of the following definitions of those terms. These are:

1. *Customer Trading Program.* This term has been interpreted to mean program offered, sponsored, promoted, managed or in any other way supported by a futures commission merchant, a commodity trading advisor, or a commodity pool operator which is designed to provide its participants with specific advice or recommendations which are not made available to other customers of such persons. Such program participants may be required to sign an agreement not obtained from other customers and to make a minimum deposit in excess of that required of other customers. Such programs may include both guided accounts and discretionary accounts.

2. *Guided Account Program.* This term shall mean a customer trading program in which the participants are not required to follow the specific advice or recommendations given to the program participants.

3. *Discretionary Account.* This term shall mean a commodity futures trading account for which buying and/or selling orders can be placed or originated, or for which transactions can be executed, without the prior specific consent of the account owner regardless of whether the general authorization for such orders or transactions is pursuant to a written agreement, power of attorney, or otherwise.

4. *House Accounts.* This term shall mean a commodity futures trading account owned by or carried in the name of the futures commission merchant.

CONSIDERATIONS

Petitions. In petitioning for relief from the Administrator's determination, several persons commented that AD 229 and subsequent expressions by the Administrator were contrary to section 4a(4) of the Act which provides that speculative limits shall apply to an FCM only to the extent that transactions made by the FCM are made "on behalf of or for the account or benefit of" the FCM. It was urged that this section does not permit application of speculative limits to customer trading programs or discretionary accounts of an FCM unless the FCM has an ownership interest in the positions. The Commission disagrees with this comment and believes that the Administrator's views expressed in AD 229 are entitled to great weight and reflect the proper interpretation of section 4a(4).

By its express terms, section 4a(4) permits application of speculative limits not only to transactions made for the FCM's "account" (those in which an ownership interest exists) but also to transactions made "on behalf" or "for the benefit" of the FCM. In this connection, the Commission believes that section 4a(4) should

[1] Trading and position limits for certain commodities have been established. See 17 CFR Part 150 (1976), as amended, 41 FR 35060 (August 19, 1976).

[2] In this connection section 4i of the Act and the regulations thereunder require the aggregation of certain accounts for reporting purposes. See 17 CFR Parts 17 and 18 (1976).

be interpreted consistent with the basic purpose of section 4a: to prevent excessive speculation and unreasonable or unwarranted changes in commodity prices caused by the magnitude of positions held or the amount of trading done by a person through controlled accounts or by two or more persons acting in concert.

As a practical matter, the Commission believes that in many cases the trading which may be done or the positions which may be held by FCM-controlled accounts presumably would be either "on behalf of or for the account or benefit of" the FCM. For example, if the accounts owned and/or controlled by an FCM in aggregate represent a substantial portion of the open interest in any market and are traded in a combined fashion, their net impact would be to cause price levels or movements favorable to the accounts when such price levels or movements would not be available if the accounts were singly owned and controlled.

However, the Commission recognizes that in certain situations aggregation should not be required. As one petitioner suggested, the "limited, economic interest of obtaining commission revenue is, in and of itself, an insufficient basis for attribution." Accordingly, as discussed below, the Commission is proposing that if an FCM can demonstrate that the trading which may be done or positions which may be held by accounts controlled by the FCM are not in fact made "on behalf of or for the account or benefit of" the FCM, those positions will not be aggregated for purposes of speculative limits.

Public Comment. A total of 14 responses were received from the FEDERAL REGISTER notice of September 30, 1975. Seven of the responses were from futures commission merchants and seven were from others. Only one among the FCM's responding and one among the non-FCM's supported the current policy. Most respondents in both the FCM and non-FCM categories were critical of this policy.

Futures commission merchants largely recognized that, with regard to discretionary accounts for which power of attorney has been given to an associated person of an FCM, such controlled accounts should be aggregated with the accounts of the associated person but not with accounts owned or controlled by the FCM. With regard to customer trading programs, FCM's generally felt that the burden of demonstrating the lack of common control over all such accounts rested on them and should be considered on a case-by-case basis.

Most FCM's recognize the danger of simultaneous trading of a large block of controlled accounts and felt that some form of control should be exercised against it. FCM's felt, generally, that both speculative limits and reporting levels should be raised to higher levels.

Non-FCM's concerns were related to market volume and liquidity restrictions which might result from aggregation. They felt, as did the FCM's that the fact situation with regard to control should be examined on a case-by-case basis. Basically, however, non-FCM's opposed a rigid aggregation policy feeling that it limited the most successful managers and left the public subject to the services of the less efficient.

Advisory Committee Recommendations. The question of aggregation—principally the aspect relating to the house accounts of an FCM and to related accounts—was discussed and reported on by two advisory committees of the Commission, the Advisory Committee on the Economic Role of Contract Markets, chaired by Commissioner Seevers, and the Advisory Committee on Commodity Futures Trading Professionals, chaired by Commissioner Martin.

In its final report the Advisory Committee on the Economic Role of Contract Markets made no long-term recommendations with respect to aggregation but advised the Commission to undertake a complete investigation on the subject. The committee recognized that issues concerning aggregation were closely related to questions regarding speculative limits and urged that "until the CFTC has had an opportunity to thoroughly investigate the question of aggregation and so long as speculative limits are retained in the CFTC regulatory scheme, the present policy should be retained." [3]

With regard to speculative limits the committee recommended in the short run to increase the levels of such limits "and in the long run place less and less reliance on them as regulatory tools." [4]

One problem area with respect to aggregation noted by the committee related to large blocks of capital being assembled to engage in trading on the basis of technical factors which "may provide less stability than more standard types of speculative capital in the markets." [5] The current policy on aggregation had been suggested to the committee as one means of minimizing the impact of the trading of such large blocks of capital. The committee concluded, however, "that the best defense against blocs of technical trading was to permit traders who base their decisions more heavily on supply-demand factors more latitude for counter-trading." [6] The committee felt that its recommended increase in speculative limits would help in this regard.

The Advisory Committee on Commodity Futures Trading Professionals stated that:

> Accounts should be aggregated on the basis of common control or whether trading is being done according to an expressed or implied agreement.
>
> The determination test for control should not emphasize technical principal-agent or employer-employee relationships.
>
> The burden of proof should be on the FCM to demonstrate independence of customer trading programs by program design, internal procedures, and surveillance.[7]

The committee noted also that, since trading programs and commodity pools are becoming more attractive to the speculative public, placing the burden of determining whether accounts should or should not be aggregated on the Commission may be justified since "[i]nflexible aggregation policies could retard the development of these programs and pools, to the detriment of the market." [8]

STATEMENT OF PROPOSED POLICY

With respect to aggregation, the Commission recognizes the great variety of commodity futures accounts and commodity trading programs available for people to participate in commodity futures trading. It also recognizes that, if such accounts and programs are traded independently and for different purposes, such trading can be beneficial by adding liquidity to the markets and aiding in the price-discovery process. Further, the Commission feels that the current aggregation policy does not adequately reflect the efforts made by futures commission merchants as well as others to establish internal management procedures which assure independence in the control of these accounts and various customer trading programs. However, the Commission also recognizes the dangers inherent in not requiring customer trading programs carried through the same FCM to aggregate for speculative limit purposes. Purportedly different programs which in fact are similar in design and purpose may be initiated to circumvent speculative limits. Trading by such programs may in fact be a detriment to the markets.

Therefore, the Commission intends to adopt a policy which permits certain exclusions from the current aggregation requirements provided that such exclusion is supported by a satisfactory showing on the part of the accounts in question that the trading in the accounts is independent. Moreover, the trading in such accounts that would be excluded will be subject to periodic review in order to determine the likelihood that such accounts are in fact being traded independently. Such a review would be made on the basis of data reported regularly by the individual accounts showing this activity in the market. If the results of the review indicate that any two such accounts are not traded indepently, the Commission may require that the accounts in question be aggregated for speculative limit purposes.

Specifically, the proposed policy with respect to customer trading programs, discretionary accounts of an FCM, and the house accounts of an FCM would be as follows:

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[3] CCH Comm. Fut. L. Rep. Paragraph 20, 187 at 21,078 (July 19, 1976).
[4] Id.
[5] Id.
[6] Id.
[7] CCH Comm. Fut. L. Rep. Paragraph 20, 197, and Report Letter No. 29, Part II at 51–52 (August 20, 1976).
[8] Id. at 52.

CUSTOMER TRADING PROGRAMS, GUIDED ACCOUNT PROGRAMS OR COMMODITY POOLS OF AN FCM

Customer trading programs, guided accounts, etc., of an FCM would be combined with each other and the house account for purposes of speculative limits, unless the FCM makes a sufficient showing to the Commission that each program is being run independently from other house and proprietary accounts. This would involve among other things supplying description of facts surrounding the program, including:

1. A description of the affiliation of the program controller to the FCM.
2. Evidence that the program controller is free to act independently of the FCM, e.g., a contract divesting trading control by the FCM and guaranteeing the independence of the controller.
3. The object of each trading program.
4. A description of factors influencing the trading of the program.
5. The access to and reliance by the program controller on market advice generated by the FCM.
6. Means that the FCM has taken to insure that the trading decisions of any one program are generally not available to other program controllers and/or representatives of the firm.
7. If more than one customer program is involved, a description of the differences and similarities between the programs.
8. Evidence that the account controllers act independently of recommendations of the FCM and each other using independent judgment in arriving at market decisions.

If, on the basis of the above, the Commission feels there is sufficient reason to believe that the customer programs and the house account are being traded independently, then the FCM will be informed that the trading programs will not be aggregated with each other or the house account for the purpose of determining compliance with speculative limits until otherwise notified by the Commission. As noted earlier, trading in these accounts will be subject to periodic review.

DISCRETIONARY ACCOUNTS OF AN FCM OR ASSOCIATED PERSONS OF AN FCM

Determinations must be made on a case-by-case basis whether the associated persons of an FCM act as account controllers over discretionary accounts or are merely acting as agents for the FCM. Determinations will be based on:

The overall policy of the FCM regarding associated persons who can handle discretionary accounts.

Policies of the FCM regarding the use and non-use of firm-generated market research recommendations with respect to managed accounts.

Evidence of independence of judgment from house recommendations or accounts, customer trading programs and discretionary accounts of other associated persons of the firm which are used by the account controller in managing discretionary accounts.

If on the basis of the above it is determined that an associated person of the firm independently controls the trading of any discretionary accounts, then for speculative limit purposes such accounts would be aggregated only with personal accounts of the controlling associated person. If on the other hand it is determined that such associated person in managing discretionary accounts acts only at the direction of the FCM or in concert with other associated persons or customer trading programs of the FCM, such accounts would be aggregated. Trading in these accounts will also be subject to periodic review.

It has been suggested that, if a common trading pattern is shown between the trading in proprietary accounts (i.e., accounts of officers, directors, shareholders, partners and employees) and the "house" accounts or the accounts in a customer trading or guided account program, the positions held by those accounts should be combined unless it can be shown that such combination should not be required. For example, combination may be appropriate when a common trading pattern is shown for the personal trading account of one with access to trading information used in entering or executing orders for house accounts or customer trading or guided account programs. Comment is specifically requested on this issue.

If the Commission adopts this proposed policy, it is anticipated that other aspects of the current aggregation policy would remain in effect with little or no modification. Namely:

1. All accounts directly or indirectly owned or controlled by an individual will be aggregated. To this end, any person who has a 10 percent or more financial interest in an account will be considered as an account owner.
2. In the case of partnership accounts, the accounts of each general partner will be combined with those of the partnership to determine compliance with speculative limits unless the general partners can demonstrate that they (1) Have divested themselves of all control over trading decisions, including the ability to refuse to implement trading suggestions of an independent third-party manager, and (2) Have maintained a minimal beneficial interest in the account of no more than is necessary to form a partnership or a limited partnership under state or federal statute and is less than 10 percent. Limited partners in cases where they do not control the trading or have property rights in the partnership are not required to combine the trading in the partnership accounts with any other accounts they own or control.
3. The positions held and trading done by any two or more persons acting according to an expressed or implied agreement or understanding would be required to be combined.

REPORTING OF CONTROLLED ACCOUNTS AND CUSTOMER TRADING PROGRAMS

In order to implement the above-proposed aggregation policy, the Commission intends to make changes in the manner in which positions and trades of controlled accounts are reported to the Commission. Appropriate changes in the regulations would be made to indicate the manner in which FCM's and account controllers would report after the Commission determines which accounts would be aggregated for speculative limit purposes. In general the following rules are being proposed:

1. *Customer Trading Programs*—The house accounts and all customer trading programs including guided account programs and customer pools of an FCM will be aggregated to determine reporting status. Each such account would, however, be reported separately.
2. *Controlled Accounts of Representatives of the Firm*—The personal trading of the account controller would be aggregated with controlled accounts for determining reporting status. For reporting purposes however the trades and positions of the account controller shall be reported separately from those in any controlled account.

All interested persons may comment on these proposals by submitting comments in written form to the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., 20581, Attn: Secretariat. The Commission is especially interested in comments from futures commission merchants, exchanges, traders, dealers, customers, and other interested persons. Comments must be received on or before April 26, 1977. Copies of all comments received will be available for inspection at the Commission's office in Washington, D.C. In addition, interested persons may request the opportunity to express their views at an oral hearing. Should the Commission conclude that an oral presentation will be of value, it will, by subsequent notice, set the time and place of that hearing.

Issued in Washington, D.C., on February 22, 1977.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-5797 Filed 2-24-77;8:45 am]

federal register

FRIDAY, FEBRUARY 25, 1977

PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

■

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Annual Operating Plan for FY 1977

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Annual Operating Plan for FY 1977

Pursuant to paragraph 18 of the National Plan for Compliance Activities published in the FEDERAL REGISTER on September 23, 1976 (41 FR 41795), the Office for Civil Rights (OCR) issues herewith its FY 1977 Annual Operating Plan (AOP). The Plan, as set forth in the following charts, establishes the number of complaint investigations, compliance reviews and related activities which the ten OCR Regional Offices are responsible for conducting in FY 1977 and the staff resources which OCR is allocating to those activities.

OCR published a proposed Annual Operating Plan for FY 1977 in the FEDERAL REGISTER on September 23, 1976 (41 FR 41776) and sought comments from the public on this proposal. Sixteen organizations submitted comments. Four were supportive and did not seek changes to the plan. Three suggested changes to the National Plan which was published concurrently with the proposed AOP, but made no suggestions on the AOP itself. Nine of the comments urged OCR to make changes in the AOP.

Except as noted below, none of the comments sought the deletion or reduction of any of the activities described in the proposal. Each of the comments was concerned primarily with increasing OCR's level of activity in areas of interest to the organization submitting the comment. These areas include:

Complaint investigations of sex discrimination in higher education.
Compliance reviews of sex discrimination in education.
Prompter response to complaints generally.
Health and Social Service institutions generally.
Compliance reviews of discrimination against the handicapped.
Compliance reviews of discipline and tracking in schools.

Other comments were directed to the absence in the plan of detailed information on the work of headquarters staff, particularly with respect to the investigation of complaints from the handicapped, and the coordination under Executive Order 11914 of the efforts of other Executive Departments to implement section 504. Finally, one comment indicated that OCR should reduce the time which the AOP allocates for the conduct of each review and investigation, and for reorganization and training.

OCR has carefully considered each of these comments, but finds that athough it is sympathetic to most of them and appreciative of the concerns expressed, the suggested actions could only be accommodated by reducing activities already in the plan, and this OCR is unable to do.

Under the AOP, the major thrust of the OCR FY 1977 compliance effort will be directed toward the resolution of 2750 Title VI and Title IX complaints (1650 of which were filed in FY 1976 or earlier) against schools and colleges, and to the completion of Title VI school reviews which were started in FY 1976 or earlier. It is OCR's plan that this intense concentration of resources on the reduction of complaints will place it in a position to address a broader spectrum of civil rights responsibilities in subsequent fiscal years. For the short run, OCR believes that sound management and allocation of its resources calls for the elimination of the backlog of complaints as soon as possible and the completion of reviews now in progress before new compliance activities are initiated. This position is reinforced by representatives of client groups who insist on the prompt resolution of all complaints and the speedy completion of all compliance reviews. It is also reinforced by the order of the U.S. District Court in the case of *Adams* v. *Mathews* — F. Supp. —— (D. D.C., June 14, 1976) which establishes strict time frames for the completion of complaint investigations and compliance reviews in elementary and secondary education.

OCR projects that the work described in the AOP will require 719 person years of effort. In January 1977, OCR had 714 permanent positions authorized for its ten Regional Offices, and had arranged for filling another 166 positions on a temporary basis. By early January, however, OCR had been able to fill only 543 of the permanent positions and 40 of the temporary positions. The delays which OCR is experiencing in filling its vacancies raise obstacles for even accomplishing the work set forth in the plan, and make it impossible to contemplate any additional work at this time.

The suggestion that OCR could increase its staff's productivity by lessening the time allocated to the various activity categories deserves further comment. The complaints which OCR receives vary widely in their complexity, and the number of persons affected. Many of them involve only a few people and do not present more than a single, simple issue. Such complaints can be resolved with a minimum of staff effort. There are other complaints which present novel and complex issues, and which involve a large number of people. Such complaints require far more work than the average times which appear on the plan might indicate. With respect to compliance reviews, the situation is similar; where complex issues are involved, large amounts of time are needed to complete the work. Obviously it is difficult to determine in advance the complexity of the complaint investigations and compliance reviews which OCR will conduct in FY 1977. OCR believes, however, that the time indicated in the plan are the minimum that OCR could responsibly allocate to this work. Any lesser amounts would force staff to perform work in a hasty manner, and could seriously compromise the quality of the program.

With respect to reorganization, the regional offices have made a number of staff changes during the year already in order to prepare for the implementation of the FY 1977 AOP. Further reorganizations during the year are possible. It is a fact that these moves do take staff away from compliance work for more than just a few hours. OCR believes that the allocation of a lesser amount of time to reorganization would be unrealistic and irresponsible.

With respect to training, OCR has concluded that the quality of its performance can be significantly improved by a comprehensive formal training program for all its staff, and in FY 1977 OCR will be conducting a series of residential training programs for as many staff members as possible. Most of these programs will be of two week duration. In addition, there will be a significant amount of time devoted to informal and on-the-job training in the regional offices, particularly for the new staff and staff moving into new assignments under the AOP. OCR believes that the 20 days per investigator allocated to this work, which covers time for both the trainer and the trainee, is realistic, and that this will be a productive use of staff time.

Reorganization of the headquarters staff has been developed and under serious consideration for some months. As this new organization takes effect, the office will develop and carry out activities in each of the following areas:

1. Policy development in all areas of OCR's responsibilities.
2. Procedures development for all areas of OCR's compliance activities.
3. Implementation of OCR's responsibilities under section 504 including the investigation of complaints and coordination of the activities of the other Federal Agencies under section 504.
4. The planning, monitoring and evaluation of the work of the OCR Regional Offices.
5. The development of long range plans for the most effective use of OCR's resources, and the evaluation of the impact of the OCR programs on the needs of the OCR client groups.
6. The conduct of a limited number of compliance reviews by headquarters staff in complex cases or in order to assist the development of policies and procedures.

OCR's final AOP for FY 1977 has a number of minor adjustments to activities listed in the September proposal. These revisions have added 57 person years of work to the Regional Offices in FY 1977. Most of the increase was caused by a new inventory of existing work which was conducted at the start of the fiscal year, and by the addition of the responsibility for reviewing applicants for grants under the Emergency School Assistance Act to determine their compliance with the civil rights requirements of the ESAA program. Other changes include the transfer of responsibility for the conduct of reviews of vocational technical schools and state administered schools from the regional offices to headquarters staff for FY 1977 during the period that policies for this work are developed. A complete (all regions) listing of the changes made to the proposed AOP issued in September is as follows:

	Actions		Person-years	
	From	To	From	To
Activities with changes:				
Backlogged E. & S. complaints	611	843	54.7	75.4
Carryover E. & S. complaints	374	257	23.6	17.9
Carryover Lau reviews	129	134	8.4	8.6
Comprehensive urban reviews	4	4	32.0	29.3
ESAA applications	0	809	0	22.6
Carryover ESAA ineligible	44	24	3.9	2.3
New ESAA ineligible	45	64	2.3	3.6
Vocational/technical, State school reviews	32	2	4.5	.3
Title IX reviews	38	40	4.5	4.6
Comprehensive educational reviews	0	40	0	2.1
Administrative hearings	92	109	11.4	14.3
H. & S.S. reviews	57	60	2.6	2.8
Net change			+35.9	
Staff needed:				
Investigators	433	469		
Supervisors	70	78		
Managers	14	15		
Noninvestigative professionals	22	23		
Clericals	135	146		
Total staff	674	731		
Net change	+57			

Dated: February 17, 1977.

ALBERT T. HAMLIN,
Acting Director,
Office for Civil Rights.

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

January 19, 1977

FY 1977 ANNUAL OPERATING PLAN

ALL REGIONAL OFFICES

SUMMARY OF STAFFING

The ten OCR Regional Offices will need the following staff to conduct the complaint investigations and compliance reviews indicated by this plan. Staffing is stated in person years - one person working approximately 216 days.

A. Investigative Staff			
1. Complaints (see pages 2 and 3 for details) (Figure on page 1 exceeds figures on pages 2 & 3 because of rounding by Regions)	304		
2. Compliance Reviews and other activities (see pages 4-6 for details)	165		
		469	
B. Other Professional Staff			
1. Supervisors (1 for every 6 investigators)	78		
2. Managers (1 for every 6 supervisors)	15		
3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities	23		
		116	
Total Professional Staff		585	
C. Clerical Staff (1 for every 4 professionals)		146	
Total - All Staff		731	

FY 1977 ANNUAL OPERATING PLAN

ALL REGIONAL OFFICES

COMPLAINT INVESTIGATIONS

Pursuant to Title VI, Title IX, Public Health Service Act and E.O. 11246

	Inventory		Actions		Person Days Per Action	Person Years Required	
I. Backlogged Complaints							
A. Elementary and Secondary Education	843		843		20	75.4	
B. Higher Education	650		327		40	58.4	
		1493		1170			133.8
II. Carryover Complaints							
A. Elementary and Secondary Education	257		257		12	17.9	
B. Higher Education	254		254		27	37.4	
C. Health & Social Services	109		109		10	6.2	
D. Educational T.V.	5		5		14	0.4	
		625		625			61.9
III. FY 1977 Complaints							
A. Elementary and Secondary Education	1050		1050		20	92.2	
B. Higher Education	372		64*		40	11.8	
C. Health & Social Services	304		18*		15	1.6	
D. Educational T.V.	7		-		-	-	
		1733		1132			105.6
Total All Complaints		3851		2907			301.3

* Emergency Complaints Only

FY 1977 ANNUAL OPERATING PLAN
ALL REGIONAL OFFICES
COMPLAINT INVESTIGATIONS (Con't)

	Inventory		Actions		Person Years Required	
Complaints Restated by Services and Employment						
I. Backlogged Complaints						
A. Services	833		700		75.3	
B. Employment	660	1493	470	1170	58.5	133.8
II. Carryover Complaints						
A. Services	395		395		36.3	
B. Employment	230	625	230	625	25.6	61.9
III. FY 1977 Complaints						
A. Services	1119		718		66.7	
B. Employment	614	1733	414	1132	38.9	105.6
Total All Complaints		3851		2927		301.3
Recapitulation						
A. Services	2347		1813		178.3	
B. Employment	1504	3851	1114	2927	123.0	301.3
Total All Complaints						
Complaints Restated by Type of Institution						
I. Elementary and Secondary Education						
A. Services	1405		1405		121.7	
B. Employment	745	2150	745	2150	63.8	185.5
II. Higher Education						
A. Services	588		299		50.0	
B. Employment	688	1276	346	645	57.6	107.6
III. Health & Social Services						
A. Services	353		109		6.6	
B. Employment	60	413	18	127	1.2	7.8
IV. Educational T.V.						
A. Services	1		-		0	
B. Employment	11	12	5	5	0.4	0.4
Total All Complaints		3851		2927		301.3

FY 1977 ANNUAL OPERATING PLAN
ALL REGIONAL OFFICES
COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Action	Person Days Per Action	Person Years Required	
I. Elementary & Secondary Education				
Services				
A. Completing Reviews in progress on 10/1/76				
1. Lau Reviews (Title VI)	134	8-28	8.6	
2. Comprehensive Urban Reviews (VI, IX & 504)	4	NA	29.3	
3. ± 20% Districts (Title VI)	6	5/10	0.2	
4. Title IX Reviews	40	21	4.6	
5. State Administered Schools (VI, IX, 504)	1	36	0.2	
6. Local Voc/Tech Schools (VI, IX, 504)	1	10	0.1	
7. Other Title VI Reviews	53	17	5.0	
8. ESAA Ineligible Districts	24	10/20	2.3	
9. Comprehensive Educational Reviews	40	10	2.1	52.4
B. New Reviews				
1. Lau Reviews (Title VI)	151	40	26.4	
2. ESAA Applications	809	5	22.6	
3. ESAA Ineligible Districts	64	10/20	3.6	52.6
C. Administrative Hearings	109	20/40	14.3	14.3
Employment				
D. Completing Reviews in progress on 10/1/76				
1. Teacher Erosion Cases (Title VI)	22	3	0.4	0.4
				119.7

NOTE - The Comprehensive Urban, Title IX, State Administered Schools, and Local Voc/Tech Schools reviews also affect employment.

FY 1977 ANNUAL OPERATING PLAN

ALL REGIONAL OFFICES

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (Con't)

	Actions	Person Days Per Action	Person Years Required	
II. Higher Education				
Services				
A. Monitoring Desegregating University Systems (Title VI)	8	270	12.0	
Employment				
B. Completing Affirmative Action Plan Reviews in Progress on 10/1/76 (E.O. 11246)	29	10	1.6	
C. New Pre-award Reviews of Affirmative Action Plans (E.O. 11246)	52	15	4.4	
				18.0
NOTE - Approximately 10% of the work under Monitoring Desegregating University Systems relates to employment matters.				
III. Health and Social Services				
Services				
A. Completing Reviews in Progress on 10/1/76				
1. Pre-grant Clearances (Title VI)	133	1.4	1.0	
2. State Agency Reviews (Title VI)	9	27	1.4	
3. Other Compliance Reviews (Title VI)	51	5	1.4	
B. New Actions				
1. Pre-grant Clearances (Title VI)	2456	0.35	5.1	
2. Departmental Indian Health Initiative (Title VI)	NA	NA	0.5	
3. Health Cases in Litigation (Title VI)	2	NA	2.0	
				11.4

FY 1977 ANNUAL OPERATING PLAN

ALL REGIONAL OFFICES

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (Con't)

	Actions	Person Days Per Action	Person Years Required	
IV. Other Institutions and Agencies				
Employment				
A. Monitoring Construction Projects in Plan Areas (E.O. 11246)	108	22	13.5	
B. Pre-award Reviews of Affirmative Action Plans (Other than Higher Education Institutions)(E.O. 11246)	17	15	1.6	
				15.1
TOTAL - All Compliance Reviews				164.2

Recapitulation for Compliance Reviews and Other Activities

Services	142.7	
Employment	21.5	
TOTAL - All Compliance Reviews		164.2

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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FY 1977 ANNUAL OPERATING PLAN

REGION I

SUMMARY OF STAFFING

Region I will need the following staff to conduct the complaint investigations and compliance reviews indicated in this plan. Staffing is stated in person years - one person working approximately 216 days.

A. Investigative Staff			
1. Complaints (see page I-2 for details)	13		
2. Compliance Reviews and other activities (see pages I-3 and 4 for details)	3	16	
B. Other Professional Staff			
1. Supervisors (1 for every 6 investigators)	3		
2. Managers (1 for every 6 supervisors)	1		
3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities.	1	5	
Total Professional Staff		21	
C. Clerical Staff (1 for every 4 professionals)		5	
Total All Staff		26	

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REGION I

COMPLAINT INVESTIGATIONS

Pursuant to Title VI, Title IX, Public Health Service Act and E.O. 11246

	Inventory		Actions		Person Days per Action	Person Years Required	
I. Backlogged Complaints							
A. Elementary and Secondary Education	13		13		20	1.2	
B. Higher Education	19	32	9	22	40	1.7	2.9
II. Carryover Complaints							
A. Elementary and Secondary Education	21		21		14	1.6	
B. Higher Education	15		15		23	1.9	
C. Health & Social Services	9	45	9	45	18	0.9	4.4
III. FY 1977 Complaints							
A. Elementary and Secondary Education	52		52		20	4.4	
B. Higher Education	20		3*		40	0.6	
C. Health & Social Services	12	84	1*	56	15	0.1	5.1
Total All Complaints	161		123				12.4
Recapitulation							
A. Elem. & Sec. Ed.	86		86			7.2	
B. Higher Education	54		27			4.2	
C. Health & Soc. Serv.	21		10			1.0	
Total - All Complaints	161		123				12.4

*Emergency Complaints Only

FY 1977 ANNUAL OPERATING PLAN

REGION I

COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Actions	Person Days Per Action	Person Years Required	
I. Elementary & Secondary Education				
Services				
A. Completing Reviews in progress on 10/1/76				
1. Title IX Reviews	3	17	0.3	
2. ESAA Ineligible District	1	10	0.1	0.4
B. New Reviews				
1. ESAA Applications	24	5	0.7	
2. ESAA Ineligible Districts	2	10	0.1	0.8
				1.2
NOTE - The Title IX reviews also affect employment.				
II. Higher Education				
Employment				
A. Completing Affirmative Action Plan Reviews in Progress on 10/1/76 (E.O. 11246)	7	10	0.4	
B. New Pre-award Reviews of Affirmative Action Plans (E.O. 11246)	4	15	0.3	0.7

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REGION I

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (con't)

	Actions	Person Days Per Action	Person Years Required	
III. Health and Social Services				
Services				
A. Completing Reviews in Progress on 10/1/76				
a. Pre-grant clearances (Title VI)	10	1	0.1	
B. New Actions				
a. Pre-grant clearances (Title VI)	118	0.35	0.2	0.3
IV. Other Institutions and Agenceis				
Employment				
A. Monitoring Construction Projects in Plan Areas (E.O. 11246)	8	22	1.0	
B. Pre-award Reviews of Affirmative Action Plans (Other than Higher Education Institutions) (E.O. 11246)	2	15	0.2	
Total - All Compliance Reviews				1.2
				3.4

Recapitulation for Compliance Reviews and other Activities

Services	1.5
Employment	1.9
Total - All Compliance Reviews	3.4

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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FY 1977 ANNUAL OPERATING PLAN

REGION II

SUMMARY OF STAFFING

Region II will need the following staff to conduct the complaint investigations and compliance reviews indicated in this plan. Staffing is stated in person years - one person working approximately 216 days.

A.	Investigative Staff		
	1. Complaints (see Page II-2 for details)	29	
	2. Compliance Reviews and other activities (see pages II-3 and 4 for details).	13	42
B.	Other Professional Staff		
	1. Supervisors (1 for every 6 investigators)	7	
	2. Managers (1 for every 6 supervisors)	1	
	3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities.	2	10
	Total Professional Staff		52
C.	Clerical Staff (1 for every 4 professionals)		13
	Total All Staff		65

FY 1977 ANNUAL OPERATING PLAN

REGION II

COMPLAINT INVESTIGATIONS

Pursuant to Title VI, Title IX, Public Health Service Act and E.O. 11246

		Inventory		Action		Person Days Per Action	Person Years Required	
I.	Backlogged Complaints							
	A. Elementary and Secondary Education	128		128		20	11.5	
	B. Higher Education	85	213	40	168	40	7.1	18.6
II.	Carryover Complaints							
	A. Elementary and Secondary Education	-		-			-	
	B. Higher Education	23		23		26	3.3	
	C. Health & Social Services	1	24	1	24	8	-	3.3
III.	FY 1977 Complaints							
	A. Elementary and Secondary Education	65		65		20	5.7	
	B. Higher Education	26		4*		40	0.6	
	C. Health & Social Services	9	100	1*	70	15.	0.1	6.4
	Total All Complaints		337		262			28.3
	Recapitulation							
	A. Elem. & Sec. Ed.	193		193			17.2	
	B. Higher Education	134		67			11.0	
	C. Health & Soc. Serv.	10		2			0.1	
	Total All Complaints		337		262			28.3

*Emergency Complaints Only

FY 1977 ANNUAL OPERATING PLAN

REGION II

COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Actions	Person Days Per Action	Person Years Required	
I. Elementary & Secondary Education				
Services				
A. Completing Reviews in progress on 10/1/76				
1. Comprehensive Urban Review (VI, IX, & 504)	1	NA	8.0	
2. Lau Reviews (Title VI)	5	8	0.2	
				8.2
B. New Reviews				
1. ESAA Applications	53	5	1.5	
2. ESAA Ineligible Districts	10	10	0.6	
				2.1
NOTE - The Comprehensive Urban Review also affects employment.				10.3
II. Higher Education				
Employment				
A. Completing Affirmative Action Plan Reviews in Progress on 10/1/76 (E.O. 11246)	5	10	0.3	
B. New Pre-award Reviews of Affirmative Action Plans (E.O. 11246)	7	15	0.4	
				0.7

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REGION II

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (Con't)

	Actions	Person Days Per Action	Person Years Required	
III. Health & Social Services				
Services				
A. Completing Reviews in Progress on 10/1/76				
1. Compliance Reviews (Title VI)	2	18	0.2	
B. New Actions				
1. Pre-grant Clearances (Title VI)	170	0.35	0.4	
C. Case in Litigation (Title VI)	1	NA	0.5	
				1.1
IV. Other Institutions and Agencies				
Employment				
A. Monitoring Construction Projects in Plan Areas (E.O. 11246)	8	22	1.0	
B. Pre-award Review of Affirmative Action Plans (Other than Higher Education Institutions) (E.O. 11246)	1	15	0.1	
				1.1
TOTAL - All Compliance Reviews				13.2

Recapitulation for Compliance Reviews and Other Activities

Services	11.4
Employment	1.8
TOTAL - All Compliance Reviews	13.2

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FY 1977 ANNUAL OPERATING PLAN

REGION III

SUMMARY OF STAFFING

Region III will need the following staff to conduct the complaint investigations and compliance reviews indicated in this plan. Staffing is stated in person years - one person working approximately 216 days.

A. Investigative Staff			
1. Complaints (see page III-2 for details)	27		
2. Compliance Reviews and other activities (see pages III 3-5 for details).	22		49
B. Other Professional Staff			
1. Supervisors (1 for every 6 investigators)	8		
2. Managers (1 for every 6 supervisors)	1		
3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities.	2		11
Total Professional Staff			60
C. Clerical Staff (1 for every 4 professionals)			15
Total All Staff			75

FY 1977 ANNUAL OPERATING PLAN

REGION III

COMPLAINT INVESTIGATIONS

Pursuant to To Title VI, Title IX, Public Health Service Act and E.O. 11246

	Inventory		Actions		Person Days Per Action	Person Years Required	
I. Backlogged Complaints							
A. Elementary and Secondary Education	72		72		20	6.4	
B. Higher Education	81	153	42	114	40	7.5	13.9
II. Carryover Complaints							
A. Elementary and Secondary Education	12		12		14	1.0	
B. Higher Education	18		18		27	2.7	
C. Health & Social Services	9	39	9	39	16	0.3	4.0
III. FY 1977 Complaints							
A. Elementary and Secondary Education	90		90		20	7.7	
B. Higher Education	30		5*		40	1.0	
C. Health & Social Services	72		3*		15	0.3	
Total - All Complaints	192	384	98	251			9.0 26.9
Recapitulation							
A. Elem. & Sec. Ed.	174		174			15.1	
B. Higher Education	129		65			11.2	
C. Health & Soc. Serv.	81		12			0.6	
Total - All Complaints		384		251			26.9

* Emergency Complaint Only

FY 1977 ANNUAL OPERATING PLAN

REGION III

COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Actions	Person Days Per Action	Person Years Required	
I. Elementary & Secondary Education				
Service				
A. Completing Reviews in progress on 10/1/76				
1. Lau Reviews (Title VI)	4	22	0.5	
2. Comprehensive Urban Review (VI, IX & 504)	1	NA	8.0	
3. Title IX Reviews	2	20	0.2	
4. State Administered School (VI, IX & 504)	1	36	0.2	
				8.9
B. New Reviews				
1. ESAA Applications	100	5	3.0	
2. ESAA Ineligible Districts	10	10	0.6	
				3.6
C. Administrative Hearings	8	20	0.8	
				0.8
				13.3

NOTE - The Comprehensive Urban, Title IX, and State Administered School reviews also affect employment.

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REGION III

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (con't)

	Actions	Person Days Per Action	Person Years Required	
II. Higher Education				
Services				
A. Monitoring Desegregating University Systems (Title VI)	3	270	4.5	
Employment				
B. Completing Affirmative Action Plan Reviews in Progress on 10/1/76 (E.O. 11246)	1	10	-	
C. New Pre-award Reviews of Affirmative Action Plans (E.O. 11246)	10	15	0.9	
				5.4

NOTE - Approximately 10% of the work under Monitoring Desegregating University Systems relates to employment matters.

III. Health and Social Services				
Services				
A. Completing Reviews in progress on 10/1/76				
1. Pre-grant Clearances (Title VI)	10	0.2	-	
2. State Agency Review (Title VI)	1	36	0.2	
3. Other Compliance Review (Title VI)	1	36	0.2	
B. New Actions				
1. Pre-grant Clearances (Title VI)	172	0.35	0.4	
				0.8

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REGION III

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (con't)

	Actions	Person Days Per Action	Person Years Required	
IV. Other Institutions and Agencies				
Employment				
A. Monitoring Construction Projects in Plan Areas (E.O. 11246)	20	22	2.5	
B. Pre-award Reviews of Affirmative Action Plans (Other than Higher Education Institutions) (E.O. 11246)	2	15	0.2	
Total - All Compliance Reviews				2.7
				22.2
Recapitulation for Compliance Reviews and Other Activities				
Services			18.6	
Employment			3.6	
Total - All Compliance Reviews				22.2

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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FY 1977 ANNUAL OPERATING PLAN

REGION IV

SUMMARY OF STAFFING

Region IV will need the following staff to conduct the complaint investigations and compliance reviews indicated in this plan. Staffing is stated in person years - one person working approximately 216 days.

A. Investigative Staff		
1. Complaints (see page IV-2 for details)	41	
2. Compliance Reviews and other activities (see pages IV 3-5 for details)	19	
		60
B. Other Professional Staff		
1. Supervisors (1 for every 6 investigators)	10	
2. Managers (1 for every 6 supervisors)	2	
3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities.	3	
		15
Total Professional Staff		75
C. Clerical Staff (1 for every 4 professionals)		19
Total All Staff		94

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REGION IV

COMPLAINT INVESTIGATIONS

Pursuant to Title VI, Title IX, Public Health Service Act and E.O. 11246

	Inventory		Actions		Person Days Per Action	Person Years Required	
I. Backlogged Complaints							
A. Elementary and Secondary Education	59		59		20	5.2	
B. Higher Education	83	142	36	95	40	6.4	11.6
II. Carryover Complaints							
A. Elementary and Secondary Education	47		47		10	2.7	
B. Higher Education	44		44		28	6.9	
C. Health & Social Services	41		41		11	2.4	
D. Educational T.V.	5	137	5	137	14	0.4	12.4
III. FY 1977 Complaints							
A. Elementary and Secondary Education	169		169		20	14.5	
B. Higher Education	50		9*		40	1.6	
C. Health & Social Services	60		2*		15	0.2	
D. Educational T.V.	7	286	-	180		-	16.3
Total All Complaints		565		412			40.3
Recapitulation							
A. Elem. & Sec. Ed.	275		275			22.4	
B. Higher Education	177		89			14.9	
C. Health & Soc. Serv.	101		43			2.6	
D. Educational T.V.	12		5			0.4	
Total All Complaints		565		412			40.3

*Emergency Complaints Only

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REGION IV

COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Actions	Person Days Per Action	Person Years Required	
I. Elementary & Secondary Education				
Services				
A. Completing Reviews in progress on 10/1/76				
1. ± 20% District (Title VI)	1	10	0.1	
2. Title IX Reviews	7	10	0.4	
3. Local Voc/Tech School (VI, IX, 504)	1	10	0.1	
4. Other Title VI Reviews	26	2-10	0.5	
5. ESAA Ineligible Districts	2	10/20	0.2	1.3
B. New Reviews				
1. ESAA Applications	200	5	5.4	
2. ESAA Ineligible Districts	14	20	1.2	6.6
C. Administrative Hearings	25	20	2.6	2.6
				10.5

NOTE - The Title IX and Local Voc/Tech School reviews also affect employment.

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REGION IV

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (con't)

	Actions	Person Days Per Action	Person Years Required	
II. Higher Education				
Service				
A. Monitoring Desegregating University Systems (Title VI)	3	270	4.5	
Employment				
B. Completing Affirmative Action Plan Reviews in Progress on 10/1/76 (E.O. 11246)	3	10	0.2	
C. New Pre-award Reviews of Affirmative Action Plans (E.O. 11246)	4	15	0.3	5.0
NOTE - Approximately 10% of the work under Monitoring Desegregating University Systems relates to employment matters.				
III. Health and Social Services				
Services				
A. Completing Reviews in Progress on 10/1/76				
1. Pre-grant clearances (Title VI)	79	2	0.9	
2. Other Compliance Reviews (Title VI)	46	4	1.0	
B. New Actions				
a. Pre-grant Clearances (Title VI)	245	0.35	0.5	2.4

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REGION IV

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (Con't)

	Actions	Person Days Per Action	Person Years Required	
IV. Other Institutions and Agencies				
Employment				
A. Monitoring Construction Projects in Plan Areas (E.O. 11246)	8	22	1.0	
B. Pre-award Review of Affirmative Action Plan (Other than Higher Education Institutions)(E.O. 11246)	1	15	0.1	
				1.1
TOTAL - All Compliance Reviews				19.0

Recapitulation for Compliance Reviews and Other Activities

Services	17.4
Employment	1.6
Total - All Compliance Reviews	19.0

OFFICE FOR CIVIL RIGHTS
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REGION V

SUMMARY OF STAFFING

Region V will need the following staff to conduct the complaint investigations and compliance reviews indicated in this plan. Staffing is stated in person years - one person working approximately 216 days.

A. Investigative Staff			
1. Complaints (see page V-2 for details)	45		
2. Compliance Reviews and other activities (see pages V-3 and 4 for details)	20	65	
B. Other Professional Staff			
1. Supervisors (1 for every 6 investigators)	11		
2. Managers (1 for every 6 supervisors)	2		
3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities	3	16	
Total Professional Staff		81	
C. Clerical Staff (1 for every 4 professionals)		20	
Total All Staff		101	

FY 1977 ANNUAL OPERATING PLAN

REGION V

COMPLAINT INVESTIGATIONS

Pursuant to Title VI, Title IX, Public Health Service Act and E.O. 11246

	Inventory		Actions		Person Days Per Action	Person Years Required	
I. Backlogged Complaints							
A. Elementary and Secondary Education	97		97		20	8.7	
B. Higher Education	139	236	77	174	40	13.7	22.4
II. Carryover Complaints							
A. Elementary and Secondary Education	48		48		12	3.3	
B. Higher Education	29		29		30	4.9	
C. Health & Social Services	6	83	6	83	9	0.3	8.5
III. FY 1977 Complaints							
A. Elementary and Secondary Education	138		138		20	11.8	
B. Higher Education	70		13*		40	2.5	
C. Health & Social Services	16	224	3*	154	15	0.2	14.5
Total All Complaints		543		411			45.4
Recapitulation							
A. Elem. & Sec. Ed.	283		283			23.8	
B. Higher Education	238		119			21.1	
C. Health & Soc. Serv.	22		9			0.5	
Total All Complaints		543		411			45.4

*Emergency Complaints Only

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REGION V

COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Actions	Person Days Per Action	Person Years Required	
I. Elementary & Secondary Education				
Services				
A. Completing Reviews in progress on 10/1/76				
1. Law Reviews (Title VI)	3	23	0.4	
2. Comprehensive Urban Review (VI, IX & 504)	1	NA	8.0	
3. Other Title VI Reviews	2	37	0.4	
				8.8
B. New Reviews				
1. ESAA Applications	46	5	1.2	
2. ESAA Ineligible Districts	6	10	0.3	
				1.5
C. Administrative Hearings	20	40	3.6	3.6
				13.9
NOTE - The Comprehensive Urban Review also affects employment.				
II. Higher Education				
Employment				
A. Completing Affirmative Action Plan Reviews in Progress on 10/1/76 (E.O. 11246)	2	10	0.1	
B. New Pre-award Reviews on Affirmative Action Plans (E.O. 11246)	8	15	0.7	
				0.8

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REGION V

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (con't)

	Actions	Person Days Per Action	Person Years Required	
III. Health and Social Services				
Services				
A. Completing Reviews in Progress on 10/1/76				
1. State Agency Reviews	3	43	0.4	
B. New Actions				
1. Pre-grant Clearances (Title VI)	894	0.35	1.8	
				2.2
IV. Other Institutions and Agencies				
Employment				
A. Monitoring Construction Projects in Plan Areas (E.O. 11246)	20	22	2.5	
B. Pre-award Review of Affirmative Action Plans (Other than Higher Education Institutions)(E.O. 11246)	1	15	0.1	
				2.6
Total - All Compliance Reviews				19.5

Recapitulation for Compliance Reviews and Other Activities

Services	16.1
Employment	3.4
Total - All Compliance Reviews	19.5

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FY 1977 ANNUAL OPERATING PLAN

REGION VI

SUMMARY OF STAFFING

Region VI will need the following staff to conduct the complaint investigations and compliance reviews indicated in this plan. Staffing is stated in person years - one person working approximately 216 days.

A. Investigative Staff		
1. Complaints (see page VI-2 for details)	71	
2. Compliance Reviews and other activities (see pages VI 3-5 for details)	44	
		115
B. Other Professional Staff		
1. Supervisors (1 for every 6 investigators)	19	
2. Managers (1 for every 6 supervisors)	3	
3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities	6	
		28
Total Professional Staff		143
C. Clerical Staff (1 for every 4 professionals)		36
Total All Staff		179

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REGION VI

COMPLAINT INVESTIGATIONS

Pursuant to Title VI, Title IX, Public Health Service Act and E.O. 11246

	Inventory	Actions		Person Days Per Action	Person Years Required	
I. Backlogged Complaints						
A. Elementary and Secondary Education	310	310		20	27.5	
B. Higher Education	91	55		40	9.8	
		401	365			37.3
II. Carryover Complaints						
A. Elementary and Secondary Education	26	26		20	2.8	
B. Higher Education	10	10		31	1.7	
C. Health & Social Services	16	16		9	0.8	
		52	52			5.3
III. FY 1977 Complaints						
A. Elementary and Secondary Education	298	298		20	26.2	
B. Higher Education	42	7*		49	1.5	
C. Health & Social Services	62	3*		15	0.3	
		408	308			28.0
TOTAL - All Complaints		865	725			70.6
Recapitulation						
A. Elem. & Sec. Ed.	634	634			56.5	
B. Higher Education	143	72			13.0	
C. Health & Soc. Serv.	78	19			1.1	
TOTAL - All Complaints		865	725			70.6

*Emergency Complaints Only

FY 1977 ANNUAL OPERATING PLAN

REGION VI

COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Actions	Person Days Per Action	Person Years Required	
I. Elementary & Secondary Education				
Services				
A. Completing Reviews in progress on 10/1/76				
1. Lau Reviews (Title VI)	25	19	2.6	
2. ± 20% Districts (Title VI)	5	5	0.1	
3. Title IX Reviews	22	30	3.1	
4. Other Title VI Reviews	18	36	3.5	
5. ESAA Ineligible Districts	20	10/20	1.9	
6. Comprehensive Educational Plans	40	10	2.1	
				13.3
B. New Reviews				
1. Lau Reviews (Title VI)	61	40	10.4	
2. ESAA Applications	255	5	7.1	
3. ESAA Ineligible Districts	14	10	0.4	
				17.9
C. Administrative Hearings	42	20	4.3	
				4.3
Employment				
D. Completing Reviews in progress on 10/1/76				
1. Teacher Erosion Cases (Title VI)	22	3	0.4	
				0.4
				35.9

NOTE - The Title IX Reviews also affect employment.

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REGION VI

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (Con't)

	Actions	Person Days Per Action	Person Years Required	
II. Higher Education				
Services				
A. Monitoring Desegregating University Systems (Title VI)	2	270	3.0	
Employment				
B. Completing Affirmative Action Plan Reviews in Progress on 10/1/76 (E.O. 11246)	7	10	0.4	
C. New Pre-award Reviews of Affirmative Action Plans (E.O. 11246)	6	15	0.5	
				3.9

NOTE - Approximately 10% of the work under Monitoring Desegregating University Systems relates to employment matters.

III. Health and Social Services				
Services				
A. Completing Reviews in Progress on 10/1/76				
1. Pre-grant Clearances (Title VI)	14	0.35	-	
B. New Actions				
1. Pre-grant Clearances (Title VI)	114	0.35	0.2	
2. Departmental Indian Health Initiative (Title VI)	-	-	0.5	
C. Health Case in Litigation (Title VI)	-	-	1.5	
				2.2

FY 1977 ANNUAL OPERATING PLAN

REGION VI

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (Con't)

	Actions	Person Days Per Action	Person Years Required	
IV. Other Institutions and Agencies				
Employment				
A. Monitoring Construction Projects in Plan Areas (E.O. 11246)	8	22	1.0	
B. Pre-award Reviews of Affirmative Action Plans (Other than Higher Education Institutions)(E.O. 11246)	5	15	0.4	1.4
TOTAL - All Compliance Reviews				43.4

Recapitulation for Compliance Reviews and Other Activities

Services	40.7	
Employment	2.7	
TOTAL - All Compliance Reviews		43.4

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

January 19, 1977

FY 1977 ANNUAL OPERATING PLAN

REGION VII

SUMMARY OF STAFFING

Region VII will need the following staff to conduct the complaint investigations and compliance reviews indicated in this plan. Staffing is stated in person years - one person working approximately 216 days.

A. Investigative Staff		
1. Complaints (see page VII-2 for details)	17	
2. Compliance Reviews and other activities (see pages VII - 3 and 4 for details)	3	20
B. Other Professional Staff		
1. Supervisors (1 for every 6 investigators)	3	
2. Managers (1 for every 6 supervisors)	1	
3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities	1	5
Total Professional Staff		25
C. Clerical Staff (1 for every 4 professionals)		6
Total All Staff		31

FY 1977 ANNUAL OPERATING PLAN

REGION VII

COMPLAINT INVESTIGATIONS

Pursuant to Title VI, Title IX, Public Health Service Act and E.O. 11246

	Inventory		Actions		Person Days Per Action	Person Years Required	
I. Backlogged Complaints							
A. Elementary and Secondary Education	34		34		20	3.0	
B. Higher Education	52	86	15	49	40	2.7	5.7
II. Carryover Complaints							
A. Elementary and Secondary Education	-		-			-	
B. Higher Education	46		46		22	5.6	
C. Health & Social Services	2	48	2	48	9	0.1	5.7
III. FY 1977 Complaints							
A. Elementary and Secondary Education	45		45		20	4.1	
B. Higher Education	36		6*		40	1.1	
C. Health & Social Services	5	86	1*	52	15	0.1	5.3
Total All Complaints		220		149			16.7
Recapitulation							
A. Elem. & Sec. Ed.	79		79			7.1	
B. Higher Education	134		67			9.4	
C. Health & Soc. Serv.	7		3			0.2	
Total All Complaints		220		149			16.7

*Emergency Complaints Only

FY 1977 ANNUAL OPERATING PLAN

REGION VII

COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Actions	Person Days Per Action	Person Years Required	
I. Elementary & Secondary Education				
Services				
A. Completing Reviews in progress on 10/1/76				
1. Lau Reviews (Title VI)	2	20	0.2	
2. Other Title VI Reviews	2	36	0.4	0.6
B. New Reviews				
1. ESAA Applications	18	5	0.5	
2. ESAA Ineligible Districts	4	10	0.2	0.7
C. Administrative Hearings	2	40	0.4	0.4
				1.7
II. Higher Education				
Employment				
New Pre-award Reviews of Affirmative Action Plans (E.O. 11246)	4	15	0.4	0.4

FY 1977 ANNUAL OPERATING PLAN

REGION VII

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (Con't)

	Actions	Person Days Per Action	Person Years Required	
III. Health & Social Services				
Services				
A. New Actions				
1. Pre-grant Clearances (Title VI)	200	0.35	0.4	0.4
IV. Other Institutions and Agencies				
Employment				
A. Monitoring Construction Projects in Plan Areas (E.O. 11246)	4	22	0.5	
B. Pre-award Reviews of Affirmative Action Plans (Other than Higher Education Institutions) (E.O. 11246)	1	15	0.1	0.6
TOTAL - All Compliance Reviews				3.1

Recapitulation for Compliance Reviews and Other Activities

Services	2.1
Employment	1.0
TOTAL - All Compliance Reviews	3.1

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

January 19, 1977

FY 1977 ANNUAL OPERATING PLAN

REGION VIII

SUMMARY OF STAFFING

Region VIII will need the following staff to conduct the complaint investigations and compliance reviews indicated in this plan. Staffing is stated in person years - one person working approximately 216 days.

A. Investigative Staff		
1. Complaints (see page VIII-3 for details)	11	
2. Compliance Reviews and other activities (see pages VIII-4 and 5 for details)	4	15
B. Other Professional Staff		
1. Supervisors (1 for every 6 investigators)	3	
2. Managers (1 for every 6 supervisors)	1	
3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities	1	5
Total Professional Staff		20
C. Clerical Staff (1 for every 4 professionals)		5
Total All Staff		25

FY 1977 ANNUAL OPERATING PLAN

REGION VIII

COMPLAINT INVESTIGATIONS

Pursuant to Title VI, Title IX, Public Health Service Act and E.O. 11246

	Inventory		Actions		Person Days Per Action	Person Years Required	
I. Backlogged Complaints							
A. Elementary and Secondary Education	10		10		20	1.0	
B. Higher Education	4		0		-	-	
		14		10			1.0
II. Carryover Complaints							
A. Elementary and Secondary Education	16		16		14	1.2	
B. Higher Education	18		18		31	3.1	
C. Health & Social Services	9		9		12	0.6	
		43		43			4.9
III. FY 1977 Complaints							
A. Elementary and Secondary	50		50		20	4.4	
B. Higher Education	10		2*		40	0.5	
C. Health & Social Services	16		1*		15	0.1	
		76		53			5.0
Total All Complaints		133		106			10.9
Recapitulation							
A. Elem. & Sec. Ed.	76		76			6.6	
B. Higher Education	32		20			3.6	
C. Health & Soc. Serv.	25		10			0.7	
		133		106			10.9

*Emergency Complaints Only

FY 1977 ANNUAL OPERATING PLAN

REGION VIII

COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Actions	Person Days Per Action	Person Years Required	
I. Elementary and Secondary Education				
Services				
A. Completing Reviews in progress on 10/1/76				
1. Title IX Reviews	2	10	0.1	
				0.1
B. New Reviews				
1. BSAA Applications	55	5	1.6	
2. BSAA Ineligible Districts	2	10	0.1	
				1.7
C. Administrative Hearings	4	40	0.9	
				0.9
				2.7
NOTE - The Title IX Reviews also affect employment.				
II. Higher Education				
Employment				
A. Completing Affirmative Action Plan Reviews in Progress on 10/1/76 (E.O. 11246)	4	10	0.2	
B. New Pre-award Reviews of Affirmative Action Plans (E.O. 11246)	1	15	0.1	
				0.3

FY 1977 ANNUAL OPERATING PLAN

REGION VIII

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (Con't)

	Actions	Person Days Per Action	Person Years Required	
III. Health & Social Services				
Services				
A. New Actions				
1. Pre-grant Clearances (Title VI)	200	0.35	0.4	0.4
IV. Other Institutions and Agencies				
Employment				
A. Pre-award Reviews of Affirmative Action Plans (Other than Higher Education)(E.O. 11246)	1	15	0.1	0.1
Total - All Compliance Reviews				3.5

Recapitulation for Compliance Reviews and Other Activities

Services	3.1
Employment	0.4
Total - All Compliance Reviews	3.5

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

January 19, 1977

FY 1977 ANNUAL OPERATING PLAN

REGION IX

SUMMARY OF STAFFING

Region IX will need the following staff to conduct the complaint investigations and compliance reviews indicated in this plan. Staffing is stated in person years - one person working approximately 216 days.

A. Investigative Staff		
1. Complaints (see page IX-2 for details)	35	
2. Compliance Reviews and other Activities (see pages IX-3 and 4 for details)	33	68
B. Other Professional Staff		
1. Supervisors (1 for every 6 investigators)	11	
2. Managers (1 for every 6 supervisors)	2	
3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities	3	16
Total Professional Staff		84
C. Clerical Staff (1 for every 4 professionals)		21
Total All Staff		105

FY 1977 ANNUAL OPERATING PLAN

REGION IX

COMPLAINT INVESTIGATIONS

Pursuant to Title VI, Title IX, Public Health Service Act and E.O. 11246

	Inventory		Actions		Person Days Per Action	Person Years Required	
I. Backlogged Complaints							
A. Elementary and Secondary Education	101		101		20	9.1	
B. Higher Education	55	156	31	132	40	5.5	14.6
II. Carryover Complaints							
A. Elementary and Secondary Education	18		18		9	0.9	
B. Higher Education	39		39		28	6.1	
C. Health & Social Services	10	67	10	67	11	0.6	7.6
III. FY 1977 Complaints							
A. Elementary and Secondary Education	109		109		20	10.5	
B. Higher Education	68		12*		40	2.0	
C. Health & Social Services	40	217	2*	123	15	0.1	12.6
Total All Complaints		440		322			34.8
Recapitulation							
A. Elem. & Sec. Ed.	228		228			20.5	
B. Higher Education	162		82			13.6	
C. Health & Soc. Serv.	50	440	12	322		0.7	34.8
Total All Complaints							

*Emergency Complaints Only

FY 1977 ANNUAL OPERATING PLAN

REGION IX

COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Actions	Person Days Per Action	Person Years Required	
I. Elementary & Secondary Education				
Services				
A. Completing Reviews in progress on 10/1/76				
1. Lau Reviews (Title VI)	90	8	3.9	
2. Comprehensive Urban Review (VI, IX & 504)	1	NA	5.3	
3. Title IX Review	1	36	0.2	
4. Other Title VI Reviews	4	1	--	
5. ESAA Ineligible Review	1	10	0.1	9.5
B. New Reviews				
1. ESAA Applications	47	5	1.3	
2. Lau Reviews (Title VI)	90	40	16.0	17.3
C. Administrative Hearings	6	40	1.3	1.3
				28.1

NOTE - The Comprehensive Urban and Title IX reviews also affect employment.

II. Higher Education				
Employment				
A. New Pre-award Reviews of Affirmative Action Plans (E.O. 11246)	6	15	0.6	0.6

FY 1977 ANNUAL OPERATING PLAN

REGION IX

COMPLIANCE REVIEWS AND OTHER ACTIVITIES((Con't)

	Actions	Person Days Per Action	Person Years Required	
III. Health and Social Services				
Services				
A. Completing Reviews in Progress on 10/1/76				
1. Pre-grant Clearances (Title VI)	20	0.2	--	
2. State Agency Reviews (Title VI)	5	36	0.8	
3. Other Compliance Reviews	2	4	--	
B. New Actions				
1. Pre-grant Clearances (Title VI)	268	0.35	0.6	
				1.4
IV. Other Institutions and Agencies				
Employment				
A. Monitoring Construction Projects in Plan Areas (E.O. 11246)	24	22	3.0	
B. Pre-award Reviews of Affirmative Action Plans (Other than Higher Education Institutions) (E.O.11246)	2	15	0.2	
				3.2
TOTAL -All Compliance Reviews				33.3
Recapitulation for Compliance Reviews and Other Activities				
Services			29.5	
Employment			3.8	
Total All Compliance Reviews				33.3

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

January 19, 1977

FY 1977 ANNUAL OPERATING PLAN

REGION X

SUMMARY OF STAFFING

Region X will need the following staff to conduct the complaint investigations and compliance reviews indicated in this plan. Staffing is stated in person years - one person working approximately 216 days.

A. Investigative Staff		
1. Complaints (see page X-2 for details)	15	
2. Compliance Reviews and other activities (see pages X-3 and 4 for details)	4	
		19
B. Other Professional Staff		
1. Supervisors (1 for every 6 investigators)	3	
2. Managers (1 for every 6 supervisors)	1	
3. Non-investigative professionals and para-professionals (1 for every 20 investigators) for general correspondence, technical assistance, work with other HEW offices, public affairs and administrative activities	1	
		5
Total Professional Staff		24
C. Clerical Staff (1 for every 4 professionals)		6
Total All Staff		30

FY 1977 ANNUAL OPERATING PLAN

REGION X

COMPLAINT INVESTIGATIONS

Pursuant to Title VI, Title IX, Public Health Service Act and E.O. 11246

	Inventory		Actions		Person Days Per Action	Person Years Required	
I. Backlogged Complaints							
A. Elementary and Secondary Education	19		19		20	1.8	
B. Higher Education	41	60	22	41	40	4.0	5.8
II. Carryover Complaints			*				
A. Elementary and Secondary Education	69		69		11	4.4	
B. Higher Education	12		12		18	1.2	
C. Health & Social Services	6	87	6	87	6	0.2	5.8
III. FY 1977 Complaints							
A. Elementary and Secondary Education	34		34		20	2.9	
B. Higher Education	20		3*		40	0.4	
C. Health & Social Services	12	66	1*	38	15	0.1	3.4
Total All Complaints		213		166			15.0

Recapitulation

A. Elem. & Sec. Ed.	122		122			9.1	
B. Higher Education	73		37			5.6	
C. Health & Soc. Serv.	18		7			0.3	
Total All Complaints		213		166			15.0

* Emergency Complaints Only

FY 1977 ANNUAL OPERATING PLAN

REGION X

COMPLIANCE REVIEWS AND OTHER ACTIVITIES

	Actions	Person Days Per Action	Person Years Required	
I. Elementary & Secondary Education				
Services				
A. Completing Reviews in progress on 10/1/76				
1. Lau Reviews (Title VI)	5	28	0.8	
2. Title IX Reviews	3	20	0.3	
3. Other Title VI Review	1	29	0.2	1.3
B. New Reviews				
1. ESAA Applications	11	5	0.3	
2. ESAA Ineligible Districts	2	10	0.1	0.4
C. Administrative Hearings	2	40	0.4	0.4
				2.1

NOTE - The Title IX Reviews also affect employment.

FY 1977 ANNUAL OPERATING PLAN

REGION X

COMPLIANCE REVIEWS AND OTHER ACTIVITIES (Con't)

	Actions	Person Days Per Action	Person Years Required	
II. Higher Education				
Employment				
A. New Pre-award Reviews of Affirmative Action Plans (E.O. 11246)	2	15	0.2	0.2
III. Health & Social Services				
Services				
A. New Actions				
1. Pre-Clearances (Title VI)	75	0.35	0.2	0.2
IV. Other Institutions and Agencies				
Employment				
A. Monitoring Construction Projects in Plan Areas (E.O. 11246)	8	22	1.0	
B. Pre-award Review of Affirmative Action Plan (Other than Higher Education Institutions) (E.O. 11246)	1	15	0.1	1.1
Total - All Compliance Reviews				3.6

Recapitulation for Compliance Reviews and Other Activities

Services	2.3
Employment	1.3
Total - All Compliance Reviews	3.6

[FR Doc.77-5645 Filed 2-24-77;8:45 am]

federal register

FRIDAY, FEBRUARY 25, 1977

PART V



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 determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon 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, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the 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:		
AR76–4130		July 23, 1976.
AR77–4018		Feb. 4, 1977.
Georgia:		
GA75–1025		Feb. 28, 1975.
GA77–1009		Jan. 28, 1977.
Kansas:		
KS77–4020		Feb. 4, 1977.
Kentucky:		
KY76–1078		July 23, 1976.
KY76–1086		Aug. 27, 1976.
KY76–1091		Sept. 3, 1976.
KY76–1132		Nov. 12, 1976.
KY 77–1010; KY77–1011		Feb. 11, 1977.
Maryland:		
MD77–3017		Jan. 14, 1977.
Michigan:		
MI76–2135; MI76–2136; MI 76–2137.		Oct. 29, 1976.
MI76–2138		Nov. 5, 1976.
MI76–2139		Nov. 19, 1976.
Minnesota:		
MN76–2001		Jan. 16, 1976.
MN76–2002; MN76–2003		Jan. 23, 1976.
MN76–2064		May 21, 1976.
Nevada:		
NV76–5115		Dec. 10, 1976.
New York:		
NY77–3009		Feb. 11, 1977.
Oklahoma:		
OK76–4138		July 30, 1976.
OK76–4160		Oct. 1, 1976.
OK77–4002		Jan. 14, 1977.
Texas:		
TX76–4030		Feb. 13, 1976.
TX76–4170		Oct. 8, 1976.
TX76–4194; TX76–4195		Dec. 28, 1976.
TX76–4007		Jan. 21, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida:		
FL76–1036	(FL77–1024)	Mar. 5, 1976.
FL76–1048	(FL77–1023)	Apr. 16, 1976
Idaho:		
ID76–5112	(ID77–5023)	Nov. 26, 1976.
Illinois:		
IL76–2068	(IL77–2029)	May 21, 1976
Iowa:		
IA75–4081	(IA77–4041)	Apr. 18, 1975.
IA75–4192	(IA77–4042)	Nov. 28, 1975.
Kansas:		
AP–433	(KS77–4047)	June 22, 1973
KS76–4095	(KS77–4048); KS76–4096 (KS77–4046); KS76–4098 (KS77–4049).	June 11, 1976.
Nebraska:		
NE76–4190	(NE77–4140)	Dec. 10, 1976.
NE77–4003	(NE77–4043)	Jan. 21, 1977.
Texas:		
TX76–4168	(TX77–4044)	Oct. 8, 1976.
TX77–4010	(TX77–4045)	Jan. 28, 1977.

Signed at Washington, D.C., this 18th day of February 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AR76-4130 - Mod. #5 (41 FR 39509 - July 23, 1976) Conway, Faulkner, Perry, Van Buren & Cleburne Counties, Arkansas					
CHANGE: LATHERS	$8.60				.02
DECISION NO. AR77-4018 - Mod. #1 (42 FR 7040 - February 4, 1977) Crawford, Sebastian and Washington Counties, Arkansas					
ADD Lathers	$8.60				.02

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # GA75-1025 - Mod. # 5 (40 FR-8691 - February 28, 1975) Hall County, Georgia					
Change:					
Carpenters & Resilient Tile Setters	5.63				
Decision # GA77-1009 - Mod. # 2 (42 FR-5623 - January 28, 1977) Chatham County, Georgia)					
Change:					
Asbestos workers	9.39	.45	.40		

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KS77-4020 - Mod. #1 (42 FR 7057 - February 4, 1977) Sedgwick County, Kansas					
Change:					
Electricians	$10.25	.60	1%		1%
Roofers:					
Roofers, kettlemen	8.30	.28	.20		
Pitch	9.05	.28	.20		
Helpers	3.50	.28	.20		
Sheet metal workers	10.635	3%+.70	.44		.12
Truck Drivers (Building Construction):					
Group 1	7.25	.50	.35		
Group 2	7.325	.50	.35		
Group 3	7.40	.50	.35		
Group 4	7.50	.50	.35		
Add:					
Glaziers	9.06	.55	.42	12.35%	.06
DECISION #KY77-1010 - Mod. #1 (42 FR-8940 - February 11, 1977) Fayette County, Kentucky					
Change:					
Lathers	$9.74		.10		
Sheet metal workers	11.08	1.077	.80		.14

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY77-1011 - Mod. #1 (42 FR-8944 - February 11, 1977) McCracken County, Kentucky					
Change:					
Cement masons	$7.30	.75	.30		.03
Cement masons working on swinging scaffold up to 50'	7.55	.75	.30		.03
Laborers:					
Unskilled	5.60	.35	.35		
Semi-skilled:	5.80	.35	.35		
All power driven tools, bod carriers, mason tenders, finisher tenders, mortar mixers, jack hammer, vibrators, wagon drill, core drill, test drill, concrete pump machine, tunnel boring machine, men in tunnel and crib ditch work, signal men, riprap rock setters and handlers, asphalt rakers, tampers and smoothers, pipe layers, grout pump man, chain saw, pipe clearing, doping and wrapping, swampers and straight cable hooking, cement guns, grade checkers machine excavating, tool room checkers, batch plant scale man, sand hog free air, sand hog compressed air, cutting torch man on salvage work, road form setters, brick slingers, hand spikers, power buggy, handling of creosote material, sandblasters, curing of concrete and apply hardner, air and gas tampers, concrete saw, power posthole diggers and green cut men on concrete work.					

MODIFICATIONS P. 5

DECISION #KY77-1011 - Mod. #1 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Powdermen	6.10	.35	.35		
Plumbers & Steamfitters	10.10	.50	.55	.50	.08
Sheet metal workers	11.08	1.077	.80		.14
Roofers	8.20		.10		.03
Decision # KY76-1078 - Mod. # 4 (41 FR-30527 - July 23, 1976) Henderson County, Kentucky					
Change:					
Boilermakers	10.80	.75	1.00		.02
Decision # KY76-1086 - Mod. #4 (41 FR-36384 - August 27, 1976) Boone, Campbell, Kenton, and Pendleton Counties, Kentucky					
Change:					
Sheet metal workers	11.205	.88	.81		.04

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY76-1091 - Mod. #1 (41 FR-37470 - September 3, 1976) Christian County (Ft. Campbell only), Kentucky					
Drop:					
Laborers:					
Laborers	$5.60	.35	.35		
Air tool operators, mason tenders, mortar mixers, pipelayers (clay & concrete), plasterers tenders	5.75	.35	.35		
Add:					
Laborers:					
Unskilled	5.60	.35	.35		
Semi-skilled:	5.75	.35	.35		
All power driven tools, hod carriers, mason tendors, finisher tenders, mortar mixers, jack hammer, vibrators, wagon drill, core drill, test drill, concrete pump machine, tunnel boring machine, men in tunnel and crib ditch work, signal men, riprap rock setters and handlers, asphalt rakers, tampers and smoothers, pipe layers, grout pump man, chain saw, pipe clearing, doping and wrapping, swampers and straight cable hooking, cement guns, grade checkers machine excavating, tool room checkers, batch plant scale man, sand hog free air, sand hog compressed air, cutting torch man on salvage work, road form setters, brick slingers, hand spikers, power buggy, handling of					

MODIFICATIONS P. 7

DECISION #KY76-1091 - Mod. #3 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
creosote material, sandblasters, curing of concrete and apply hardner, air and gas tampers, concrete saw, power posthole diggers and green cut men on concrete work.					
Powdermen	6.10	.35	.35		
Decision # KY76-1132 - Mod. #3 (41 FR-52260 - November 12, 1976) Franklin County, Kentucky					
Change:					
Lathers	9.74		.10		
Marble, tile, and Terrazzo workers' helpers	8.30				
Sheet metal workers	12.33	1.077	.80		.14
DECISION NO. MD77-3017 - Mod. #2 (42 FR 3142 - January 14, 1977) Counties of Baltimore, Harford, Howard and Baltimore City, Maryland					
Change:					
Marble masons	$ 9.95	.70	.50		.07
Stone masons	9.95	.70	.50		.07

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MI76-2135 - Mod. #2 (41 FR 47766 - October 29, 1976) Alcona, Alpena, Charlevoix, Emmett, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon, Oceana, Oscoda & Presque Isle Counties, Michigan					
CHANGE:					
Electricians:					
Muskegon, Oceana & the Remainder of Mason County	$10.51	.40	1%+.25		.01
DECISION #MI76-2136 - Mod. #2 (41 FR 47771 - October 29, 1976) Alger, Baraga, Chippewa, Dickinson, Gogebic, Houghton, Keweenaw, Mackinac, Marquette & Ontongon Counties, Michigan					
CHANGE:					
Electricians:					
Remainder of Counties:					
Contracts $30,000 & over	$10.45	.40	1%		1%
Contracts up to $30,000	8.25	.40	1%		1%
DECISION #MI76-2137 - Mod. #3 (41 FR 47774 - October 29, 1976) Allegan, Berrien, Calhoun, Clinton, Eaton, Ingham, Jackson & Kalamazoo Counties, Michigan					
CHANGE:					
Bricklayers & Stonemasons:					
Jackson Co., & the remainder of Ingham County	$10.97	.70	.55		
Marble-Tile & Terrazzo Workers:					
Jackson Co., & the remainder of Ingham County					
Tile & Terrazzo Workers	10.25	.70	.55		
Marble Setters	10.97	.70	.55		
Plumbers:					
Clinton & Ingham Cos; & Sunfield, Roxand, Onedia, Delta & Windsor Twps. in Eaton Co.	11.05	.60	.70		

DECISION #MI76-2137 - Mod. #3 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers & S/M: (Cont'd)					
Calhoun County; Bellevue, Carmel, Kalamo & Walton Twps. in Eaton County	$10.30	.55	.35		
Painters:					
Clinton, Eaton & Ingham Counties:					
Brush & Tapers	10.35	.42	.40		.005
Structural Steel	10.75	.42	.40		.005
Spray	11.10	.42	.40		.005
Calhoun County:					
Brush	8.30		.25		
Spray	9.13		.25		
DECISION #MI76-2138 - Mod. #2 (41 FR 48988 - November 5, 1976) Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee & Tuscola Counties, Michigan					
CHANGE:					
Plasterers:					
Bay, Huron, Iosco, Saginaw & Tuscola Counties	9.82	.50			
Plumbers & Steamfitters:					
Saginaw & S. ½ of Tuscola (including Carco, Washjamerga & south to the Lapeer County Line) counties	9.83	.66	.85	1.25	.01
DECISION #MI76-2139 - Mod. #5 (41 FR 51311 - November 19, 1976) Macomb, Monroe, Oakland, Washtenaw & Wayne Counties, Michigan					
CHANGE:					
Plumbers:					
Monroe County	10.53	.75	.70		.07
Washtenaw County	10.16	.75+.15	.75		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MN76-2001 - Mod. #5 (41 FR 2551 - January 16, 1976) Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington Counties, Minnesota					
CHANGE:					
Carpenters: (Building)					
Remainder of Counties:					
Carpenters; Millwrights & Pileodrivermen	$9.21	.50	.50	.50	.02
Plumbers:					
Dakota, Ramsey & Washington Counties	9.37	.48	.50	1.52	.06
DECISION #MN76-2002 - Mod. #3 (41 FR 3607 - January 23, 1976) Olmsted County, Minnesota					
CHANGE:					
Sheet Metal Workers	$10.04	.52	.33		.02
Tile Setters	10.72				
Plumbers & Steamfitters	9.41	.30	.20		.02
Roofers	9.40	.42	.33		
DECISION #MN76-2003 - Mod. #3 (41 FR 3610 - January 23, 1976) Stearns County, Minnesota					
CHANGE:					
Electricians:					
Jobs under $50,000	8.45	7%	4%	10%	1½%
Jobs over $50,000	9.63	7%	4%	10%	1½%

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MW76-2064 - Mod. #2 (41 FR 21025 - May 21, 1976) Blue Earth, Fairbault, Freeborn & Mower Counties, Minnesota					
CHANGE:					
Electricians:					
Blue Earth & Fairbault Cos:					
Jobs within a 5 mile radius of Mankato $50,000 & over	$9.69	7%	4%	10%	1%
Plasterers	9.40				

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV76-5115 - Mod. #3 (41 FR 54138 - December 10, 1976) Washoe County, Nevada					
Change:					
Laborers:					
Zone 1: In Washoe County, the area within 5 road miles of the following communities - Carson City, Lovelock; also area within 10 road miles of Reno, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base:					
Group 1	$8.00	.50	.90		.10
Group 2	8.10	.50	.90		.10
Group 3	8.25	.50	.90		.10
Group 4	8.50	.50	.90		.10
Group 5	8.80	.50	.90		.10
Group 6-A	8.80	.50	.90		.10
Group 6-B	8.50	.50	.90		.10
Group 6-C	8.15	.50	.90		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	8.60	.50	.90		.10
Group 2	8.70	.50	.90		.10
Group 3	8.85	.50	.90		.10
Group 4	9.10	.50	.90		.10
Group 5	9.40	.50	.90		.10
Group 6-A	9.40	.50	.90		.10
Group 6-B	9.10	.50	.90		.10
Group 6-C	8.75	.50	.90		.10

DECISION #NV76-5115 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Laborers (Cont'd):					
Zone 3: Area over 20 and not more than 40 road miles from the above communities:					
Group 1	$8.80	.50	.90		.10
Group 2	8.90	.50	.90		.10
Group 3	9.05	.50	.90		.10
Group 4	9.30	.50	.90		.10
Group 5	9.60	.50	.90		.10
Group 6-A	9.60	.50	.90		.10
Group 6-B	9.30	.50	.90		.10
Group 6-C	8.95	.50	.90		.10
Zone 4: Area over 40 road miles from the above communities:					
Group 1	9.50	.50	.90		.10
Group 2	9.60	.50	.90		.10
Group 3	9.75	.50	.90		.10
Group 4	10.00	.50	.90		.10
Group 5	10.30	.50	.90		.10
Group 6-A	10.30	.50	.90		.10
Group 6-B	10.00	.50	.90		.10
Group 6-C	9.65	.50	.90		.10

DECISION NO. NY77-3009-Mod. #1
(42FR 8956-February 11, 1977)
Jefferson County, New York

Change to read: Supersedes Decision No. NY76-3269 dated October 29, 1976 in 41 FR 47896.

Change: Footnote F to read Holidays: Labor Day and 4th of July.

DECISION NO. OK76-4138 - Mod. #5
(41 FR 32182 - July 30, 1976)
Comanche County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Marble setters	$9.40		.30		
Terrazzo workers	9.40		.30		
Tile layers	9.40		.30		

DECISION NO. OK76-4150 - Mod. #2
(41 FR 43629 - October 1, 1976)
Garfield County, Oklahoma

CHANGE:					
Marble Setters	$9.40		.30		
Terrazzo Workers	9.40		.30		
Tile layers	9.40		.30		

DECISION NO. OK77-4002 - Mod. #2
(42 FR 3155 - January 14, 1977)
Oklahoma, Cleveland, Caddo, Grady, Canadian, Kingfisher, Logan, Lincoln, McClain, Seminole and Pottawatomie Counties, Oklahoma

CHANGE:					
MARBLE MASONS	$9.40		.30		
TERRAZZO WORKERS	9.40		.30		
TILE LAYERS	9.40		.30		

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4030 - Mod. #1 (41 FR 7038 - February 13, 1976) Bee, Kleberg, Nueces & San Patricio Counties, Texas					
Change:					
Electricians	$ 9.40	.40	1%		1/2%
DECISION #TX76-4173 - Mod. #5 (41 FR 44674 - October 8, 1976) Brazos County, Texas					
Change:					
Pipefitters	10.35	.45	.60		.045
Plumbers	10.42	.50	.60		.10
DECISION #TX76-4194 - Mod. #2 (41 FR 56596 - December 28, 1976) El Paso County, Texas					
Change:					
Marble masons	6.49	.48	.20		.05
Roofers:					
Roofers; Waterproofers; Pipe-wrappers	6.30				
Terrazzo workers	6.49	.48	.20		.05
Terrazzo workers' helpers	4.52	.48	.20		
Tile setters	6.49	.48	.20		.05
Tile setters' helpers	4.52	.48	.20		

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4195 - Mod. #4 (41 FR 56596 - December 28, 1976) Galveston & Harris Cos., Texas					
Change:					
Cement masons:					
Galveston County	$ 9.12	.49	.55		
DECISION #TX77-4007 - Mod. #1 (42 FR 4107 - January 21, 1977) Wichita County, Texas					
Change:					
Plumbers & pipefitters:					
Zone 1	9.55	.35	.55		.02
Zone 2	10.05	.35	.55		.02
Zone 3	10.35	.35	.55		.02
Zone 4	10.65	.35	.55		.02
Zone 5	10.95	.35	.55		.02

STATE: Florida COUNTIES: *See below
DECISION NUMBER: FL77-1023 DATE: Date of Publication
Supersedeas Decision No.: FL76-1048 dated April 16, 1976 in 41 FR-16360
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories) and Heavy and Highway Construction.

*COUNTIES: Brevard & Volusia (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only and including Melabar Radar Site), Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.53	.50	.35		.06
Boilermakers	9.50	.75	1.00		.02
Bricklayers:					
Bricklayers	7.26	.40	.25		
Blocklayers	7.26	.40	.25		
Manhole bricklayers	7.26	.40	.25		
Plasterers	7.26	.40	.25		
Terrazzo workers	7.26	.40	25		
Tile setters	7.26	.40	.25		
Cement masons	7.11	.40	.25		
Masonry cutting or grinding machine operator	7.41	.40	.25		
Carpenters, gypsum dry hangers	7.41	.50	.40		.05
Millwrights	9.80	.45	.45		.06
Piledrivermen	7.71	.50	.40		.05
Saw operator (radial)	7.71	.50	.40		.05
Soft floor layers	7.41	.50	.40		.05
Electricians:					
Base Zone (within 40 miles of the Union Office, 215 Ridgewood Ave., Daytona Beach):					
Electricians	8.74	.45	1%+.48		1%
Cable splicers	8.99	.45	1%+.48		1%
Zone 1 (beyond 40 miles from the Union Office):					
Electricians	9.19	.45	1%+.48		1%
Cable splicers	9.44	.45	1%+.48		1%
Ironworkers:					
Structural, finishers, burners, rodmen, welders, riggers and machinery movers	8.90	.55	.50	.63	.05
Sheeters	8.90	.55	.50	.63	.05
Laborers:					
Laborers	5.45	.45	.30		
Hod carriers; kettlemen (excl. roofing & water proofing); mortar mixers; pipelayers; plasterers tenders; well point dewatering; air tool operator; powderman; paving curb & gutter, & sidewalk form setters; concrete workers	5.60	.45	.30		
Nozzlemen	6.27	.45	.30		

FL77-1023 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen:					
Linemen	9.32	.45	1%		½ of 1%
Cable splicer	9.47	.45	1%		½ of 1%
Class A operators	9.32	.45	1%		½ of 1%
Class B operators	6.52	.45	1%		½ of 1%
Groundman over 1 year	4.82	.45	1%		½ of 1%
Groundman under 1 year	4.00	.45	1%		½ of 1%
Painters:					
Brush; roller	7.95		.30		.05
Spray	8.65		.30		.05
Mitten	8.65		.30		.05
Tar, bituminous, & similar materials, asphalt (excl. asphalt base aluminum & varnish)	8.65		.30		.05
Paperhanging	8.65		.30		.05
Sandblasting	8.65		.30		.05
Plumbers, pipefitters, & steamfitters	9.40	.49	.51	.60	.05
Roofers:					
Roofers	7.40	.35	.25		.15
Helpers	5.30	.35	.25		.15
Kettlemen	5.95	.35	.25		.15
Sheet metal workers	9.72	.60	.33		
Sprinkler fitters	10.16	.60	.90		.10

Welders - rate for craft.

FL77-1023 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.10	.50	.35		.05
GROUP II	8.50	.50	.35		.05
GROUP III	8.00	.50	.35		.05
GROUP IV	7.60	.50	.35		.05
GROUP V	6.90	.50	.35		.05

GROUP I: Cranes, hydraulic or derrick on structural or reinforcing iron, cranes or derrick, clam shell, dragline, piledriver operator (including auger & boring machine op. for drilling in piling), backhoe (including hydraulic), hydraulic crane, gradall, shovel, motor patrol, mechanic heavy equipment, side boom cat & multi-drum hoist.

GROUP II: Bulldozer & trenching machine, bridge crane, highlift, straddle buggy, hoist, earth hauling scraper (regardless how powered), pump crete & front end loader

GROUP III: Winch truck, concrete/asphalt paver, fork lift engineer, boring machine, well drilling machine & mobile cleaning plant

GROUP IV: Tractor, well point pump & installation man, lubrication engineer equipment greaser, air compressor, & fireman

GROUP V: Motor boat, oiler, mechanic helper, pumpman (other than well point), roller (steel & rubber tires) self-powered, conveyor, welding machine (three or more combustion engines & Pulver mixer)

STATE: Florida COUNTY: Orange
DECISION NUMBER: FL77-1024 DATE: Date of Publication
Supersedes Decision No: FL76-1036 dated March 5, 1976 in 41 FR 9755.
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	9.26	.35	.35		.06
Boilermakers	9.50	.75	1.00		.02
Bricklayers:					
Bricklayers	8.45	.50	.40		.03
Stonemasons	8.45	.50	.40		.03
Marble masons	8.45	.50	.40		.03
Plasterers	8.45	.50	.40		.03
Cement masons	8.45	.50	.40		.03
Carpenters:					
Carpenters	8.25	.50	.25		.05
Piledrivermen	8.55	.50	.25		.05
Soft floor layers	8.25	.50	.25		.05
Electricians:					
Electrical contracts less than $20,000	7.50	.55	1%		1%
All other work	9.80	.55	1%		1%
Elevator constructors	8.88	.545	.35	1½% a&b	.02
Elevator constructors' helper	70%JR	.545	.35	1½% a&b	.02
Elevator constructors' helper (prob.)	50%JR				
Glaziers	7.60	.25	.20		.01
Ironworkers:					
Structural & Ornamental	9.33	.65	.60	.65	.05
Reinforcing	9.33	.65	.60	.65	.05
Laborers:					
Air tool operator	5.45	.20	.10		
Laborers	5.30	.20	.10		
Mason tenders	5.45	.20	.10		
Mortar Mixers	5.45	.20	.10		
Pipelayers (concrete & clay)	5.45	.20	.10		
Plasterers tenders	5.45	.20	.10		
Lathers	8.35	.35	.25		.15
Linemen:					
Linemen	9.61	.40	1%		¼ of 1%
Cable splicers	10.31	.40	1%		¼ of 1%
Groundmen					
Up to 1 year experience	3.92	.40	1%		¼ of 1%
Over 1 year experience	5.55	.40	1%		¼ of 1%

FL77-1024 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen (cont'd)					
Heavy equipment operator	9.61	.40	1%		¼ of 1%
Winch truck operator	7.69	.40	1%		¼ of 1%
Pick up or flat bed operator	6.29	.40	1%		¼ of 1%
Painters:					
Brush	7.25	.40	.40		.06
Spray	7.75	.40	.40		.06
Paperhangers	7.75	.40	.40		.06
Sandblasters	7.75	.40	.40		.06
Structural Steel	7.60	.40	.40		.06
Plumbers	9.18	.35	.40	.50	.10
Roofers:					
Roofers	7.40	.35	.25		.15
Kettlemen	5.95	.35	.25		.15
Roofers' helpers	5.30	.35	.25		.15
Sheet metal workers	10.24	.30	.30	.50	.04
Sprinkler Fitters	10.16	.60	.90		.10
Terrazzo workers	8.45	.25	.40		.03
Tile setters	8.45	.25	.40		.03
Welders - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 1½% 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.

PAID HOLIDAYS (WHERE APPLICABLE)

A-New year's Day B-Memorial Day C-Independence Day D-Labor Day
E-Thanksgiving Day F-Christmas Day.

FL77-1024 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	8.03	.40	.35		.05
GROUP II	6.96	.40	.35		.05
GROUP III	6.12	.40	.35		.05
GROUP IV	5.04	.40	.35		.05

GROUP I: Cranes, derricks. clam shells, draglines, piledriver (including auger & boring machines for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-bowl operator (similar to R.G. LeTourneau Model L-60 2 or 3 twenty cu. yd. scrapers), front end loaders, (over 4 cy cap.), side boom cats, multi-drum hoist (for rigging). mechanic (heavy equip.) tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 tons cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions)

GROUP II: Bulldozers. bridge cranes (20 tons & under), highlift or fork-lift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl.. 4 cy cap.), trenching machine (ladder & wheel type) over 6' cut & over 24" width. concrete paver & scrapers

GROUP III: Concrete pumps. front end loader (2cy or less not used as hoist) mobile winch trucks. self-propelled sub-grader asphalt paving machine concrete mixer, tractors. air compressor plant (2 or more compressors on a common manifold). lubricating engineer (mobile plant), pavement breakers street sweeping machines

GROUP IV: Tractor operated sweeper. trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), firemen, self-propelled rollers, wellpoint pump, asphalt distributor, water truck drivers. motor boat operator, oiler, mechanics' helpers. pumpman (other than well point up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers., combination pump, compressor & combustion type welding machine, conveyor (motor operated), welding machine op (3 or more combustion type, pulver mixer, compressor (1 to and including 3 compressors within 3 cu. ft. radius).

STATE: Idaho COUNTIES: Statewide
DECISION NUMBER: ID77-5023 DATE: Date of Publication
Supersedes Decision No. ID76-5112 dated November 26, 1976 in 41 FR 52236
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:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north half), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	$ 11.75	.44	$ 1.02		
Remaining Counties and Idaho County (south half)	10.56	.52	1.17		
BOILERMAKERS	11.45	.75	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	10.20	.40	.40		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida, Power Cos.	9.25	.50	.50		
Benewah, Bonner, Boundary, Kootenai, Shoshone Counties	10.50				
Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls Counties	9.40	.35	.40		
Clearwater, Idaho, Latah, Lewis, Nez Perce Counties	10.36	.55	.40+.30		.04
CARPENTERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the northern boundary of Township #29 North), Kootenai, Latah, Lewis, Nez Perce, Shoshone Cos.					
Carpenters	9.74	.60	.55		.055
Piledrivermen; Sawfilers; Stationary Power Woodworking Tool Operator; Floor Layer; Floor Finisher; Floor Sander	9.89	.60	.55		.055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Shingler (wood and composition)	$ 9.94	.60	.55		.055
Carpenters (burned, charred, creosoted or similarly treated material); Boom Man	9.99	.60	.55		.055
Millwrights and Machine Erector	10.24	.60	.55		.055
Piledriver (creosoted material)	10.14	.60	.55		.055
Remaining Counties and Idaho County (south of the northern boundary of Township #29 North):					
Carpenters; Floor Layers; Shinglers; Drywall Applicator and Installer	8.79	.52	.45	.45	.10
Saw Filer; Piledriverman; Bridgeman and Wharf Builders	8.96	.52	.45	.45	.10
Millwrights; Machine Erectors; Piledriverman's Boom Man	9.08	.52	.45	.45	.10
CEMENT MASONS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Cos.:					
Cement Masons Gunnite; Power Machine; Power Tools; Power Troweling Machine; Troweling Magnesite or other material with oxichloride base	9.64	.50	.75		.04
	9.79	.50	.75		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Remaining Counties and Idaho County (south of 46th Parallel):					
Cement Masons	$ 8.67	.45	.45	.30	.10
Power Trowel; Power Grinder; Gunnite and Composition					
Floor Layer	8.87	.45	.45	.30	.10
ELECTRICIANS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties:					
Electricians	10.20	.45	1%+.50		1%
Cable Splicers	11.22	.45	1%+.50		1%
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Electricians	11.60	.35	1%+.40		.02
Cable Splicers	12.00	.35	1%+.40		.02
Remaining Counties:					
Electricians; Technicians	10.00	.45	1%+.50		.02
Cable Splicers	11.00	.45	1%+.50		.02
ELEVATOR CONSTRUCTORS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Elevator Constructors	10.51	.495	.32	3%+a	.02
Elevator constructors' Helpers	70%JR	.495	.32	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS: (Cont'd)					
Remaining Counties, except Adams, Lemhi, Valley, Washington Counties:					
Elevator Constructors	$ 10.03	.545	.35	3%+a	.02
Elevator Constructors' Helpers	7.02	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.)	5.015				
GLAZIERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western part of County from a line running north and south through the eastern limits of the City of Bliss), Idaho County (southern part of County from a line running east and west through the north limits of Elk City), Owyhee, Payette, Valley, Washington Counties	9.30	.35	.30		
Benewah, Clearwater, Idaho County (north of 46th Parallel), Latah, Lewis, Nez Perce Counties	7.28	.31	.25	b+.28	
Bonner, Boundary, Kootenai, Shoshone Counties	9.73	.35	.10	.43	
Remaining Counties	7.12	.21		b	
IRONWORKERS:					
Ornamental; Reinforcing; Structural:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	11.00	.73	1.00		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS: (Cont'd)					
Those portions of Adams, Idaho, Valley, Washington Counties located south of the 46th Parallel and north of the Weiser-Gibbonsville Line	$ 10.90	.58	1.00	.25	.05
Remaining Counties and those portions of Adams, Idaho, Valley, Washington Counties located south of the Weiser-Gibbonsville Line	9.89	.55	1.00		.02
LATHERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	10.35	.50			
MARBLE SETTERS:					
Benewah, Bonner, Boundary, Kootenai, Shoshone Counties	9.75				
Clearwater, Idaho, Latah, Lewis, Nez Perce Counties	10.36	.55	.40+.30		.04
PAINTERS:					
Ada, Adams, Boise, Canyon, Elmore (except Mt. Home AFB), Gem, Gooding (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley, Washington Counties:					
Painters and Tapers	8.10	.45	.30		.07
Elmore (Mt. Home AFB):					
Painters and Tapers	9.10	.45	.30		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding (except the City of Bliss and western third of County), Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, Twin Falls Counties:					
Brush; Roller, Perfataper	$ 8.41	.35	.10		.005
Structural Steel; Swing Stage; Spray	8.86	.35	.10		.005
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Brush	9.42	.40	.70		.02
Spray; Steel; Steam Cleaning; Rollers (over 9" or 10" handle); Finish Drywall Taper	9.67	.40	.70		.02
Swing Stage; Over 30 ft. high	9.77	.40	.70		.02
Bitumastic; Sand Blast; Bridge; Towers; Stacks; Steeples; Tanks on legs	9.82	.40	.70		.02
PLASTERERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	10.53	.50			
Remaining Counties	8.57	.45	.45	.30	
PLUMBERS:					
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, Shoshone Counties	11.60	.65	1.10	1.00	.11
Remaining Counties and Idaho County (south of the 46th Parallel):					
Plumbers	9.49	.47	.50		.10
Helpers	70%JR	.47	.50		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Idaho County (south of the 46th Parallel), Lemhi, Owyhee, Payette, Valley, Washington Counties:					
Roofers; Kettlemen	$ 8.30	.60	.30		.05
Roofers working with coal tar and pitch products	10.30	.60	.30		.05
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power, Teton Counties	9.15		.40		
Benewah, Bonner, Boundary, Kootenai, Shoshone Counties	9.04	.50	.50		.01
Clearwater, Idaho County (north of the 46th Parallel), Latah, Lewis, Nez Perce Cos.:					
Roofers; Kettlemen; Waterproofer	10.05				
SHEET METAL WORKERS:					
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, Teton counties	9.18	.37	3%+.20	.75	.06+.02
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	12.10	.57	1.205		.08+.02
Remaining Counties	10.21	.57	.50		.12+.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley, Washington Counties	$ 7.00	.25	.10		.10
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	7.89	.25	.40	.31	
Remaining Counties	7.50				
SPRINKLER FITTERS	11.13	.60	.90		.08
TERRAZZO WORKERS & TILE SETTERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	9.05	.40	.40		
Clearwater, Idaho, Latah, Lewis, Nez Perce Counties	10.36	.55	.40+.30		.04
WELDERS: Receive the rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate for 6 months' to 5 years' service, to Vacation Plan. Six Paid Holidays: A through F.

b. All employees who have been employed for a period of one year shall have 2 weeks' vacation with pay. Also 7 Paid Holidays: A, B, C, E, F, plus Veterans' Day and the Day after Thanksgiving.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS:					
(AREA 1):					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Cable Splicers; Leadman Pole Sprayer	$ 11.95	.35	1%	.10	1/2%
Lineman; Pole Sprayer; Heavy Line Equipment Man;					
Certified Lineman Welder	10.79	.35	1%	.10	1/2%
Tree Trimmer	9.74	.35	1%	.10	1/2%
Line Equipment Man	9.30	.35	1%	.10	1/2%
Head Groundman (chipper); Head Groundman; Powderman;					
Jackhammer Man	8.12	.35	1%	.10	1/2%
Groundman; Tree Trimmer Helper	7.65	.35	1%	.10	1/2%
(AREA 2):					
Remaining Counties:					
All work over 34.5 KV and all work on steel towers and/or multiple wood structures and all substations of 1,000 KVA or greater capacity, all communications, underground work, 34.5 KV, streets and highway lighting and motor traffic controls:					
Groundman	6.98	.35	1%		3/4%
Equipment Operators	8.44	.35	1%		3/4%
Cable Splicers	10%overJR	.35	1%		3/4%
Lineman	9.27	.35	1%		3/4%
All power construction of 34.5 KV and under when performed for an operating utility. Street lighting when performed for an operating utility or municipality:					
Groundman	6.71	.35	1%		3/4%
Equipment Operator	7.87	.35	1%		3/4%
Lineman	8.74	.35	1%		3/4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
(AREA 1)					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Group 1	$ 8.10	.65	.70		.02
Group 2	8.25	.65	.70		.02
Group 3	8.35	.65	.70		.02
Group 4	8.40	.65	.70		.02
Group 5	8.45	.65	.70		.02
Group 6	8.50	.65	.70		.02
Group 7	8.55	.65	.70		.02
Group 8	8.70	.65	.70		.02
Group 9-A	8.15	.65	.70		.02
Group 9-B	8.20	.65	.70		.02
Group 9-C	8.60	.65	.70		.02
Group 9-D	8.65	.65	.70		.02
(AREA 2)					
Remaining Counties and Idaho County (south of the 46th Parallel):					
Group 1	6.87	.60	.77	.20	.10
Group 2	6.97	.60	.77	.20	.10
Group 3	7.07	.60	.77	.20	.10
Group 4	7.17	.60	.77	.20	.10
Group 5	7.22	.60	.77	.20	.10
Group 6	7.47	.60	.77	.20	.10
Group 7	7.72	.60	.77	.20	.10
Underground Work:					
Group 8	7.02	.60	.77	.20	.10
Group 9	7.17	.60	.77	.20	.10
Group 10	7.47	.60	.77	.20	.10

LABORERS
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Brush Hog Feeder; Carpenter Tender; Concrete Crewman (to include stripping of forms, hand operating jack on slip form construction, application of concrete curing compounds, pumpcrete machine, signaling, handling the nozzle of squeezecrete or similar machine - 6" and smaller); Concrete Signalman; Crusher Feeder; Demolition (to include clean-up, burning, loading, wrecking and salvage of all material); Driller Helper; Dumpman; Fence Erector (to include guard rails, guide and reference posts, sign posts, and right-of-way markers); General Laborers; Grout Machine Header Tender; Nipper; Riprap Man; Scaleman; Stake Jumper; Structural Mover (to include separating foundation, preparation, cribbing, shoring, jacking and unloading of structure); Tailhoseman (water nozzle); Track Laborer (RR); Truck Loader; Timber Bucker and Faller (by hand); Window Cleaner (prior to completion of construction)

Group 2: Cement Finisher Tender; Cement Handler; Demolition Torch; Dope Pot Fireman, non-mechanical; Form Cleaning Machine Feeder, Stacker; Form Setter, paving; Driller Helper (when required to move and position machine); Nozzleman, water and air or steam; Pipe Layer, corrugated metal culvert; Pipewrapper; Pot Tender; Powderman Helper; Power Tool Operator: gas, electric, pneumatic; Sandblast Tailhoseman; Scaffold Erector, wood or steel; Railroad Equipment, power driven, except dual mobile power spiker or puller; Rodder and Spreader; Wheelbarrow, power driven; Well-point Man; Vibrator up to 4"

Group 3: Asphalt Raker; Asphalt Roller, walking; Chain Saw Operator with attachments; Concrete Saw, walking; Grade Checker, using level; Jackhammer Operator; Multi-section Pipe Layer; Nozzleman (to include squeeze and flo-crete nozzle); Pavement Breaker; Power Buggy Operator; Railroad Power Spiker or Puller, dual mobile; Tamper (to include operation of Barco, Essex and similar tamper and pavement breakers); Trencher, Shawnee; Water Pipe Liner; Wagon Drills

Group 4: Chain Saw (faller); Laser Beam Operator; Pipe Layer (to include optional: Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, and Lagger but not including laying corrugated metal culvert pipe)

Group 5: Concrete Stack (to include Laborers when working on free standing concrete stacks for smoke or fume control above 40 ft. high); Mortar Mixer

Group 6: Caisson Worker, free air; High Scaler

LABORERS (Cont'd)
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 7: Brush Machine (to include Horizontal Construction Joint Clean-up Brush Machine, power propelled); Drills (to include Down-the-hole Drills with 3½ inch piston or larger and Out-of-the hole Drills with 4½ inch piston or larger); Gunnite (to include operation of machine and nozzle); Hod Carrier; Monitor Operator, Air Track or similar mounting; Nozzleman (to include Jet Blasting Nozzleman over 1,200 pounds, Jet Blast Machine, power propelled, Sand Blast Nozzle); Vibrator Operator, 4 inches and over

Group 8: Air Track Drills with Dual Masts and Drills; Powderman

TUNNEL and SHAFT, FREE AIR

Group 9:
Class A: Bull Gang; Pump Crete Crewman, including distributing pipe, assembling and dismantle and Nipper
Class B: Brakeman; Dumpman
Class C: Miner and Nozzleman for Concrete and Laser Beam Operator on tunnels
Class D: Raise and Shaft Miner; Laser Beam Operator on raises and shafts

LABORERS
(Area 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: General Laborers; Sloper, clearing and grading; Form Stripper; Concrete Crew; Concrete Curing Crew; Carpenter Tender; Asphalt Laborer; Hopper Tender; Heater Tender; Stake Jumper; Choker Setter; Spreader and Weighman; Power Wheelbarrow; Scouring Concrete; Rip Rap Man (hand placed); Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-markers); Crusher Helper; Cribbing and Shoring (in open ditches); Machinery and Parts Cleaner; Leverman - manual or mechanical; Demolition - Salvage; Landscaper; Tool Room Man; Janitor

LABORERS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 2: Chuck Tender; Driller Helper; Air Tampers; Gunite Nozzleman Tender; Pipewrapper; Tar Pot Tender; Concrete Sawyer; Signalman, handling cement; Dumpman; Steam Nozzleman; Air and Water Nozzleman (Green Cutter, concrete); Vibrator (less than 4"); Pumpcrete and Grout Pump Crew; Hydraulic Monitor

Group 3: Pipelayer, including sewer, drainage, sprinkler systems and water lines; Free Air Caisson; Jackhammer; Paving Breaker; Powderman Helper; Asphalt Raker; Gasoline powered Tamper; Electric Ballast Tamper; Sand Blasting; Form Setter - airport paving; Gunman (gunite); Manhole Setter; Hand guided machines, such as Roto Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc.; Form Setter (highway- curb and gutter); Vibrator (4" and over); Timber Faller and Bucker; Metal Pan Installer

Group 4: Hod Carrier; Mason Tender; Plaster Tender; Mason Tender (concrete); Terrazzo-Tile Tender

Group 5: Highscaler; Wagon Drill; Grade Checker; Gunite Nozzleman

Group 6: Diamond Drills; Drillers on Drills with manufacturers' rating 3" or over

Group 7: Powderman

UNDERGROUND WORK

Group 8: Reboundman; Chucktender; Nipper; Dumpman; Vibrator (less than 4"); Brakeman; Muckers; Bullgang

Group 9: Form Setter and Mover

Group 10: Miners; Machinemen; Timbermen; Steelmen; Drill Doctors; Spaders and Tuggers; Spiling and/or Caisson Workers; Vibrator (over 4")

POWER EQUIPMENT OPERATORS (AREA 1) Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*	Zone 3*				
Group 1	$ 8.70	$ 9.20	$ 9.65	.80	.90		.03
Group 2	9.00	9.50	9.95	.80	.90		.03
Group 3	9.55	10.05	10.50	.80	.90		.03
Group 4	9.70	10.20	10.65	.80	.90		.03
Group 5	9.85	10.35	10.80	.80	.90		.03
Group 6	10.10	10.60	11.05	.80	.90		.03
Group 7	10.35	10.85	11.30	.80	.90		.03

*ZONE 1: Area within a fifteen (15) mile radius from the center of the following Cities: Lewiston, Idaho and Spokane, Washington.
*ZONE 2: Area within a fifteen (15) mile to forty-five (45) mile radius from the center of the above-named Cities.
*ZONE 3: Area over forty-five (45) mile radius from the center of the above-named Cities.
With the exception that the area within a fifteen (15) mile radius of the center of the City of Coeur d' Alene, Idaho shall be considered within Zone 1.

POWER EQUIPMENT OPERATORS (AREA 2) Remaining Counties and Idaho County (south of the 46th Parallel):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.17	.60	.75		.10
Group 2	8.33	.60	.75		.10
Group 3	8.70	.60	.75		.10
Group 4	9.01	.60	.75		.10
Group 5	9.18	.60	.75		.10
Group 6	9.36	.60	.75		.10
Group 7	9.72	.60	.75		.10
Group 8	9.95	.60	.75		.10
Group 9	10.18	.60	.75		.10
Group 10	10.42	.60	.75		.10

POWER EQUIPMENT OPERATORS
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Bit Grinders; Bolt Threading Machine; Compressors, under 2,000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Drillers' Helper; Fireman and Heater Tender; Grade Checker; Helper (mechanic or welder, H.D.); Oiler; Oiler and Cable Tender; Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or compacting or vibrator) except when pulled by dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator; Fireman or Pugmixer (asphalt); Bagley or stationary Scraper; Batch Plant and Wet Mix Operator, single unit (concrete); Belt Finishing Machine; Bending Machine (pipeline); Blower Operator (cement); Cement Hog; Compressor (2,000 cu. ft. or over, 2 or more - gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker, Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drum; Loader (Bucket Elevators and Conveyors); Longitudinal Float; Mixer (portable-concrete); Pavement Breaker (Hydra-hammer and similar); Post Hole Auger or Punch; Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad Power Tamper Operator, (self-propelled); Railroad Power Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type R/T with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Belt-crete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Blade Operator (motor patrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (pipeline); Concrete Pumps (squeeze-crete, flow-crete, pumpcrete, Whitman and similar); Drills (Churn, Core, Calyx, or Diamond); Elevating Belt-type Loader (Euclid, Barber Greene or similar); Elevating Grader-type Loader (Dumor, Adams, or similar); Equipment Serviceman, Greaser and Oiler; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Hoist (2 or more drums or tower hoist); Loaders (overhead and front-end under 4 yds., R/T); Locomotive Engineer; Mixermobile; Mucking Machines; Power or Curb Extruder (asphalt and concrete); Pump (Grout or Jet); Rollerman (finishing pavement); Rubber-tired Scraper (one motor with one scraper, under 40 yds.); Screed Operator; Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (Crawler including Dozer, Scraper, Drills, Booms, Rollers, etc.); Traverse Finishing Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead Operator; Vacuum Drill (reverse circulation drill, under 8")

POWER EQUIPMENT OPERATORS (Cont'd)
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 4: Asphalt Plant Operator; Crusher; Grizzle and Screening Plant Operator; H.D. Mechanic; H.D. Welder; Refrigeration Plant Engineer (under 1,000 tons); Rubber-tired Scraper, Multi-engine power, with one scraper (Euclid, TS-24 and similar); Rubber-tired Scraper, one motor with one scraper (40 yards and over); Surface Heater and Planer Machine; Turnhead (with re-screening)

Group 5: Automatic Subgrader (ditches and trimmers)(Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoes (under 3 yards); Batch and Wet Mix Operator - multiple units (2 and including 4); Chipper (with crane); Clamshell Operator (under 3 yds.); Concrete Slip form Paver; Cranes all (under 65 tons); Derricks and Stiffleg (under 65 tons); Draglines (under 3 yds.); Drilling Equipment (8" bit and over)(Robbin's Reverse Circulation and similar); Loader Operator (Front End and Overhead 4 yds. to 8 yds.); Piledriving Engineers; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, multi-engine, power with one scraper (Euclid, TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired Scrapers, multiple engines with two scrapers; Shovels (under 3 yds.); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirleys, Highline Hammerheads or similar); Trenching Machines (7 ft. depth and over); Multiple Dozer units with single blade

Group 6: Backhoes (3 yds. and over); Batch Plant (over 4 units); Cableway Controller - Dispatcher; Cableway Operator; Clamshell Operator (3 yds. and over); Cranes, all - 65 tons and over; Derricks and Stiffleg (65 tons and over); Draglines (3 yds. and over); Elevating Belt (Holland type); Loader (360 degrees revolving Koehring Scooper or similar); Loaders (overhead and front-end over 8 yds. to 12 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yds. and over); Tower Crane; Whirleys and Hammerheads (all)

Group 7: Helicopter Pilot; Loaders (overhead and front-end - over 12 yards)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: Brakemen; Crusher; Plant Feeder (mechanical); Deckhand; Drill Helpers; Grade Checkers; Heater Tender; Land Plane; Oilers; Pumpman

Group 2: Air Compressor; Asphalt Refrigeration Plant Operator; Bell Boy; Bit Grinder; Blower Operator (Cement); Bolt Threader Machine Operator; Broom; Cement Hog; Concrete Mixer; Concrete Saw - multiple cut; Discing - harrowing or mulching (regardless of motive power); Distributor Leverman; Drill Steel Threader Machine Operator; Fireman - all; Heavy Duty Mechanic Helper or Welder Helper; Hoist - single drum; Hydraulic Monitor Operator - skid mounted; Oiler (single piece of equipment); Pugmixer - box or screed Operator; Spray Curing Machine; Tractor - rubber-tired farm type using attachments

Group 3: A-Frame Truck (Hydra Lift, Swedish Cranes, Ross Carrier, Hyster on construction jobs); Battery Tunnel Locomotive; Belt Finishing Machine; Cable Tenders (underground); Chip Spreader Machine (self-propelled); Hoist, 2 or more drums or Tower Hoist; Hydralift - Fork Lift and similar (when hoisting); Oiler (underground); Power Loader (Bucket Elevator, Conveyors); Road Roller (regardless of motive power)

Group 4: Boring Machine (earth or rock) (Quarry Master - Joy) (Tractor mounted); Drills: Churn - Core - Calyx or Diamond; Front End and Overhead Loaders and similar machines - (up to and including 4 yds.) - (rubber-tired); Grout Pump; Hydrahammer; Locomotive Engineer; Longitudinal Float Machine; Mixermobile; Spreader Machine; Tractor - rubber-tired - using Backhoe, Transverse Finishing Machine, Trenching Machine, Waggoner Compactor and similar, Asphalt Spreaders

POWER EQUIPMENT OPERATORS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 5: Concrete Plant Operator; Concrete Road Paver (dual); Elevating Grader Operator; Euclid Elevating Loader; Generator Plant Operator - mechanic (diesel - electric); Post Hole Auger or Punch Operator; Power Shovels and Draglines - under 1 yard; Pump-crete; Refrigeration Plant Operator; Road Roller (Finishing High type Pavement); Skidder - rubber-tired; Subgrader; Multiple station Beltline Operator (Teton Dam Project only); Service Oiler

Group 6: Asphalt Pavers - self-propelled; Asphalt Plant Operator; Blade Operator (motor patrol); Concrete Slip Form Paver; Cranes up to and including 50 ton; Crusher Plant Operator; Derrick Operator; Drilling Equipment (Bit under 8 inches)(Robbins Reverse Circulation and similar); Front End and Overhead Loaders and similar machines (over 4 yds. to and including 7 yds.); Koehring Scooper; Heavy Duty Mechanic or Welder; Mucking Machine (underground); Multi-batch Concrete Plant Operator; Piledriver Engineer; Power Shovels and Draglines (1 yd. to and including 3½ yds.); Tower Crane Operator; Tractor - Crawler type - including all attachments; Refrigeration Plant Operator (over 1,000 tons); Trimmer Machine Operator; Tournapulls - Euclid and similar - to and including 40 yds.

Group 7: Cableway Operator; Continuous Excavator (Barber Greene WL-50); Cranes - over 50 ton; Dredges; Drilling Equipment (Bit 8 inches and over) (Robbins Reverse Circulation and similar); Fine Grader - CMI or Equivalent; Front End and Overhead Loaders and similar machines (over 7 yds.); Power shovels and Draglines (over 3½ yds.); Quad type tractors with all attachments; Tournapulls Euclid and similar - over 40 yds. to and including 50 yds.; Multiple Scraper Units

Group 8: Tournapulls - Euclid and similar - over 50 yds. to and including 75 yds.

Group 9: Tournapulls - Euclid and similar - over 75 yds. to and including 100 yds.

Group 10: Tournapulls - Euclid and similar - over 100 yds.

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(AREA 1): Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties					
Group 1	$ 8.88	.97	.70		
Group 2	8.93	.97	.70		
Group 3	8.98	.97	.70		
Group 4	9.08	.97	.70		
Group 5	9.28	.97	.70		
Group 6	9.33	.97	.70		
Group 7	9.38	.97	.70		
Group 8	9.43	.97	.70		
Group 9	9.53	.97	.70		
Group 10	9.58	.97	.70		
Group 11	9.88	.97	.70		
Group 12	10.03	.97	.70		
Group 13	10.18	.97	.70		
Group 14	10.33	.97	.70		
(AREA 2): Remaining Counties and Idaho County (south of the 46th Parallel)					
Group 1	7.97	.60	.65	.25	.10
Group 2	8.03	.60	.65	.25	.10
Group 3	8.09	.60	.65	.25	.10
Group 4	8.15	.60	.65	.25	.10
Group 5	8.20	.60	.65	.25	.10
Group 6	8.46	.60	.65	.25	.10
Group 7	8.52	.60	.65	.25	.10
Group 8	8.58	.60	.65	.25	.10
Group 9	8.69	.60	.65	.25	.10
Group 10	8.75	.60	.65	.25	.10
Group 11	8.81	.60	.65	.25	.10
Group 12	8.87	.60	.65	.25	.10
Group 13:					
Class A	8.35	.60	.65	.25	.10
Class B	8.46	.60	.65	.25	.10
Class C	8.69	.60	.65	.25	.10
Class D	8.87	.60	.65	.25	.10
Class E	8.98	.60	.65	.25	.10
Class F	9.10	.60	.65	.25	.10
Class G	9.38	.60	.65	.25	.10
Class H	9.61	.60	.65	.25	.10
Class I	9.84	.60	.65	.25	.10
Group 14	9.26	.60	.65	.25	.10

TRUCK DRIVERS
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Flat Bed Truck, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 lbs. and under; Fuel Truck Driver (steam cleaner and washer); Helper and Swamper; Leverperson loading trucks at bunkers; Pickup hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck 1,800 gallons and under

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross, Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yds. and under); Trucks, side, end and bottom dump (under 6 yds.); Water Tank Truck (1,801 to 4,000 gallons)

Group 4: Auto Crane - 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. and under); Flaherty Spreader, Box Driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (road, bootperson, leverperson helper); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck (4,001 to 6,000 gallons); Wrecker and Tow Trucks

Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2; Truck, side, end and bottom dump (over 6 yds. to 12 yds.)

Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank Truck (over 6,001 to 8,000 gallons)

Group 7: Dumptor (over 6 yds.); Transit Mixers and Trucks hauling concrete (6 yds. to 10 yds.); Trucks, side, end and bottom dump (over 12 yds. including 20 yds.)

Group 8: Low Boy (over 50 tons); Water Tank Truck (8,001 to 10,000 gallons)

Group 9 : Transit Mixers and Trucks hauling concrete, (10 yds. to 15 yds.); Trucks, side, end and bottom dump (over 20 yds. including 30 yds.); Water Tank Trucks (10,001 to 12,000 gallons)

Group 10: Mechanic, field

TRUCK DRIVERS (Cont'd)
(AREA 1)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yds. to 20 yds.); Trucks, side, end and bottom dump (over 30 yds. to 40 yds.); Water Tank Truck (12,001 to 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yds.); Trucks, side, end and bottom dump (over 40 yds. to 50 yds.)

Group 13: Truck, side, end and bottom dump (over 50 yds. to 100 yds.)

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end and bottom dump (over 100 yds.)

TRUCK DRIVERS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: Leverman loading at Bunkers; Pilot Car or Escort Driver

Group 2: Flat Bed - 2 axle and pickup hauling materials; Water Tank Truck (1,800 gallons and under); Fork Lift (3,000 and under)

Group 3: Flat Bed - 3 axle; Fuel Truck (1,000 gallons and under); Greaser; Tireman; Serviceman; Buggymobile; Man Haul (Shuttle Truck or Bus)

Group 4: Transit Mix Truck - 3 yds. and under; Truck Helpers; Slurry or concrete pumping Truck

Group 5: Flat Bed using power takeoff; Water Tank Truck (over 1,800 to 4,000 gallons); Semi-trailer - Low Boy - up to 96,000 lbs. GVW; Bulk Cement Tanker - up to 96,000 lbs. GVW; Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift); Ross, Hyster and similar straddle equipment; "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift)

TRUCK DRIVERS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 6: Transit Mix Truck, over 3 yds. - 6 yds.

Group 7: Water Tank Truck - (over 4,000 gallons); Fuel Truck - over 1,000 gallons; Distributor or Spreader Truck

Group 8: Transit Mix Truck - over 6 yds. - 8 yds.; Dumptors; Field Tireman; Serviceman

Group 9: Transit Mix Truck - over 8 yds. to 10 yds.; Snow Plow (Truck mounted)

Group 10: Low Boy - 96,000 lbs. GVW and over; Bulk Cement Tanker - 96,000 lbs. GVW and over

Group 11: Transit Mix Truck - over 10 yds.

Group 12: Turnarocker and similar equipment

Group 13: Truck - side, end and bottom dump
Class A: 6 yds. and under
Class B: Over 6 yds. - including 12 yds.
Class C: Over 12 yds. - including 20 yds.
Class D: Over 20 yds. - including 30 yds.
Class E: Over 30 yds. - including 40 yds.
Class F: Over 40 yds. - including 50 yds.
Class G: Over 50 yds. - including 75 yds.
Class H: Over 75 yds. - including 100 yds.
Class I: Over 100 yds.

Group 14: Truck Mechanic

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Fulton, Hancock McDonough & Schuyler

DECISION NUMBER IL77-2029 DATE: Date of Publication

Supersedes Decision No. IL76-2068, dated May 21, 1976, in FR 21977

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:					
Fulton & Schuyler Counties	$ 12.18	.45	.62		
Hancock & McDonough Counties	9.75	.30	.50		.10
BOILERMAKERS	10.95	.65	.95		.03
BRICKLAYERS:					
Schuyler County					
Bricklayers, Stonemasons, Plasterers, Marble-Tile-Terrazzo Workers, cement Blocklayers, Pointers-Caulkers-Cleaners	9.40	.35	.52		.02
Marble & Tile Setters' Helpers	9.35				
Fulton County					
Bricklayers, Stonemasons, Cement Blocklayers, Cleaners-Pointers & Caulkers	10.41	.50	.60		.10
Marble-Tile-Terrazzo Workers	10.16	.50	.60		.01
Marble & Tile Setters' Helpers	9.44	.50			
Hancock & McDonough Counties					
Bricklayers, Stonemasons, Cement Block Layers, Marble-Tile & Terrazzo Workers	10.75				
Marble & Tile Setters' Helpers	9.44	.50			
CARPENTERS:					
Schuyler County					
Carpenters & Soft Floor Layers	8.95	.45	.25		.02
Millwrights	9.20	.45	.25		.02
Piledirvermen	9.45	.45	.25		.02
Fulton County					
Carpenters & Soft Floor Layers	10.21	.40	.40		.05
Millwrights & Piledrivermen	10.71	.40	.40		.05
McDonough co. & Eastern 1/3 of Hancock Co.					
Carpenters & Soft Floor Layers	10.21	.40	.40		.05
Millwrights & Piledrivermen	10.71	.40	.40		.05
Remainder of Hancock County					
Carpenters & Soft FloorLayers	9.45	.45	.40		.02
Millwrights & Piledrivermen	10.13	.45	.40		.02

DECISION NO. IL77-2029

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Hancock, McDonough & Schuyler Counties					
Cement Masons	10.75				
Hancock & McDonough Counties					
Plasterers	10.50				
Fulton County					
Cement Masons	9.90	.60	.60		.05
Plasterers	10.05	.60	.60		.01
ELECTRICIANS:					
Hancock & Schuyler Cos., Twps. of Lamoine, Bethel, Industry & Eldorado in McDonough County	10.50	.40	1%		.2%
Twps. of Cass, Deerfield, Ellisville, Harris, Lee, Union, Young & Hickory in Fulton Co., & the Northern 2/3 of McDonough County	10.45	.40	1%+.30		.25%
Remainder of Fulton County	10.77	.40	1%+.50		1%
IRONWORKERS:					
Hancock & McDonough Cos., the Wester ½ of Schuyler County	10.35	.40	.30		
Eastern ½ of Schuyler Co., & The Southern Tip of Fulton Co., incl. Marbletown, Astoria & Summum	10.35	.55	.75		.05
Remainder of Fulton County	10.475	.50	.675		.025
LABORERS:					
Hancock & McDonoogh Counties					
Unskilled	8.60	.40	.42		.035
Semi-Skilled	8.80	.40	.42		.035
Skilled	9.00	.40	.42		.035
Schuyler County					
Unskilled	8.14	.30	.30		.035
Semi-Skilled	9.34	.30	.30		.035
Skilled	8.49	.30	.30		.035
Fulton County					
Projects Under $300,00					
Unskilled	8.65	.40	.40		.035
Semi-Skilled	8.85	.40	.40		.035
Skilled	9.05	.40	.40		.035

DECISION NO. IL77-2029

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Projects in Excess of $300,000					
Unskilled	$ 9.05	.40	.40		.035
Semi-Skilled	9.25	.40	.40		.035
Skilled	9.45	.40	.40		.035
PAINTERS:					
Fulton County					
Brush	9.65	.45	.30		.03
Structural Steel & Spray	10.15	.45	.30		.03
Remainder of Counties					
Brush	8.70				
Structural Steel & Spray	9.20				
PLUMBERS & STEAMFITTERS:					
Fulton & McDonough Counties	10.47	.35	.35	.42	.05
Hancock & Schuyler Counties	10.50	.35	.50		.03
ROOFERS:					
Schuyler County					
Composition	11.78				
Slate-Tile & Precast Slab	12.03				
Fulton Co., & Eastern ½ of McDonough Co., excluding Macomb					
Slate-Tile-Composition-Damp & Waterproof	10.35	.45	.40		.025
Hancock Co., & Western ½ of McDonough including Macomb					
Slate-Tile-Damp & Waterproof	7.85				
SHEET METAL WORKERS:					
Fulton & McDonough Counties	10.10	.45	.40		.10
Hancock County	9.55	.45	.40		.10
Schuyler County	10.62	3%+.40	.50		.05
SPRINKLER FITTERS	11.40	.60	.90		.08
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. IL77-2029

ILL-5-PBD-1-2-3

POWER EQUIPMENT OPERATORS: SCHUYLER COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.75	.30	.40		.05
CLASS II	8.775	.30	.40		.05
CLASS III	8.15	.30	.40		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt screed man, Aspco concrete spreaders, asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableway, cherry pickers, claim shell, C.N.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augeror boring machines, levating graders engineers on dredge, gravel processingmachines,high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, mortar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plantd), orange peels, overhead cranes, paving mixers, piledirvers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot roller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type form lifts or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoopes, all or tournapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self-propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post hole diggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine vibratory compactor, well drill machines scissors hoist.

CLASS III - air comressor*, air compressors, track or self-propelled, asphalt plante ngineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rillers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS. WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BARRERIES OR WITHIN 300 FT.

DECISION NO. IL77-2029 ILL-6-PEO-1

POWER EQUIPMENT OPERATORS REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$10.57	.45	.55		.05
GROUP 2	10.37	.45	.55		.05
GROUP 3	9.995	.45	.55		.05
GROUP 4	9.72	.45	.55		.05
GROUP 5	9.11	.45	.55		.05

POWER EQUIPMENT OPERATORS:

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib, overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity (require oiler), mechanics, central concrete mixing plant operator, road pavers (27E-dual drum-tri batchers), blacktop plant operators and plant engineers, 3 drum hoist, derricks,hydro cranes, shovels skimmer scoops, koehring scoopers, draglines, backhoe, hoptoes-crane-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine, pumpcrete-belt-squeeze cretes-screw-type pumps and gysum bulker and pump, dinkeys, power launches, tournapulls (all), multiple unit earth movers, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine euclid loader, forklifts, formless finishing machine, jeeps w/ditching machine, or other attachments, tuneluger, rock crushers, automatic cement gravel batching plants, mobile drills (soil testing and similar types), (require oilers), flaherty spreader or similar types (require oilers), heavy equipment greaser (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) Straw blower, hydro seeder and P.W.D. and similar types

DECISION NO. IL77-2029

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 3 - Tractor (track type)without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines, barber greene or similur loaders, vibro tampers (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, porter rex rail, clary screed pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - Air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air without attachments, curb machines, truck crane oilers, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, dravo, Zarner,Silent glo, and similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spread, roller, 5 Tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL77-2029 ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 9.60	.55	a14.00		
GROUP II	10.00	.55	a14.00		
GROUP III	10.20	.55	a14.00		

TRUCK DRIVERS

GROUP I - Drivers on 2 axle truck hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehousemen, mechanics helpers, greasers & tiremen, pick-up trucks when hauling materials, tolls, or men to and from and on the jobs site; Fork lifts up to 6,000lbs., capacity.

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used tranportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4 axle combination units; ticket writers

GROUP III - 2,3 or 4 axle truck hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatcher

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: IOWA

COUNTIES: BENTON, IOWA, JOHNSON, (EXCLUDING IOWA CITY), KEOKUK, MAHASKA, POWESHIEK, TAMA, & WASHINGTON

DECISION NO.: IA77-4041

DATE: DATE OF PUBLICATION

Supersedes Decision No. IA75-4081, dated April 18, 1975, in 40 FR 17507

DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION.

HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Zone I-Keokuk	$ 6.55	.31			
Zone II-Benton, Iowa, Johnson, Mahaska, Poweshiek, Tama & Washington	5.25	*			
CEMENT MASONS	4.49				
LABORERS:					
Unskilled:					
Zone I-Keokuk	3.00				
Zone II-Benton, Iowa, Johnson, Mahaska, Poweshiek, Tama & Washington	3.59				
POWER EQUIPMENT OPERATORS:					
Asphalt plants	3.00				
Bulldozers, cranes, derricks, draglines	6.30	.40	.30		+ .03
Backhoes	5.17				
Front end loaders	4.58				
Mechanics	5.13				
Motor patrols, finish	5.71				
Motor patrols, rough	4.60	.40	.20		.01
Scrapers, self-loading	4.72				
Slip-form paver	4.80	.40	.20		.01
TRUCK DRIVERS:					
Single axle	3.80	.20			
Tandem	3.90	.20			

SUPERSEDEAS DECISION

STATE: IOWA

COUNTIES: Appanoose, Davis, Jefferson, Van Buren and Wapello

DECISION NO.: IA77-4042

DATE: Date of Publication

Supersedes Decision No. IA75-4192, dated November 28, 1975, in 40 FR 55629

DESCRIPTION OF WORK: Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$ 5.64				
CEMENT MASONS	4.46				
LABORERS:					
Common laborers	3.59				
Raker	4.00				
Sawman	4.05				
Stringman	5.10				
POWER EQUIPMENT OPERATORS:					
Broom Operator	5.00				
Bulldozer	6.95	.40	.50		.05
Central Mix Plant, Concrete	5.45	.15	.10		
Crane	5.94				
Distributor	4.10				
Farm Tractor with Attachments	4.00				
Front End Loader	4.97				
Greaser, Oiler	4.25				
Mechanic	6.95	.40	.50		.05
Mixer, Asphalt Pugmill	4.50				
Motor Patrol	6.30	.40	.30		.03
Paver, Asphalt	4.90				
Paver, CMI	4.80	.30	.10		
Paver, Screed	4.275				
Paver, Slip Form	5.20	.15	.10		
Power Shovel	6.25				
Push Cat	6.08				
Roller, pulled by farm tractor	3.80				
Roller, High Type	4.17				
Roller, Self-propelled, Finish	4.65				
Scraper, self load	6.30	.40	.30		.03
Scraper, 10 c.y. & over	6.00	.30	.30		.01
TRUCK DRIVERS:					
Flat bed, pickup or van	4.40				
Semi or tandem	4.70	.25	.10		

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Sedgwick
DECISION NO.: KS77-4047 DATE: Date of Publication
Supersedes Decision No. AP-533 dated June 22, 1973 in 38 FR 16573
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 7.18	.45	.25	.25	.02
CARPENTERS	4.27				
CEMENT MASONS	5.40				
ELECTRICIANS	7.45	.35	1%		2%
LABORERS	3.30				
PAINTERS, Brush	4.44				
PLUMBERS	6.55				
ROOFERS	4.15				
SHEET METAL WORKERS	4.30				
SOFT FLOOR LAYERS	4.00				
TILE SETTERS	4.00				
TRUCK DRIVERS	3.30				

SUPERSEDEAS DECISION

STATE: Kansas
COUNTY: Shawnee
DECISION NO.: KS77-4046
DATE: Date of Publication
Supersedes Decision No. KS76-4096 dated June 11, 1976 in 41 FR 23893
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	$11.52	.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	11.10	.45	1%+.55		.05
Cable splicers	12.21	.45	1%+.55		.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	9.02	.55	.46	.7489+.6293	.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. KS77-4046

	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; mailers, 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. KS77-4046

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	9.25		.20		
LINE CONSTRUCTION:					
Lineman	9.25	.45	1%		4%
Cable splicers	9.71	.45	1%		4%
Groundman, over 1 year	5.75	.45	1%		4%
Groundman, 1st year	4.36	.45	1%		4%
Powderman	7.67	.45	1%		4%
Line Truck and Equipment Operators:					
1st year	5.89	.45	1%		4%
2nd year	7.05	.45	1%		4%
Over 2 years' experience	7.67	.45	1%		4%
PAINTERS:					
Brush, drywall, sanding and taping	9.40	.40			.02
Painting of structures over 50' (all types); spray	9.90	.40			.02
PLASTERERS	9.25		.20		
PIPEFITTERS; Plumbers	10.90	.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. KS77-4046

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 .25c

DECISION NO. KS77-4046

	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, mot 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. KS77-4046

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS, FLAT, SLATE & TILE DAMPROOFERS AND WATERPROOFERS	9.36	.30	.60		
ROOFERS WORKING IN PITCH, TAR OR CREOSOTE, COAL	10.21	.30	.60		
SHEET METAL WORKERS	8.88	3%+.35	1.10	.78	.04
SOFT FLOOR LAYERS	7.98	.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 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.

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Shawnee
DECISION NO.: KS77-4048 DATE: Date of Publication
Supersedes Decision No. KS76-4095, dated June 11, 1976 in 41 FR 23890
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	$11.52	.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	6.60	.45	1%+.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. KS77-4048

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	9.40	.40			.02
Painting of structures over 50' (all types); spray	9.90	.40			.02
PLASTERERS	9.25		.20		
PLUMBERS: Pipefitters	10.90	.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. KS77-4048

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 .25c

	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; 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 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	9.36	.30	.60		
Roofers working in pitch, tar or creosote, coal	10.21	.30	.60		
SHEET METAL WORKERS	8.88	3%4.35	1.10	.78	.04
SOFT FLOOR LAYERS	7.98	.40	.45	10%	.04
SPRINKLER FITTERS	11.23	.60	.90		.08
TILE SETTERS	8.50				

DECISION NO. KS77-4048

	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 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.

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Leavenworth
DECISION NO.: KS77-4049 DATE: Date of Publication
Supersedes Decision No. KS76-4098, dated June 11, 1976 in 41 FR 23899
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	$11.52	.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)	11.22	.39	1%+.51	.80	.06
Zone 2 - Remainder of County	11.10	.45	1%+.55		.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				
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.					
GLAZIERS	9.77	.55	.39	16.46%	.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

DECISION NO. KS77-4049

	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. KS77-4049

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
LATHERS	10.60	.40			
LINE CONSTRUCTION:					
Zone 1 - Southwest 2/3 of Leavenworth County					
Lineman	9.25	.45	1%		½%
Cable splicers	9.71	.45	1%		½%
Groundman, over 1 year	5.75	.45	1%		½%
Groundman, 1st year	4.36	.45	1%		½%
Powderman	7.67	.45	1%		½%
Line Truck & Equipment Operators:					
1st year	5.89	.45	1%		½%
2nd year	7.05	.45	1%		½%
Over 2 years' experience	7.67	.45	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	10.82	3.65%	3.25%		
MARBLE AND TILE SETTERS' HELPERS	9.00				
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	11.15				
PIPEFITTERS	11.37	.57	1.15		.11
PLUMBERS	11.64	.65	.80		.11
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. KS77-4049

	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, 50c 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. KS77-4049

POWER EQUIPMENT OPERATORS CLASSIFICATIONS CONT'D:

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, Hitching 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

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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, nut 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 (50c) per hour above the regular classification

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	9.80	.45	.60		.04
Helpers:					
1st 6 mos.	5.88	.45	.60		.04
2nd 6 mos.	6.37	.45	.60		.04
3rd 6 mos.	6.86	.45	.60		.04
4th 6 mos.	7.35	.45	.60		.04
5th 6 mos.	7.84	.45	.60		.04
6th 6 mos.	8.33	.45	.60		.04
7th 6 mos.	8.82	.45	.60		.04
SHEET METAL WORKERS	11.355	.50	.50		.05
SPRINKLER FITTERS	11.23	.60	.90		.08
TERRAZZO WORKERS	10.48	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

CLASSIFICATION 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

COUNTIES: Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux

DECISION NUMBER: NE77-4040

DATE: Date of Publication

Supersedes Decision No. NE76-4190 dated December 10, 1976 in 41 FR 54132

DESCRIPTION OF WORK: Building construction (excluding single family homes +garden type apartments up to and including four (4) stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$9.00				
CARPENTERS	7.94				
CEMENT MASONS	7.04				
ELECTRICIANS	5.60				
GLAZIERS	5.23				
IRONWORKERS, Structural & Ornamental	9.61				
LABORERS:					
Common Laborers	4.00				
PAINTERS, Brush	4.00				
PLUMBERS	7.00				
ROOFERS	4.24				
SHEET METAL WORKERS	7.00				
SOFT FLOOR LAYERS	5.50				
TILE SETTERS	5.50				
TRUCK DRIVERS	6.50				
Welders - Receive rate prescribed for craft performing operation to which welding is incidental					
POWER EQUIPMENT OPERATORS:					
Bulldozers	4.00				
Cranes, Derricks, Draglines	6.85				
Blade Graders	5.85				

SUPERSEDEAS DECISION

STATE: Nebraska COUNTIES: Douglas and Sarpy
DECISION NUMBER: NE77-4043 DATE: Date of Publication
Supersedes Decision No. NE77-4003 dated Joanuary 21, 1977 in 42 FR 4085
DESCRIPTION OF WORK: Building Construction (including single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.87	.40	.51		.015
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS, Stonemasons	9.43	.50	.40	.75	
Residential Rehabilitation	8.02	.50	.40	.75	
CARPENTERS:					
Carpenters	9.16	.50	.40	.60	.05
Residential Rehabilitation	7.79	.50	.40	.60	.05
Millwrights	9.41	.50	.40	.60	.05
Residential Rehabilitation	8.04	.50	.40	.60	.05
Piledrivermen	9.285	.50	.40	.60	.05
Residential Rehabilitation	7.915	.50	.40	.60	.05
CEMENT MASONS	9.82	.50	.40		
Residential Rehabilitation	8.35	.50	.40		
DRYWALL:					
Tapers and Finishers	9.50	.55		.50	.04
Residential Rehabilitation	8.07	.55		.50	.04
ELECTRICIANS	11.83	.58	1%+.55		.5%
Residential Rehabilitation	10.06	.58	1%+.55		.5%
ELEVATOR CONSTRUCTORS	10.99	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.55	.55	.35	.50	.01
IRONWORKERS	8.88	.50	.55	1.00	.05
LABORERS:					
Common Laborers	6.92	.50	.40	.25	.05
Residential Rehabilitation	5.88	.50	.40	.25	.05
Buggymobile Oprs., Mortar Mixers, Mason Tenders	7.065	.50	.40	.25	.05
Residential Rehabilitation	6.01	.50	.40	.25	.05
Pipelayers	7.20	.50	.40	.25	.05
Residential Rehabilitation	6.12	.50	.40	.25	.05
Plasterers Tenders	7.235	.50	.40	.25	.05
Residential Rehabilitation	6.15	.50	.40	.25	.05
LATHERS	8.35	.50	1.00		
MARBLE SETTERS, Tile and Terrazzo Workers	9.45	b	.25		
Residential Rehabilitation	8.03	.25	.40		
MARBLE, Tile and Terrazzo Workers Helpers'	7.15	b			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	9.20		.35		.02
Residential Rehabilitation	7.82		.35		.02
Structural Steel and Paperhangers	9.50		.35		.02
Residential Rehabilitation	8.02		.35		.02
Spray, Swing Stage, hazardous and Sandblasting	9.75		.35		.02
Residential Rehabilitation	8.30		.35		.02
PLASTERERS	9.68	.50	.40		
PLUMBERS	11.19	.60	.75		.10
Residential Rehabilitation	9.51	.60	.75		.10
ROOFERS:					
Composition	8.68	.15	.20	.20	.01
Slate; Tile	8.98	.15	.20	.20	.01
ROOFERS HELPERS	50%	.15	.20	.20	.01
SHEET METAL WORKERS	11.14	.50			.06
Residential Rehabilitation	9.47	.50			.06
SOFT FLOOR LAYERS	9.65			C	.05
Residential Rehabilitation	8.20			C	.05
SPRINKLER FITTERS	10.55	.50	.80		.08
STEAMFITTERS	10.06	.60	.75		.15
Residential Rehabilitation	8.55	.60	.75		.15
LINE CONSTRUCTION:					
Linemen	9.51	.45	1%		½%
Cable splicers	9.91	.45	1%		½%
Truck Driver	6.87	.45	1%		½%
Equipment Operators	8.94	.45	1%		½%
Groundmen:					
(Inexperienced) 1st 6 months	3.17	.45	1%		½%
(Inexperienced) 2nd 6 months	4.67	.45	1%		½%
Thereafter	6.24	.45	1%		½%
POWER EQUIPMENT OPERATORS:					
Group 1	8.01	.50	.40		
Group 2	8.11	.50	.40		
Group 3	8.36	.50	.40		
Group 4	9.50	.50	.40		
Group 5	9.60	.50	.40		
Group 6	9.85	.50	.40		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Oilers, Greasers, Mechanics helpers

Group 2 - Oiler drivers (motor truck crane)

Group 3 - Conveyors; Heaters; tractors, 35 HP or under; air compressors; pump and welding machine operator

Group 4 - Bulldozers; forklifts; concrete pumps; tractors over 35 HP; one drum hoists; straddle trucks; spread oiler

Group 5 - Blades; end loaders; self propelled scrapers

Group 6 - Two drum hoists; trenching machines; pile drivers; dredges; heavy duty mechanics; shovels; draglines; clamshells; orange peels; cranes; derricks; backhoes; winch trucks and side booms or cat booms; locomotives; firemen used on high pressure boilers in construction work; economobile; electric hammers and extractors

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Single axle	8.025	.50	.40		
Tandem axle	8.10	.50	.40		
Lowboy, trailer	8.225	.50	.40		
Lumber carriers	8.40	.50	.40		
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; G-Christmas Eve; H-Day after Thanksgiving.

FOOTNOTES:

1. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Also 6 paid holidays - A through F

b. Employer agrees to provide one-half cost of a Health and Welfare Plan (one-half cost to be paid by employee) which will provide benefits at least equal to the Omaha Construction Industry Health and Welfare Plan at least $0.20 per hour

c. Eight paid Holidays, A thru H; also employees with one years' continuous service with the same employer, but less than 4 years shall receive 1 week's paid vacation; after 4 year's continuous service with the same employer shall receive 2 weeks paid vacation.

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: TX77-4044

DATE: Date of Publication

Supersedes Decision No. TX76-4168, dated October 8, 1976, in 41 FR 44671.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.85	.55	.45		.07
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	9.30		.30		
CARPENTERS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties:					
Carpenters	9.20				
Millwrights	9.55				
ZONE 2 - Childress County:					
Carpenters	8.82	.38	.40		.07
Millwrights	9.32	.38	.40		.07
CEMENT MASONS:					
Cement masons	8.30				
Machine operators	8.55				
ELECTRICIANS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties:					
Electricians	9.88	.40	1%		1/2%
Cable splicers	10.87	.40	1%		1/2%
ZONE 2 - Childress County:					
Electricians	9.95	.30	1%		1/4%
Cable splicers	10.20	.30	1%		1/4%
GLAZIERS	$ 6.75			a	
IRONWORKERS	8.80	.55	.80		.10
LABORERS:					
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all unskilled laborers	4.89	.43	.15		
GROUP 2 - Air tool operator (jackhammer, tamper, brush hammer, chipping hammer, air or electric), sand blasterer, power buggy man, pipelayer (concrete & clay & all non-metallic pipe) & pipe wrappers; mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders, asphalt rakers, tampers, well drillers, bell hole men, dumpers, spotters	5.04	.43	.15		
LATHERS	9.55				.01
LINE CONSTRUCTION:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties:					
Lineman	9.88	.40	1%		1/2%
Cable splicer	10.87	.40	1%		1/2%
Groundman, more than 1 year experience	6.49	.40	1%		1/2%
Groundman, less than 1 year experience	5.68	.40	1%		1/2%
Operator-hole digger, line truck	7.53	.40	1%		1/2%
Flat bed truck driver	5.68	.40	1%		1/2%

DECISION NO. TX77-4044

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
ZONE 2 - Childress County:					
Lineman; Operator	$11.26		1%		1/2%
Cable splicer	12.39		1%		1/2%
Groundman, 1st 6 months	6.76		1%		1/2%
Groundman, 2nd 6 months	7.32		1%		1/2%
Groundman, 1 year & over	7.88		1%		1/2%
MARBLE MASONS (EXTERIOR)	9.30		.30		
PAINTERS:					
GROUP 1 - Brush & roller; paper-hangers; perfa-tapers	7.95		.30		
GROUP 2 - Structural steel painters; swinging stage or chair below 50 ft.	8.07		.30		
GROUP 3 - Spray painters & sand-blasters	8.70		.30		
GROUP 4 - Perfa-tape machine operator	8.20		.30		
PLASTERERS	9.55				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - shall extend a distance of 25 road miles beyond the police station in Amarillo & Borger	8.76	.35	.55	.60	
ZONE 2 - shall extend a distance of 25 road miles beyond the outer perimeter of Zone 1	9.01	.35	.55	.60	
ZONE 3 - shall apply to all areas not within Zone 1 or 2	9.26	.35	.55	.60	
ROOFERS	4.50				
SHEET METAL WORKERS	9.60	.35	.33		.10
SPRINKLER FITTERS	10.90	.60	.90		.06
TRUCK DRIVERS:					
1/2 ton to 3 tons	2.88				
3 to 5 tons	3.13				
5 tons and over	3.38				
Ready mix concrete to 3 yds.	2.88				
Ready mix concrete over 3 yds.	3.13				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX77-4044

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FOOTNOTE:					
a - Paid Holidays A thru F					
PAID HOLIDAYS					
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day					

DECISION NO. TX77-4044

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 8.75	.40	.50		.10
GROUP 2	8.25	.40	.50		.10
GROUP 3	6.30	.40	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Blade Grader, self-propelled; Clam Shells; Cable Ways; Cranes, power operated (all types); Air Compressors, Pumps, Welding Machines & Light Plants (7 to 12 machines); Derricks, power operated (all types); Dragline; Elevating Graders, self-propelled; Hoist, 2 drum or more; Locomotive; Mixermobiles; Paving Mixers, all types; Pile Drivers; Scrapers; Bulldozers; Side Boom; Cherry Pickers - 12½ ton & over; Shovels; Heavy Duty Mechanics; All Welders; All tractors with power attachments; Ditching Machines - crawler type; Farm type Tractor (Loader, 1 yd. & over) with Backhoe; All other equipment of similar nature coming within the Heavy Equipment Classification, when power operated

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Cherry Pickers - under 12½ tons; Ditch Witch - J30 and under; Farm type Tractor (Loader under 1 yd.) with Backhoe; Go-Devil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air Compressor and one Tugger; Boilers, 2 or more; Winch Trucks; Front End Scoopmobile, Loader and PayLoader; Blade Grader, towed; Elevators, Building; Fork Lifts; Hoists, single drum or 1 line hoisting (1 tugger); Mixers less than 15 cu. ft.; Rollers; Screening Plants; Crushing Plants; Tractors - Wheel type except when hauling material; All other equipment of similar nature coming within the Light Equipment Classification, when power operated

GROUP 3 - Oiler-Fireman-Greasers

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: TX77-4045 DATE: Date of Publication

Supersedes Decision No. TX77-4010, dated January 28, 1977, in 42 FR 5654.

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 9.30		.30		
CARPENTERS	9.20				
CEMENT MASONS	8.30				
ELECTRICIANS	9.88	.40	1%		1/2%
LABORERS:					
Laborers	4.89	.43	.15		
Mason tenders	5.04	.43	.15		
PAINTERS	7.95		.30		
PLUMBERS	8.76	.35	.55	.60	
SHEET METAL WORKERS	5.08		.10		

DECISION NO. TX77-4045

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Heaterman	$ 3.50				
Asphalt Raker	3.90				
Batching Plant Scaleman	4.55				
Carpenter	4.70				
Carpenter Helper	3.75				
Concrete Finisher (Paving)	4.30				
Concrete Finisher Helper (Paving)	3.00				
Concrete Finisher (Structures)	4.80				
Concrete Finisher Helper (Structures)	3.90				
Form Builder (Structures)	4.70				
Form Builder Helper (Structures)	3.75				
Form Liner (Paving and Curb)	4.00				
Form Setter (Paving and Curb)	4.00				
Form Setter Helper (Paving & Curb)	3.65				
Form Setter (Structures)	5.05				
Form Setter Helper (Structures)	4.40				
Laborer, Common	3.00				
Laborer, Utility Man	3.30				
Manhole Builder, Brick	3.85				
Mechanic	4.85				
Mechanic Helper	3.50				
Oiler	4.00				
Serviceman	3.90				
Painter (Structures)	5.00				
Pipelayer	3.75				
Pipelayer Helper	3.00				
Powderman	4.40				
Reinforcing Steel Setter (Paving)	4.35				
Reinforcing Steel Setter (Structures)	4.75				
Reinforcing Steel Setter Helper	3.05				
Sign Erector	3.25				
Spreader Box Man	3.70				
Sweeper	3.45				
Power Equipment Operators:					
Asphalt Distributor	4.35				
Asphalt Paving Machine	4.65				
Broom or Sweeper Operator	3.25				
Bulldozer, 150 HP and Less	3.75				
Bulldozer, over 150 HP	4.50				

DECISION NO. TX77-4045

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Concrete Paving Curing Machine	$ 3.75				
Concrete Paving Finishing Machine	4.80				
Concrete Paving Form Grader	3.75				
Concrete Paving Mixer	4.80				
Concrete Paving Saw	4.30				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.05				
Crusher or Screening Plant Op.	4.90				
Foundation Drill Operator (Crawler Mounted)	5.35				
Foundation Drill Operator (Truck Mounted)	5.85				
Foundation Drill Operator Helper	3.90				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.70				
Mixer (Over 16 CF)	4.60				
Motor Grader Operator, Fine Grade	5.05				
Motor Grader Operator	4.65				
Roller, Steel Wheel (Plant-Mix Pavements)	3.90				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.80				
Roller, Pneumatic (Self-Propelled)	3.50				
Scrapers (17 CY and Less)	4.05				
Scrapers (Over 17 CY)	4.50				
Side Boom	4.00				
Tractor (Crawler Type) 150 HP and Less	3.60				
Tractor (Crawler Type) over 150 HP	4.00				
Tractor (Pneumatic) 80 HP & Less	3.55				
Tractor (Pneumatic) over 80 HP	3.90				
Traveling Mixer	4.35				
Trenching Machine, Light	4.00				
Trenching Machine, Heavy	4.00				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.65				

DECISION NO. TX77-4045

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Single Axle, Light	$ 3.00				
Single Axle, Heavy	3.50				
Tandem Axle or Semitrailer	3.00				
Lowboy-Float	3.55				
Transit-Mix	3.50				
Winch	3.25				
Vibrator Man (Hand Type)	3.05				
Weighman (Truck Scales)	3.00				
Welder	5.05				

[FR Doc.77-5823 Filed 2-24-77;8:45 am]

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